



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY COMMUNICATIONS-ELECTRONICS COMMAND  
6585 SURVEILLANCE LOOP  
BUILDING 6002, ROOM D2250  
ABERDEEN PROVING GROUND, MD 21005-1845

JAN 18 2022

AMEL-CG

MEMORANDUM FOR Commander, U.S. Army Communications-Electronics Command,  
Aberdeen Proving Ground, Maryland 21005

SUBJECT: Advice on Disposition of Court-Martial Charges, US v. 1LT Mark Bashaw,  
Headquarters and Headquarters Company, United States Army Public Health Center,  
United States Army Medical command, Aberdeen Proving Ground, MD 21010

1. I have reviewed the charges and allied papers in the case of Mark Bashaw, and render this advice in accordance with the provisions of Article 34, UCMJ, and Rule for Courts-Martial 406.

2. Legal Conclusions. After reviewing the attached charges and allied papers, I have reached the following legal conclusions:

a. Each specification alleges an offense under the UCMJ;

b. There is court-martial jurisdiction over the accused and the offenses.


c. The allegations in the charge and each specification are warranted by the facts and the evidence provides probable cause to believe that the accused committed the offense charged in each specification.

3. No Article 32 preliminary hearing conducted.

4. The Company Commander recommended trial by Special Courts-Martial consisting of a military judge alone. The Garrison Commander recommended the misconduct be referred to a General Officer Article 15 proceeding.

5. Staff Judge Advocate Recommendation: I recommend the charged offenses be tried by a Special Courts-Martial consisting of a military judge alone pursuant to UCMJ, Article 16(c)(2)(A) in the interests of justice and discipline.

- 4 Encls  
1. Charge Sheet  
2. Transmittals  
3. Allied Documents  
4. ERB/FLAG

  
YEVGENY S. VINDMAN  
COL, JA  
Staff Judge Advocate

**CHARGE SHEET**

## CHARGE SHEET

### I. PERSONAL DATA

1. NAME OF ACCUSED <i>(Last, First, Middle Initial)</i> Bashaw, Mark C. <input type="checkbox"/>		2. SSN [REDACTED]	3. GRADE OR RANK ILT	4. PAY GRADE O-2
5. UNIT OR ORGANIZATION HHC, United States Army Public Health Center, United States Army Medical Command, Aberdeen Proving Ground, MD 21010			6. CURRENT SERVICE	
			a. INITIAL DATE 08 Sep 2019	b. TERM Indef
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	N/A	
\$5,399.00 \$ 6,420.60	\$0.00	\$5,399.00 6,420.60		
			9. DATE(S) IMPOSED	

### II. CHARGES AND SPECIFICATIONS

**10. THE CHARGE:** **VIOLATION OF THE UCMJ, ARTICLE 92.**

SPECIFICATION 1 (Failure to Obey Other Lawful Order): In that First Lieutenant Mark C. Bashaw, U.S. Army, having knowledge of a lawful order issued by Captain Alexander McCarthy, HHC, APHC Commander, in accordance with HQDA EXORD 225-21, to provide proof of a negative COVID-19 test before being physically present at his place of duty on 30 November 2021 or alternatively reporting to a specified place between 0730-0830 on 30 November 2021 to have a COVID-19 test administered, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, Maryland, on or about 30 November 2021, fail to obey the same by wrongfully being physically present at his place of duty without providing proof of a negative COVID-19 test or alternatively being physically present at a specified place to have a COVID-19 test administered prior to reporting to his place of duty.

SPECIFICATION 2 (Failure to Obey Other Lawful Order): In that First Lieutenant Mark C. Bashaw, U.S. Army, having knowledge of a lawful order issued by Captain Alexander McCarthy, HHC, APHC Commander, to leave Aberdeen Proving Ground, Maryland and work remotely until providing proof of a negative COVID-19 test, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, Maryland, on or about 30 November 2021, fail to obey the same by wrongfully remaining physically present on Aberdeen Proving Ground, Maryland, and not providing proof of a negative COVID-19 test.

SPECIFICATION 3 (Failure to Obey Other Lawful Order): In that First Lieutenant Mark C. Bashaw, U.S. Army, having knowledge of a lawful order issued by Captain Alexander McCarthy, HHC, APHC Commander, to wear a face covering while indoors, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, Maryland on or about 30 November 2021, fail to obey the same by wrongfully remaining unmasked while indoors.

(END OF CHARGE)

### III. PREFERRAL

11a. NAME OF ACCUSER <i>(Last, First, Middle Initial)</i> McCarthy, Alexander, P	b. GRADE O-3	c. ORGANIZATION OF ACCUSER HHC, Army Public Health Center
d. SIGNATURE OF ACCUSER [REDACTED]	e. DATE (YYYYMMDD) 20220112	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 12<sup>th</sup> day of January, 2022, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

\_\_\_\_\_  
Tanner C. Jameson  
*Typed Name of Officer*

\_\_\_\_\_  
Headquarters, Army Material Command  
*Organization of Officer*

\_\_\_\_\_  
O-3  
*Grade*

\_\_\_\_\_  
Trial Counsel  
*Official Capacity to Administer Oath  
(See R.C.M. 307(b) must be commissioned officer)*

\_\_\_\_\_  
[REDACTED]  
*Signature*



12.

On January 12, 2022, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

CPT Alexander P. McCarthy  
Typed Name of Immediate Commander

HHC, Army Public Health Center  
Organization of Immediate Commander

0-3  
Grade



Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1600 hours, 12 JAN, 2022 at Aberdeen Proving Ground  
Designation of Command or

COL John M. Casiano  
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE <sup>1</sup> \_\_\_\_\_

COL John M. Casiano  
Typed Name of Officer

COMMANDER  
Official Capacity of Officer Signing

0-6



Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

Headquarters, CECOM

APG, MD

20220118

Referred for trial to the Special court-martial convened by Uniform Code of Military Justice,  
Article 16(c)(2)(A)

, subject to the following instructions: <sup>2</sup>

By Order of Major General Robert L. Edmonson II  
Command or Order

Yevgeny S. Vindman  
Typed Name of Officer

Staff Judge Advocate  
Official Capacity of Officer Signing

0-6



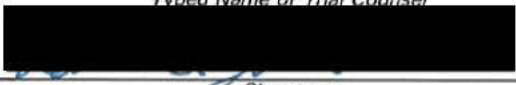
Signature

15.

On January 18, 2022, I (caused to be) served a copy hereof on (each of) the above named accused.

TANNER C. JAMESON  
Typed Name of Trial Counsel

0-3  
Grade or Rank of Trial Counsel



Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.  
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

# UNITED STATES COURT-MARTIAL

UNITED STATES OF AMERICA )

v. )

1LT MARK C. BASHAW )

**JUDGMENT OF THE COURT**

### ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI)	2. BRANCH	3. PAYGRADE	4. SOCIAL SECURITY NUMBER	5. DOD ID NUMBER
BASHAW MARK C.	ARMY	O-2	██████████	1 ██████████
6. CONVENING COMMAND	7. COURT-MARTIAL FORUM	8. COMPOSITION	9. DATE SENTENCE ADJUDGED	
HQ, CECOM	SPCM MJA as referred	Military Judge Alone	04/29/2022	

### MODIFICATIONS OR SUPPLEMENTS TO STATEMENT OF TRIAL RESULTS

The Statement of Trial Results in this case, dated 04/29/2022, is incorporated by reference in, and attached to, this Entry of Judgment.

The Statement of Trial Results is modified or supplemented as indicated below.

The post-trial action of the convening authority, dated 05/26/2022, is incorporated by reference in, and attached to, this Entry of Judgment. Any post-trial action by the convening authority:

The findings and sentence are approved. I am taking no action pursuant to R.C.M. 1110.

Any ruling, order or other determination of the military judge that affects a plea, a finding, or the sentence:

Signature of Military Judge:

X

Military Judge

Date Judgment Entered:

*20 June 2022*

Rank and Name of Military Judge:

LTC COHEN, ROBERT, A.

ACCA Case Number:

20220213

In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Any modification to the judgment of a court-martial must be included in the record of trial.

A copy of the judgment shall be provided to the accused's defense counsel or the accused.

A copy of the judgment shall be provided upon request to any crime victim's counsel or crime victim, without regard to whether the accused was convicted or acquitted of any offense.

# STATEMENT OF TRIAL RESULTS

## ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI)	2. BRANCH	3. PAYGRADE	4. SOCIAL SECURITY NUMBER	5. DOD ID NUMBER
BASHAW MARK C.	ARMY	O-2	[REDACTED]	[REDACTED]9
6. CONVENING COMMAND	7. COURT-MARTIAL FORUM	8. COMPOSITION		9. DATE SENTENCE ADJUDGED
HQ, CECOM	SPCM MJA as referred	Military Judge Alone		20220429

## FINDINGS (ATTACH FINDINGS WORKSHEET)

See attached findings worksheet

## TOTAL SENTENCE ADJUDGED

10. SENTENCED BY	11. PUNITIVE SEPARATION	12. CONFINEMENT	13. FORFEITURES	14. FINES	15. FINE PENALTY
Military Judge Alone	None	None	None	None	None
16. REDUCTION	17. REPRIMAND	18. HARD LABOR	19. RESTRICTION	20. DEATH	
None	None	None	None	N/A	

## CONFINEMENT CREDIT

21. DAYS OF PRETRIAL CONFINEMENT CREDIT	22. DAYS OF JUDICIALLY ORDERED CREDIT	23. TOTAL DAYS OF CREDIT
0	0	0

## PLEA AGREEMENT

24. LIMITATIONS ON PUNISHMENT CONTAINED IN THE PLEA AGREEMENT
N/A

## SUSPENSION RECOMMENDATION

25. DOES THE MILITARY JUDGE RECOMMEND A SUSPENSION OF ANY PORTION OF THE SENTENCE?		No
26. PORTION TO WHICH IT APPLIES	27. RECOMMENDED DURATION	
N/A	N/A	
28. FACTS SUPPORTING THE SUSPENSION RECOMMENDATION		
See remarks in 35		

## NOTIFICATIONS

29. Is DNA processing required in accordance with 10 U.S.C. § 1565?	No	
30. Is sex offender registration required in accordance with 34 U.S.C. § 209 or DoDI 1325.07?	No	
31. Has the accused been convicted of a crime punishable by imprisonment for a term exceeding one year (18 U.S.C. § 922(g)(1))?	No	
32. Has the accused been convicted of a misdemeanor crime of domestic violence (18 U.S.C. § 922(g)(9))?	No	
33. Was an RCM 706 inquiry conducted?	No	33a. If so, enter date.
34. Was the accused convicted of an offense that requires an assignment consideration code of L3 or L8?	34a. L3: No	34b. L8: No

## REMARKS

35. REMARKS  
 IAW RCM 1110 (b)(2)(A) recommends that the Convening Authority set aside the Findings of Guilty and dismiss the Charge and its specifications based on the witness testimony heard during sentencing.

36. NAME OF JUDGE (last, first, MI)	37. RANK	38. DATE SIGNED	39. SIGNATURE
COHEN, ROBERT, A.	LTC	29 April 2022	[REDACTED] Military Judge

**STATEMENT OF TRIAL RESULTS FINDINGS WORKSHEET**

**ADMINISTRATIVE**

1. NAME OF ACCUSED (last, first, MI)	2. BRANCH	3. PAYGRADE	4. SOCIAL SECURITY NUMBER	5. DOD ID NUMBER
BASHAW MARK C.	ARMY	O-2	[REDACTED]	[REDACTED]
6. CONVENING COMMAND	7. COURT-MARTIAL FORUM	8. COMPOSITION	9. DATE FINDINGS ANNOUNCED	
HQ, CECOM	SPCM MJA as referred	Military Judge Alone	20220429	

**FINDINGS (ATTACH TO STATEMENT OF TRIAL RESULTS)**

CHARGE	ARTICLE	PLEA	FINDING/DISPOSITION	ORDER/REGULATION VIOLATED	LIO/ARTICLE (if not as referred to trial)
THE	92	Not Guilty	Guilty		

SPECIFICATION	Guilty Finding (If different than specification referred to trial)
---------------	--

1. In that First Lieutenant Mark C Bashaw, U.S. Army, having knowledge of a lawful order issued by CPT Alexander McCarthy, HHC, APHC Commander, in accordance with HQDA EXORD 225-21, to provide proof of a negative COVID-19 test before being physically present at his place of duty on 30 NOV 2021 or alternatively reporting to a specified place between 0730-0830 on 30 NOV 2021 to have a COVID-19 test administered, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, on or about 30 November 2021, fail to obey the same by wrongfully being physically present at his place of duty without providing proof of a negative COVID-19 test or alternatively being physically present at a specified place to have a COVID-19 test administered prior to reporting to his place of duty.	In that First Lieutenant Mark C Bashaw, U.S. Army, having knowledge of a lawful order issued by Captain Alexander McCarthy, HHC, APHC Commander, to work remotely until providing a negative COVID-19 test, did, at or near Aberdeen Proving Ground, Maryland, on or about 30 November 2021, failed to obey the same by wrongfully being physically present at his place of duty without providing proof of a negative COVID-19 test.
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CHARGE	ARTICLE	PLEA	FINDING/DISPOSITION	ORDER/REGULATION VIOLATED	LIO/ARTICLE (if not as referred to trial)
THE	92	Not Guilty	Dismissed		

SPECIFICATION	Guilty Finding (If different than specification referred to trial)
---------------	--

2. In that First Lieutenant Mark C Bashaw, U.S. Army, having knowledge of a lawful order issued by CPT Alexander McCarthy, HHC, APHC Commander, to leave Aberdeen Proving Ground, Maryland and work remotely until providing proof of a negative COVID-19 test, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, Maryland, on or about 30 November 2021, fail to obey the same by wrongfully remaining physically present on Aberdeen Proving Ground, Maryland, and not providing proof of a negative COVID-19 test.	
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THE	92	Not Guilty	Guilty		

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3. In that First Lieutenant Mark C Bashaw, U.S. Army, having knowledge of a lawful order issued by CPT Alexander McCarthy, HHC, APHC Commander, to wear a face covering while indoors, an order which it was his duty to obey, did, at or near Aberdeen Proving Ground, Maryland, on or about 30 November 2021, fail to obey the same by wrongfully remaining unmasked while indoors.	
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**CONVENING AUTHORITY ACTION**  
**in the case of U.S. v. MARK C. BASHAW**

CONVENING AUTHORITY ACTION

Having reviewed any matters submitted by the accused, and after consulting with the STAFF JUDGE ADVOCATE, I take the following action in this case:

ACTION ON REQUESTS FOR DEFERMENT AND WAIVER

ACTION ON SUSPENSION RECOMMENDATION AND REPRIMAND

Military judge recommendation to suspend the sentence (see RCM 1107(d)(3))	Approved / Disapproved
--	------------------------

Reprimand issued by the convening authority	Approved / Disapproved
---	------------------------

If the reprimand is approved, attach signed reprimand to this Convening Authority Action

Convening authority's action on the findings and/or the sentence:

The findings and sentence are approved. I am taking no action pursuant to R.C.M. 1110.

Convening authority's required written explanation of the action under RCM 1109 or RCM 1110:

Convening authority's signature



Date:

*26 May 22*

Rank and Name of Convening Authority:

MAJOR GENERAL ROBERT L. EDMONSON II

TRANSMITTAL OF CONVENING AUTHORITY ACTION TO MILITARY JUDGE

Date convening authority action was forwarded to military judge:



**CONVENING AUTHORITY ACTION**  
**in the case of U.S. v. MARK C. BASHAW**

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# UNITED STATES COURT-MARTIAL

UNITED STATES OF AMERICA )

v. )

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Signature of Military Judge:

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Military Judge

Date Judgment Entered:

*20 June 2022*

Rank and Name of Military Judge:  
LTC COHEN, ROBERT, A.

ACCA Case Number:  
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34. Was the accused convicted of an offense that requires an assignment consideration code of L3 or L8?	34a. L3: No	34b. L8: No

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COHEN, ROBERT, A.	LTC	29 April 2022	[REDACTED] Military Judge