

HEADQUARTERS
1ST MARINE AIRCRAFT WING, AIRCRAFT, FMF, PACIFIC
c/o FLEET POST OFFICE, SAN FRANCISCO, CALIFORNIA

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161-SU
9 July 1958

MEMORANDUM

From: Wing Law Specialist
To: Chief of Staff

Subj: Summary Court-Martial, case of Lee H. Oswald, private, USMC

1. Subject court-martial has been reviewed pursuant to the provisions of Article 65c, Uniform Code of Military Justice.
2. In reviewing said case no errors or irregularities were noted, other than the failure of the record to reflect legally admissible evidence of the one prior conviction considered by the court. The accused pleaded not guilty to all charges and specifications. Since he was found guilty of only one charge and specification the summary of the evidence will be limited to the approved findings only.
3. Technical Sergeant Rodriguez and two companions were seated in a Cafe. The accused approached their table. He spilled part of a drink on the Technical Sergeant. Whether this was accidental or not was an issue in the case. Apparently the court decided that it was accidental. When the drink was spilled the Technical Sergeant arose and shoved the accused away. This resulted in the accused inviting the sergeant outside. The Sergeant testified that the actual words alleged were used. This was corroborated by another witness. The accused testified in his own behalf. The substance of his testimony was that he felt that the Sergeant had it in for him. He had asked to be transferred from under his cognizance. This had been refused. He testified that he went over to see the sergeant for the purpose of discussing the situation with him; that the drink was spilled accidentally; and that he was somewhat intoxicated. He remembered inviting the accused outside but did not remember calling him yellow or anything like that.
4. The findings are correct in law and fact and the evidence is sufficient to establish guilt beyond reasonable doubt. The victims' testimony was corroborated by disinterested witnesses; the accused's testimony admitted certain material aspects of it; and did not deny uttering the words charged. As a matter of fact his competency as a witness is seriously impaired by his own admission that he was drunk.