



April 22, 2013

Mr. Chuck Hagel
Office of the Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Mr. Secretary,

I am writing to request that you exert leadership to have Lt. General Franklin dismissed from the Air Force, because of his highly inappropriate decision to overturn the conviction of Lt. Colonel Wilkerson for Aggravated Sexual Assault. His decision clearly conflicts with his responsibility to further good order and discipline within the service.

As the enclosed analysis of Lt. General Franklin's letter, in which he attempts to justify his decision makes clear, he used failed and biased reasoning, and unreliable information to overturn Lt. Colonel Wilkerson's conviction for Aggravated Sexual Assault. He fails to make even a plausible case for his action.

Furthermore, Lt. General Franklin's initial decision to even review Wilkerson's conviction, while within his authority, was completely optional. As you know, the military justice system has a separate appellate process with designated courts to address any issues that might have arisen as to appropriateness of the conduct of the trial.

Franklin cited eighteen reasons to justify his conclusion that there was reasonable doubt in Wilkerson's case, despite the fact that a jury, consisting of one Lt. Colonel and four Colonels, found Wilkerson guilty of committing aggravated sexual assault.

In addition to the eighteen reasons Franklin enumerated, in the preamble of his letter Franklin made the following assertions as to why he took the unusual step to set aside the conviction by the jury of senior officers he selected:

1) “*This was the most difficult court case I have ever faced as a convening authority...I struggled with referring this case to a court-martial after reviewing the results of the Article 32 investigation*”

Really? A senior JAG officer and former judge conducted the investigation. The process was extensive and very thorough. On the polygraph test, Lt. Col. Wilkerson’s answers to key questions were each deemed “deception indicated.”

As will become clear from the analysis in the itemized list enclosed, Lt. Col Wilkerson and his wife Beth Wilkerson gave highly inconsistent testimony. Independent witnesses gave statements consistent with the victim’s statement. Based on the information available before the trial, as confirmed by the proceedings of the trial itself, there is no reason to conclude that it should have been a close decision as to whether to convene the General Court-Martial.

2) “*This was the most extensive clemency request package that ...I had ever seen. ...most pleaded with me ...they had grave concerns...with fairness of the trial*”

What has the fact that Lt. Col. Wilkerson’s and, in some cases, Lt. Gen. Franklin’s friends writing a multitude of letters have to do with guilt or innocence? It is unconscionable that Lt. Gen. Franklin would question the professionalism of the prosecutors and Judge without stating any basis in fact. This does a disservice to this Judge and these prosecutors in particular, as well as those who serve throughout the entire military justice system. The defense counsel objected only 5 times in 6 days. This is hardly an indication that the prosecution and Judge ran roughshod over the defense and committed transgressions that resulted in a flawed verdict.

3) “*Letters from Lt. Col and Mrs. Wilkerson’s family, friends and fellow military members painted a consistent picture of a person who adored his wife and 9-year old son, as well as a picture of a long-serving professional Air Force officer. Some provided additional clarity to me on matters used effectively by prosecution in trial to question the character and truthfulness of both Lt. Col and Mrs. Wilkerson.*”

Franklin conveniently ignored Wilkerson’s previous bad behavior unrelated to this case. What else would he or anyone expect Wilkerson’s family and friends to write about him in clemency letters?

In addition, his veiled criticism of the prosecution team is without merit. The defense and Wilkerson's friends attacking this prosecutorial team and Judge is an affront to their professionalism and dedication. It is correct that the prosecution very "effectively", in fact very accurately, challenged the character and truthfulness of Lt. Col. and Mrs. Wilkerson. Their inconsistent and inaccurate statements called for nothing less.

4) *"I reviewed the entire record of trial...my deliberations became extensive."*

Franklin considered assertions not in evidence and clearly did not either understand or accept the facts as presented in the record. He is not a lawyer, was not present to hear the testimony, and thereby was hardly in a position to better judge the veracity of the witnesses than were the five members of the panel he selected. Moreover, in overturning Wilkerson's conviction, he acted against his own legal counsel's recommendation.

Attached is a verbatim list of the eighteen statements Franklin made in his letter to the Secretary of the Air Force, Michael Donley, in an attempt to justify his action overturning Lt. Col. Wilkerson's conviction. Following each of Franklin's explanatory statements, are excerpts from the record of the trial containing evidence and testimony relevant to the topic raised by Franklin at that point.

In every case, the facts in evidence and the weight of the credible trial testimony directly contradict the statement Franklin makes to support the conclusion he reached, purportedly based on his "review of the entire record" and "extensive" deliberations.

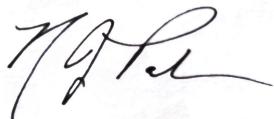
In this attempt to justify his actions, Lt. Gen. Franklin repeatedly substituted his judgment for the judgment of the court members and the military judge. He offers nothing new. The only evidence Franklin viewed that the members did not was found baseless by the military judge. Rather than look with suspicion on inconsistent or novel assertions made after the trial in clemency letters from defense witnesses, who previously testified at court, Franklin accepts their claims as gospel. He weighed the opinions of others as if it were fact, some of which had been disallowed in court. It is telling that these particular defense witnesses did not make these claims when under oath and subject to cross-examination. The bottom line is: what powers could Lt. General Franklin possess that would make him a better judge of the credibility of witnesses than the actual court members, who observed the testimony?

His pathetic excuses and sophomoric logic leave no doubt that he did nothing more than protect a fellow pilot.

His naive belief that senior officers cannot commit crimes is Exhibit A regarding what is wrong with commanders being in charge of prosecuting sexual offenders. He has destroyed the facade that commanders can be trusted to do what is right.

Lt. General Franklin must be fired. Furthermore, commanders, who are not trained in legal process and are immersed in conflicting self-interests and biases, should not have authority over investigation, prosecution, judicial, or appellate proceedings

Sincerely,



Nancy Parrish,
President

Enclosure: Analysis of Lt. Gen. Franklin's eighteen reasons to overturn Lt. Col., Wilkerson's conviction.

cc: Barack Obama, President of the United States

Carl Levin, U.S. Senator and Chairman, Senate Armed Services Committee

Buck McKeon, U.S. Congressman and Chairman, House Armed Services Committee

Members of the Senate Armed Services Committee

Members of the House Armed Services Committee

Michael B. Donley, Secretary of the Air Force

General Mark Welsh, Chief of Staff, U.S. Air Force

Robert Taylor, Acting General Counsel, DOD