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:

20 Park Road, Suite E Burlingame, CA. 94010 - [redacted]

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 through. 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.

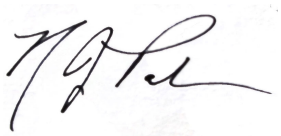
In this attempt to justify his actions, Lt. Gen. Franklin repeatedly substituted his judgment for the judgment of the court members and the military judge. He offers nothing new. The only evidence Franklin viewed that the members did not was found baseless by the military judge. Rather than look with 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

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS THIRD AIR FORCE (USAFE)

12 March 2013

Secretary Donley

I am keenly aware of the significant Congressional interest and media coverage of my 26 Feb 13 decision as a General Court-Martial Convening Authority (GCMCA) to disapprove the findings and dismiss the charges in the court-martial U.S. vs. Lt Col James H. Wilkerson III. I am troubled by the recent wave of continuing negative and biased dispersions being cast upon the Uniform Code of Military Justice (UCMJ), the constitutional court-martial process, and the weighty and impartial responsibility of a convening authority to fairly administer justice.

Accusations by some that my decision was the result of either an apparent lack of understanding of sexual assault on my part, or that because I do not take the crime of sexual assault seriously are complete and utter nonsense. I unequivocally view sexual assault as a highly egregious crime. I take every allegation of sexual assault very seriously. As a commander, I cannot think of a more destructive act to good order and discipline and to the maintenance of a cohesive and effective fighting force. Likewise allegations that I made this decision to protect a Lieutenant Colonel pilot or because I was a former Aviano/31 Fighter Wing Commander are equally preposterous. I have many responsibilities as the Commander of Third Air Force, one of those being a GCMCA. In this role, I review and decide all matters of military justice fairly and impartially. I review each court-martial thoroughly and independently.

The UCMJ directs that a convening authority may, in his or her sole discretion, set aside any finding of guilty in a court-martial. This broad and independent discretion is a direct function of military command. There are legitimate reasons, past and present, why the UCMJ does not require a convening authority to explain his/her actions, and in some ways, it even appears rightly to discourage convening authorities from explaining their decisions so as not to cause even a perception of Unlawful Command Influence.

I have no desire to set an unfortunate and potentially damaging precedent for present and future convening authorities. By law and in the interests of justice, they should not believe they are obliged to provide such explanations. No one has asked or directed me to provide this information to you or to anyone else. Yet due to the ongoing controversy that I have recently observed in the "court of public opinion," it is appropriate, in this case only, to provide you a sense of what I considered in arriving at my decision.

To begin, this was the most difficult court case that I have ever faced as a convening authority. The case was comprised of mostly consistent testimonies of a husband and wife in contrast to the testimony of an alleged victim. There was no confession or admission of guilt by the accused and no physical evidence. I even struggled with referring this case to a court-martial after reviewing the results of the Article 32 Investigation. As you know, the evidentiary standard of probable cause to refer charges to a court-martial is much less than the very high standard of proof beyond a reasonable doubt to convict in a court-martial. Consequently, after my review of the evidence within the Article 32 investigation report, and after my many discussions with my

Staff Judge Advocate (SJA), I concluded that sufficient probable cause existed to refer the case to trial.

After the court-martial, I was somewhat surprised by the findings of guilty based upon the evidence that I had previously reviewed and the high constitutional standard of proof beyond a reasonable doubt in a court-martial. However, I gave deference to the court-martial jury because they had personally observed the actual trial. I subsequently received the request for clemency by Lt Col Wilkerson and his defense counsel along with its many compelling clemency letters. To be honest, this was the most extensive clemency request package that either my SJA or I had ever seen. I read all of the clemency letters (91 of them) in detail and some I read several times. Most pleaded with me to review the entire court transcript and all the evidence in detail because of grave concerns that they had with the fairness of the trial.

Letters from Lt Col and Mrs Wilkersons' 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 of these letters provided additional clarity to me on matters used effectively by the prosecution in the trial to question the character and truthfulness of both Lt Col Wilkerson and Mrs Wilkerson. Some letters were from people who did not personally know the Wilkersons, but wanted to convey their concerns to me about the evidence and the outcome of the case.

Due to my previous concerns with Lt Col Wilkerson's case prior to referral and the concerns identified in defense clemency matters, my deliberation became extensive. Accordingly, I began to personally review and consider the entire record of the trial and its accompanying papers. I reviewed the Article 32 investigation report again. I reviewed the entire court transcript and all the other evidence the jury reviewed (captured on compact discs or in hard copy photos). I looked at some evidence a second and third time and I re-read particular portions of the court transcripts. I reviewed affidavits provided after trial by the prosecuting attorneys and I also read a personal letter to me from the alleged victim. I carefully looked at everything, evidence supporting the findings of the court-martial and evidence against. The more evidence that I considered, the more concerned I became about the court martial findings in this case.

After my extensive and full review of the entire body of evidence and my comprehensive deliberation spanning a three-week period, I only then finally concluded there was insufficient evidence to support a finding of guilt beyond a reasonable doubt. Based upon my detailed review, I could not conclude anything else. Accordingly, I could not in good conscience let stand the finding of guilty.

Please note, at the beginning of my thorough review, my SJA recommended approving the court-martial findings and approving the sentence of one year confinement. In consideration of Lt Col Wilkerson's family and his lengthy military service, my SJA also recommended commuting the sentence of dismissal to an additional two years of confinement. However, after we engaged in numerous subsequent conversations during my extensive deliberation of the evidence, he told me that he had come to fully respect my concerns with the evidence in the case and my conclusion that the evidence did not prove Lt Col Wilkerson guilty beyond a reasonable doubt. At the end, he advised me that I could only approve court-martial findings and a sentence that I found correct in law and in fact. Based upon his personal knowledge of how extensively and

thoroughly I had reviewed and deliberated on this case, my SJA said he fully respected my decision to disapprove findings in this court case.

Below is a portion of the considerable evidence which caused me, in part, to form my reasonable doubt as to Lt Col Wilkerson's guilt. I reviewed all the evidence below, and other evidence, holistically and comprehensively in reaching my conclusion:

a) The evidence indicated that the alleged victim turned down at least three distinct offers of a ride from the Wilkerson home back to her room on base. Whenever she was offered a ride, she seemingly had a different reason to stay at the Wilkerson home;

b) When shown clear photos of all bedrooms of the house, the alleged victim could not identify the bed in which she slept and/or where she claimed the alleged assault occurred;

c) At different times, the alleged victim's description of the hours leading up to the alleged assault varied, as did her description of the state of her clothing during and immediately after the assault;

d) In her initial statement, the alleged victim said that she "passed out" (went to sleep) between 0045 hours and 0100 hours in the morning, and in her court testimony she said that her next memory was that she was in a dream state and was subsequently awoken at about 0300 hours by Mrs Wilkerson turning on the light. Yet the alleged victim's phone records and her testimony in court showed that she was texting on her phone to a friend at 0143 hours;

e) The alleged victim did not remember whether or not the man who she says assaulted her had facial hair. In addition, she said his face was only 6 inches away from hers. Lt Col Wilkerson had a full mustache and the alleged victim had already seen him throughout the recent evening;

f) The alleged victim's version of events describes a path out of the house from the downstairs bedroom (the only room that she could have logically stayed in). This path was not feasible based upon the actual layout of the house;

g) The alleged victim claimed that she woke to a bright light being turned on in the room in which she was sleeping, and Mrs Wilkerson yelling at her to "get out of my house." The room that she stayed in had an energy-saving ceiling light that is dim for the first few minutes of operation. Although the military judge did not allow the members of the jury to visit the house, the defense counsel made a video to document what would have been the alleged victim's actions based upon her testimony. I watched the entire video twice. It shows the very dim light and the only path to get out of the house from the only room that she could have logically stayed in. It was not consistent with her description of the path that she said she took out of the house;

h) Mrs Wilkerson's version of the events at her house the night of the alleged incident was substantially consistent from her initial OSI interview statement, to her Article 32 investigation statement, and through her court testimony. And my detailed review of all phone records (of all the key witnesses) validated Lt Col and Mrs Wilkerson's combined

version of what occurred on the night in question and the next morning. Please note, I spent close to 4 hours looking at phone record evidence alone. In particular, I determined that the alleged victim's cell phone records (times and durations of incoming/outgoing calls and text messages) when aligned with the testimony and phone records of the friend of the alleged victim, all merged to a common picture that was more consistent with Lt Col and Mrs Wilkerson's combined version of events;

i) Regarding the next morning after the alleged incident, Mrs Wilkerson claimed she slept in until 0900 hours. In closing arguments, the prosecution argued she was "lying" because she had outgoing calls, incoming calls, and texts before 0900 hours. The defense counsel countered that it was possible that Lt Col Wilkerson was using her phone (I am aware that occasionally wives will use husbands' phones, husbands will use wives' phones, kids will use adults' phones, etc.). The prosecution argued that the defense explanation was impossible since phone records showed Lt Col Wilkerson was on his own phone/texting at apparently the same time. When I closely checked the phone records to verify this prosecution argument, I determined the times of Lt Col Wilkerson's phone-use were different from his wife's cell phone-use -- thereby making it entirely possible that Lt Col Wilkerson was using Mrs Wilkerson's phone before 0900 hours. Likewise, the letter of clemency from the mother of the two guest-children (who were staying overnight at the Wilkerson house), specifically indicated that she called Mrs Wilkerson's phone that morning at approximately 0700 hours and that Lt Col Wilkerson answered it, saying his wife was still asleep. She also said that she spoke with her children during this same phone call. In addition, when she subsequently stopped by the house prior to 0800 hours to check on her children, she said Lt Col Wilkerson was awake/up and that her children said that Mrs Wilkerson was still sleeping;

j) The Office of Special Investigations (OSI) interviewed these two guest-children, ages 13 and 9 who were guests in the Wilkerson house the night of the alleged incident. Neither awoke or heard any yelling during the time of the alleged incident. Yet, the alleged victim at one point said that Mrs Wilkerson yelled at her to "get out of my house";

k) In addition, the mother of these two children observed her kids and the Wilkersons the very next day following the alleged incident. She did not notice any change in the Wilkerson's behavior or her children's behavior, or that her children sensed any tension between the Wilkersons. Further, these two children apparently stayed at the Wilkerson house the following night. If an incident occurred as claimed by the alleged victim, it would be highly peculiar for the Wilkersons to volunteer to take care of these two children again the following evening;

l) Additionally, witness testimony about the Wilkerson marriage before the night in question and in the immediate days and weeks after that night, showed no perceptible tension or change in their relationship. Had the alleged sexual assault taken place as the alleged victim claimed, it would be reasonable to believe that their relationship would change and that close friends would perceive this change;

m) Witness testimony from a female friend of the alleged victim (who also works at the 31st Medical Group, and who took the alleged victim to the hospital the next day) and her

subsequent letter of clemency (in support of Lt Col Wilkerson), caused me notable additional doubt about the alleged victim's stated version of events. The friend's comments in this clemency letter also indicated a potential reasonable motivation for the alleged victim to have been less than candid in her stated version of the events;

n) One particular witness was not allowed to testify in court. The primary rationale was that the applicable events of which she had knowledge in regard to the character and truthfulness of the alleged victim occurred 10 years earlier (when the alleged victim was approximately 39 years of age). I reviewed this excluded testimony, as well as the clemency letter of this witness which detailed court proceedings that involved the alleged victim 10 years earlier. The excluded witness had a strong opinion that the alleged victim (now 49 years old) might lie in a court proceeding when it would be in her personal interest to do so;

o) Significantly, I closely watched the video of the entire OSI interview of Lt Col Wilkerson (3 hours and 25 minutes). I watched it not once, but twice (and several portions I watched additional times). The prosecution effectively used small segments of the video in closing arguments in attempts to portray Lt Col Wilkerson as a liar, or as someone who was trying to cover up misconduct. However, when I twice viewed the video in whole, and I considered his answers in the context of the questions and paths that the OSI attempted to take him down, I believed the entire OSI interview portrayed him as truthful;

p) In addition, Lt Col Wilkerson waived his rights to remain silent, did not request a lawyer, and appeared cooperative throughout. The Special Agents who conducted the interview utilized a full gamut of investigative interviewing techniques in attempts to garner incriminating statements from Lt Col Wilkerson. He maintained his innocence throughout the interview, provided a written statement, never stopped the interview, nor did he ever ask for a lawyer at anytime. As I viewed the entire interview in whole (twice), it was my consistent impression that Lt Col Wilkerson answered all the questions in a manner like an innocent person would respond if faced with untrue allegations against him;

q) Lt Col Wilkerson voluntarily agreed to take an OSI polygraph examination. I am fully aware of and considered the polygraph results. As you are aware in a criminal investigation, a polygraph is only an investigative tool to assist in the potential focus of the investigation and/or to attempt to elicit admissions of guilt. It is not a "lie-detector test," nor is it "pass" or "fail." Because of the inherent unreliability of polygraphs, they are entirely inadmissible in a court-martial. Ultimately, Lt Col Wilkerson has consistently maintained his complete innocence -- throughout two lengthy OSI interviews, through the entire court-martial, and throughout his nearly four months in prison (following the court-martial and during the post-trial process);

r) Finally, I do not assert in any way that the event as argued by the prosecution was out of the realm of the possible. However when I considered all the evidence together in total, the evidence was not sufficient to prove this alleged version by the prosecution beyond a reasonable doubt. In addition, and as simply one more point of reference, I was perplexed in relation to this conundrum – Lt Col Wilkerson was a selectee for promotion

to full colonel, a wing inspector general, a career officer, and described as a doting father and husband. However, according to the version of events presented by the prosecution, Lt Col Wilkerson, in the middle of the night, decided to leave his wife sleeping in bed, walk downstairs past the room of his only son, and also near another room with two other sleeping guest-children, and then he decided to commit the egregious crime of sexually assaulting a sleeping woman who he and his wife had only met earlier that night. Based on all the letters submitted in clemency, in strong support of him, by people who know him, such behavior appeared highly incongruent. Accordingly, this also contributed, in some small degree, to my reasonable doubt.

There were some matters of evidence that I could not reconcile. For example, I did have questions about differences in some witnesses' respective versions of events that conflicted with the combined testimony of Lt Col and Mrs Wilkerson. Accordingly, I scrutinized the allegations and arguments that the Wilkersons were untruthful in these instances. The majority of these inconsistencies had plausible alternate explanations. Those that did not were not independently conclusive, nor did all of them put together satisfy me beyond a reasonable doubt of Lt Col Wilkerson's guilt.

Moreover, minor inconsistencies between Lt Col Wilkerson and Mrs Wilkerson's versions of events indicated to me that they had not colluded to manufacture a "unified story." In fact, if their two separate versions were too consistent, I would have reasonably been skeptical of them. After I reviewed all the evidence, it appeared to me that, at the time of their OSI interviews, the two Wilkersons were simply trying, in good faith, to recall an evening that had occurred almost 3 and ½ weeks prior. After consideration of all the matters I have mentioned, as well as other matters within the record of trial, I impartially and in good faith concluded that there was insufficient evidence to prove beyond a reasonable doubt that Lt Col Wilkerson was guilty.

Obviously it would have been exceedingly less volatile for the Air Force and for me professionally, to have simply approved the finding of guilty. This would have been an act of cowardice on my part and a breach of my integrity. As I have previously stated, after considering all matters in the entire record of trial, I hold a genuine and reasonable doubt that Lt Col Wilkerson committed the crime of sexual assault. As a result, I would have been entirely remiss in my sworn military duty and responsibility as a GCMCA if I did not release someone from prison whose guilt I did not find proven beyond a reasonable doubt. Accordingly, I knew that my court-martial action to disapprove findings and to dismiss the charges was the right, the just, and the only thing to do.

In summary, I exercised the obligation of a GCMCA exactly as required by the UCMJ, when after my lengthy review and deliberation of the evidence, I had reasonable doubt as to Lt Col Wilkerson's guilt. Sir, I provide this letter for you to use or to share with others as you deem appropriate in relation to this case or in relation to the lawful and necessary discretion of a court-martial convening authority.

Very Respectfully,

CRAIG A. FRANKLIN, Lieutenant General, USAF
Commander, Third Air Force

Nancy Parrish, President

Contact: Brian Purchia

Lt. General Franklin's list of 18 reasons whereby he concluded that he was justified in overturning the conviction of Lt. Colonel Wilkerson's for aggravated sexual assault, followed by relevant quotations from the court record, witness statements, related evidence and analytical commentary on the validity of Franklin's attempted justification:

Franklin explanation a) "*The evidence indicated that the alleged victim turned down at least three distinct offers of a ride from the Wilkerson home back to her room on base. Whenever she was offered a ride, she seemingly had a different reason to stay.*"

This first explanation, supposedly as a basis for finding reasonable doubt, offered by Franklin is factually wrong and was addressed directly through a question asked by the court members (the equivalent of civilian jury members), during the trial, after both sides rested.

In particular, the members asked the victim the following:

Q. Why didn't you leave the Wilkerson house when you were offered rides from various people including, [name redacted], Beth Wilkerson, and Suzanne Berrong?

A. Okay. [name redacted] never offered me a ride home. Beth Wilkerson -- she did offer me a ride, but she was going to drop me off outside the gate. I didn't know where my shoes were. I didn't want to walk, in March, down the road through the gate, and also I had been drinking. Suzanne -- I felt really bad. You know I was upset: I called her, I woke her up. She was in bed. Beth was saying you know "You can stay here. You can stay here." After talking to Suzanne for a while, I just thought: "I'm not going to make her get out of the bed and drive all the way over to the house." I didn't know how far it was, but Suzanne lives in Pordenone -- and come pick me up, take me to the TLF, and then go back home in the middle of the night. So, it just seemed the easiest thing to do at that point.
(Record at 910 lines 1-20)

[name redacted] confirmed he did not offer Kim a ride home:

Q. And when you left that night, you did not offer Kim a ride home, correct?
A. No.
(R. at 593 lines 18-20)

Suzanne Berrong's testimony verifies she was sleeping when Kim called her at 12:23 AM on 24 March 2012 (P.26 OSI):

Q. So where were you at midnight?
A. I'd already gone home, so I was home in Pordenone.
Q. Were you up or were you in bed or. . .
A. I was already in bed asleep.
(R. at 616 lines 3-6)

Moreover Ms. Berrong testified Kim Hanks was unhappy to have been left at the Wilkerson residence.

When asked what the tone of the conversation was, Ms. Berrong testified:

A. "She, ah, she's a bit irritated because she had been left at the house -- at a house -- that the people she came with had left her there, and she was irritated at this -- a little upset about it."
(R. at 616 lines 18-20)

Shockingly, Lt Gen Franklin claims to have read the record of trial in its entirety and spent three weeks agonizing over the case. Yet, his very first excuse for finding reasonable doubt was addressed head on by the court-martial members, the very members he selected. The members asked Kim Hanks why she stayed, and their verdict is proof they were satisfied with her answer. It is beyond belief Franklin would view himself as in better position, to judge the answer to a question the court asked, than the court members were. Moreover, Kim Hanks was not offered three distinct rides to her room on Aviano Air Base. She was offered one ride part way home and decided to withdraw her request that her friend come to get her and take her home. She was upset she was left at the Wilkerson residence, but understandably, after being offered a place to stay, did not want to make her friend get out of bed to pick her up.

Franklin's explanation clearly does not match the facts. It appears he may have simply regurgitated the clemency narrative offered by Wilkerson's supporters.

Franklin Explanation b) "*When shown clear photos of all bedrooms of the house, the alleged victim could not identify the bed in which she slept and/or where she claimed the alleged assault occurred.*"

Kim Hanks was shown pictures from a house she briefly visited for a matter of a few hours, 9 months earlier. The defense's own forensic psychologist testified about memory and had to concede it would not be surprising someone would not remember details of a house in Kim Hanks situation. (R. at 655 lines 2-21 and 656 lines 1-8).

Again, at the close of evidence, the jury asked additional questions of Ms. Hanks concerning the beds. She was certain she did not sleep in the bed that Wilkerson claimed she did. Once more the members asked about this very issue and obviously were satisfied with Kim Hanks' response.

It is uncontroverted that Kim Hanks slept at the Wilkerson residence and it is hardly surprising she may not recognize a bed when shown a photograph 9 months after the sexual assault. In this case, while Franklin's statement may be correct, it has no reasonable implication regarding Kim Hanks' veracity and no basis for a finding of reasonable doubt regarding Wilkerson's guilt.

Franklin Explanation c) "*At different times, the alleged victim's description of the hours leading up to the alleged assault varied, as did her description of the state of her clothing during and immediately after the assault."*

Franklin's summary conclusion is without merit. How did her description change? He gives absolutely no examples of how it changed. Rather, he just boldly asserted that it did without any proof. Ms. Hanks reported the sexual assault to her friend whom she called as soon as she left the Wilkerson home and within 15 minutes of the crime. (P13 OSI) She told her treating nurse about the assault the next morning. She also told the SARC and a psychologist. She made two statements to the office of the special investigations and testified at an Article 32 hearing. Her testimony at trial consisted of about 80 pages of testimony. She was subjected to over an hour of cross-examination. General Franklin did not list significant variations. Kim Hanks' description of the "state of her clothing" never wavered. She always stated she went to bed with her clothes on. She always stated she was unsure if Lt Col Wilkerson was touching her breasts over or under her clothes. She always stated Wilkerson's hand was inside the front of her pants, and she always stated his finger was inside her vagina and it hurt. [Name redacted] did state she believed Kim said her pants were unbuttoned. Kim was asked about that in cross-examination:

Q. Did you tell [name redacted] your belt was undone or that your pants were undone?
A. No. She must have misunderstood me.
(Record 271 20-22)

Clearly, the court (jury) members understood that [Name redacted] could have misunderstood Kim Hanks or [name redacted] simply remembered incorrectly. Once again the issue was before the finders of fact and they found Kim Hanks credible. Again there was clearly no basis for reasonable doubt in this regard.

Franklin Explanation d) "*In her initial statement, the alleged victim said she "passed out" (went to sleep) between 0045 hours and 0100 hours in the morning, and in her court testimony she said that her next memory was that she was in a dream state and subsequently awoken at about 0300 hours by Mrs. Wilkerson turning on the light. Yet the alleged victim's phone records and her testimony in court showed she was texting on her phone to a friend at 0143 hours."*

Yet again, this phantom reasonable doubt was also directly addressed at trial:

Q. Now Ms. Hanks, just to clarify, you did not have a watch on the night of 23 March 2012, correct?

A. That's correct.
Q. Were you in anyway trying to keep track of the exact times when they were occurring prior to being here?
A. No.
Q. Did you have any reason to believe that you might have to remember the exact times of everything to testify in a court-martial before you went to bed?
A. No.
(R. at 295 lines 9-17)
Q. And in that note [intake sheet], defense counsel, in this statement defense counsel made a lot to do about the fact that you said you went to bed at about between 0045 and 1 o'clock in the morning, right?
A. Yeah, I was ball parking.
(R. at 301 lines 13-16)

The court members evaluated Ms. Hanks' explanation and found her credible. Apparently, Lt Gen Franklin believes women must keep a chronology of their daily activities in case they are sexually assaulted. Furthermore, when Beth Wilkerson made an equivalent incorrect time estimate, Franklin saw no issue with the discrepancy. Again, there is no basis for reasonable doubt here.

Franklin Explanation e) "*The alleged victim did not remember whether or not the man who she says assaulted her had facial hair. In addition, she said his face was only six inches away from hers. Lt Col Wilkerson had a full mustache and the alleged victim had already seen him throughout the evening.*"

That Kim Hanks saw Lt Col Wilkerson, off and on, over several hours is not in dispute. She identified the man who assaulted her as Lt Col Wilkerson. She was asked about this issue at trial during cross-examination:

Q. Now you say that the man you saw when your eyes opened up, that was six inches away, you say that was Colonel Wilkerson's face, correct?
A. Yes.
Q. Is it as it appears to you today -- was it as it appears to you today?
A. Ah, I suppose.
Q. Okay, well, you've previously been asked whether he had facial hair, and you said you don't recall that he had any facial hair, correct?
A. I just saw his -- what I saw was his face because his eyes -- he had his eyes shut and his hair -- the color.
Q. You were asked at the Article 32 hearing where you testified -- you remember that?
A. Yes.
Q. Whether you recalled any facial hair, and you said you did not recall any facial hair, correct?
A. I couldn't remember if had facial hair or not. All the guys were wearing moustaches for March -- March something, but I couldn't specifically say if he had a moustache or not.
Q. Right, you've since learned that they had moustaches because it was Moustache March?

A. No, I haven't since learned. They had them. They were joking about them at the bar.
Q. In any event, when you were asked at the Article 32 hearing whether he had any facial hair, you said you did not -- when you were asked if the man that you saw, whose face was six inches away, whether he had any facial hair, you said you did not recall seeing any facial hair.
A. I didn't recall if I saw any or not, right. I didn't want to superimpose, but I knew that they were talking about it the night before -- but I couldn't definitely identify facial hair. (R. at 270 lines 1-22 –R. 271lines 1-2)

Q. The individual whose hands were in your pants when you woke up that morning, is he here in the courtroom today?
A. Yes. He's right there.
Q. Where is he sitting?
A. He's right there. [Pointing to the accused.]
Q. Is there any doubt in your mind that he is, in fact, the individual who you woke up to?
A. No doubt at all. (R. at 249 lines 9-13 and lines 16-17)

The court members also had no doubt. Once again this issue was squarely before the fact finders, and they believed Kim Hanks' explanation and found her credible. To this day, Lt Gen Franklin has yet to explain what special powers he possesses that he was a better judge of the credibility of the witnesses than the senior court members he selected. Kim Hanks made it clear that Lt Col Wilkerson is the one who sexually assaulted her.

There is again no basis for Franklin to decide to overturn the conviction based on reasonable doubt.

Franklin Explanation f) "*The alleged victim's version of events describes a path out of the house from the downstairs bedroom (the only room she could have stayed in). This path was not feasible based upon the actual layout of the house.*"

Lt Gen Franklin's conclusion demonstrates his blind loyalty to Lt Col Wilkerson. It is uncontroverted that Kim Hanks was at the Wilkerson residence, and it is uncontroverted that she left the house at some time. Franklin can point to absolutely no reason why she would have to lie about how she left the house. Beth Wilkerson was the only person who testified that Kim Hanks slept in the basement bedroom, the room farthest from where Wilkerson claimed to be. Kim consistently stated she was not in the room Beth Wilkerson claimed she was. This issue was squarely before the members and was a central theme of Mr. Spinner's argument.

By its verdict, it is clear the court believed Kim was telling the truth. Once again, Franklin is substituting his judgment for the judgment of the jury he picked. No basis here for reasonable doubt.

Franklin Explanation g) "*The alleged victim claimed that she woke to a bright light being turned on in the room in which she was sleeping, and Mrs. Wilkerson yelling at her to "get out of my house." The room she stayed in had an energy-saving ceiling light that is dim for the first few minutes of operation. Although the military judge did not allow the members of the jury to visit the house, the defense counsel made a video to document what would have been the alleged victim's actions based on her testimony. I watched the entire video twice. It shows the very dim light and the only path out of the house from the only room that she could have stayed in. It was not consistent with her description of the path that she said she took out of the house."*

This statement demonstrates beyond any doubt Franklin either did not read the record of trial or he intentionally ignored the testimony and arguments of counsel. Kim Hanks was explicit in her testimony that Beth Wilkerson did not yell at her:

Q. Now with respect to -- well one moment please. As between Beth and her husband, Jay Wilkerson, did they shout or yell at you at the point that you said that they made these statements to you when you awoke from the dream?
A. He spoke very loudly. I wouldn't say it was he yelled, but he said very loudly, "What the hell's going on?" And she did not yell. She said, "Get the hell out of my house," but she didn't yell.
(R. at 280 lines 5-10).

The room Beth Wilkerson claims Kim Hanks stayed in had an energy saving light bulb nine months after Lt Col Wilkerson sexually assaulted her. The video was not taken the morning of 24 March 2012 and is not proof of how the room appeared at that time. Moreover, Kim Hanks denied she slept in that room. The video is inconsistent with Kim Hanks' testimony because it starts with the false premise that that is the room where Lt Col Wilkerson sexually assaulted her. Twice in open court the members watched the same video. In fact, Mr. Spinner closed his two-hour argument by playing the video (R at 1012 line 10). The members watched the same video as Franklin and rejected Spinners' and subsequently Franklin's argument. Moreover, when the members asked to view the home, the defense objected to the members visiting the house (R. at 1032 -33 line 16-18). It is interesting that Mr. Spinner no longer wanted the members to view the house after the prosecution had successfully argued that the room next to the hall had a bed with a lamp next to it. That same bed had Kim Hanks' shoes under it . (R. at 1013 lines 12-21 -1014 lines 9-12). Faced with the truth, Mr. Spinner didn't want the court members anywhere near the Wilkerson residence.

The evidence at trial does not support any of Franklin's points. She never said Beth Wilkerson yelled, did not sleep in the room Franklin presumed, and the path out of the house that Franklin studied was not the path from the room where she testified she stayed and where her shoes were under the bed. No basis for reasonable doubt.

Franklin Explanation h) "*Mrs. Wilkerson's version of the events at her house the night of the alleged incident was substantially consistent from her initial OSI interview statement, to her Article 32 investigation statement, and through her court testimony. And my*

detailed review of all the phone records (of all the key witnesses) validated Lt Col and Mrs. Wilkerson's combined version on the night in question and the next morning. Please note, I spent close to 4 hours looking at the phone record evidence alone. In particular, I determined that the alleged victim's cell phone records (times and durations of incoming/outgoing calls and text messages) when aligned with the testimony and phone records of the friend of the alleged victim, all merged to a common picture more consistent with Lt Col and Mrs. Wilkerson's combined version of events."

Look back to Franklin's excuse for manufacturing reasonable doubt listed in Explanation 4. He claimed Kim's initial estimate that she went to bed around 1245 to 0100 despite a record of a text being sent at 0143 proved she was unworthy of belief. He did so despite Kim explaining that it was merely an estimate, "ball parking" the time she went to sleep. This for Franklin was a smoking gun of reasonable doubt, which it is clearly not.

Beth Wilkerson made a statement to the OSI on 19 April 2012 stating, "On 23 March my husband along with Col Ostovich, [name redacted], [name redacted] and 3 women I did not know came to our house around 9:00 pm." (I.O. Exhibit 29 P.1 of 4) In her Article 32 testimony, Beth Wilkerson testified they arrived at her house at 2200 hours (10PM). She explained the difference in time was due to her reviewing her phone records. She realized she had made a text at 2138 hours (9:38PM) that she knew had occurred before they arrived at her house.

So, General Franklin clearly concluded that if a victim of a sexual assault estimates what time she went to sleep and later realizes she was off by 45 minutes to an hour after reviewing her phone records, she must be a liar? But, on the other hand he concluded that if the accused's wife is off by an hour, as to when the accused arrived back home and realizes she is wrong after reviewing her phone records, she is consistent and believable. Is it any wonder victims do not trust commanders to do the right thing?

It is clear that Franklin placed great faith in the credibility of Beth Wilkerson. Such faith was misplaced. Beth Wilkerson admitted on the stand that she lied about events on the morning of the sexual assault. Additionally, other witnesses directly contradicted Beth Wilkerson's testimony. Moreover, even defense counsel Spinner contradicted Beth Wilkerson.

The Wilkersons cancelled a previously planned BBQ scheduled for the afternoon of 24 March. Beth Wilkerson testified the BBQ was cancelled because she was tired and fewer people were coming:

Q. All right, so I just want to be clear, okay, so you had a barbeque scheduled for that day, and because you had gone to bed about four...
A. Yes, Sir.
Q. ...and awakened around nine...
A. Yes, Sir.
Q. …you were tired, right?
A. Yes, Sir.
Q. And because the Newbills canceled, you didn't want to go through with this?
A. Yes.

(R. at 745 lines 12-20)

The prosecutor then clarified that Beth Wilkerson was not sick on the 24th:

Q. And, other than being tired, you felt fine?
A. Yes, I did.
(R. at 748 lines 8-9)

Yet, that is not what she told her friend the morning of the 24th:

Q. Do you remember sending a text to Anna Reed on the morning of 24 March?
A. Yes, I did.
Q. And in that text, you told Anna Reed, "Hey, I'm sorry, but we have to cancel today," correct?
A. I did.
Q. And you said, "I am very sick this morning," didn't you? Is that true?
A. Uh-huh.
Q. "And not getting any better." Isn't that what the text says?
A. Yes, it does.
Q. "Not sure what is wrong, but I was up to 5 AM." That's what the text says, correct?
A. Yes, that's correct.
Q. "And I can't keep anything down," is what the next text says, correct?
A. Uh-huh.
Q. "Sorry, we'll have to try again soon." Is that what it says?
A. Yes, Sir.
Q. Was that a lie?
A. It was a story just to cancel...
Q. Was that a lie?
A. ...the barbeque.
Q. Was that a lie?
A. Yes, Sir.
Q. So you lied to your friend, and you told her details about being very sick, correct?
A. I did.
Q. You lied to your friend and said you couldn't keep food down, correct?
A. Yes, Sir.
Q. You lied to your friend and said you were up until five in the morning, correct?
A. Correct.
(R. at 748 lines 10-22 – 749 lines 1-14)

Beth Wilkerson admitted she lied and the jury believed she was caught in a series of lies. Lies to her friend about how she was feeling hours after her husband sexually assaulted an innocent victim. Lies to her friend about why she cancelled a previously planned BBQ on the very day her husband sexually assaulted an innocent victim.

The following serve as just a few examples of how Beth Wilkerson was discredited by other witnesses including her friends:

Beth Wilkerson testimony:

Q. Now your testimony is, and I want to make sure you're one hundred percent clear on this, your testimony is the OSI came to your house, correct?
A. Yes, they did.
Q. You offered the shoes to the OSI, correct?
A. I did.
Q. And they refused to take them into evidence, correct?
A. Yes, they did -- or they did not take them.

(R. at 759 lines 1-7)

The OSI testified:

Q. Do you ever remember her offering you a pair of shoes that would have been owned by Ms. Kimberly Hanks?
A. No, Sir.
Q Did she ever offer you a pair of shoes?
A. No, Sir.
Q. Do you have any doubt in your mind?
A. No.
Q. Did you, in fact, ask her if she had those shoes?
A. Yes we did.
Q. Did you, in fact, ask her if she knew where those shoes were?
A. Yes, Sir, we did.
Q. And, did she express any knowledge of those shoes?
A. No, Sir she didn't.
Q. Do you typically decline evidence at any point in your career as an OSI agent?
A. Never, Sir. (R. at 818 lines 12-22, R. 819 at lines 1-4)

Beth Wilkerson:

Q. On the way, taking [name redacted], back to the base, do you recall talking to her about the evening or if there were any issues about the evening?
A. She mentioned to me that I didn't know who I had in my house, and I assumed she was talking about Colonel Ostovich being the Vice Wing Commander. And she did seem like when she said she wanted to go home, she said she wanted to go home "now." So I was wondering if something was said or done that upset her because of the way she wanted to leave at that point, right then and there.
Q. Did you tell [name redacted] or ask [name redacted] if your husband had done something to upset or to her that night or words to that effect?
A. No, Sir.
Q. Do you recall saying something to that effect, at all?
A. I, ah, I asked her if Osto -- if it had been Osto, because she was not in the house at all either. She spent most of her evening -- I saw her one time on the stairwell, talking to Kim Hanks, and then she was outside with [name redacted] and Col Ostovich.
Q. And would you agree that "Osto" sounds like "Bosco" sounds like "Roscoe"?
A. Yes, Sir.
(R. at 705 lines 1-7 – 706 lines 1-11)

[Name redacted] Testimony:

Q. I want to turn your attention to when you were in the car with Mrs. Beth Wilkerson. Do you remember that time?
A. Yes.
Q. Did you say anything to her such as "You don't know who you have in your house?"
A. No, Sir.
Q. Or any words to that effect?
A. No, Sir.
Q. When you testified previously that she asked you if her husband -- if ". . .my husband did anything?" is that correct?
A. Correct.
Q. Did she say "Did Osto do anything?"
A. No, Sir.
Q. Did she say "Did Roscoe do anything?"
A. No, Sir.
Q. Are you a hundred percent certain that she said ". . .my husband. . ."?
A. Yes, Sir.
(R. at 814 lines 10-22 – 815 lines 1-3)

Beth Wilkerson:

Q. And your testimony is that [name redacted] said that he would take Kim Hanks home, correct?

A. He -- I . . .
Q. That's a simple yes or no.
A. Yes.
(R. at 759 lines 1-2)

Testimony [name redacted]:

A. And that was who was going to take her home. And I said I didn't want to take her home. We were going a different way. [name redacted] and I were going to go back home. So I was under the impression that she [Beth Wilkerson] was going to take her home.
(R. at 586 lines 3-5)

Q. Thank you. And when you left that night, you did not offer Kim a ride home, correct?
A. No.
(R. at 593 lines 18-20)

When the OSI interviewed Beth Wilkerson on 19 April, she did her best to paint a picture that all three women who visited the house were drunk. "The three women were very drunk." "One last thing is that she [Kim Hanks] was very drunk and did not know who I was and where any of her belongings were. She kept introducing herself to me and asking were her purse and shoes were." At trial, Beth Wilkerson tried to back away from her statement, and now testified, "she rallied after we had a moment talking on the steps. She seemed fine to me . . . she was not intoxicated or falling down drunk."
(R. at 772 lines 5-7)

It's clear to see what's happened here. The Wilkersons wanted to paint Kim Hanks as an out of control drunk who wouldn't go to sleep. It provided them an excuse to throw a shoeless woman out of the house at three a.m. and a reason for others to doubt Kim Hanks' credibility. By trial the defense tactic had shifted to Kim Hanks was not drunk nor was she ever drunk. The witnesses' testimony simply did not support Beth Wilkerson.

Mr. Spinner [defense counsel] repeatedly emphasized this fact in his opening: "Now there is nobody at this point that's drunk, the evidence will show." (R. at 201 lines 21-22) "...nobody is out of control, nobody is stumbling, nobody is having trouble getting around." (R. at 202 line 1) "...I think we're talking about 11 o'clock . . .But not very much drinking occurs at this point. People may have one glass of prosecco or a glass of wine, and that's it." (R. at 203 lines 6-9) ". . .the evidence will show that Kim Hanks was not drunk, was not intoxicated, had had some alcohol that night, but she otherwise was walking, was talking and was interacting with people who were in the Wilkerson residence up until the point where she went to sleep." (R. at 206 lines 8-11)

To prove this point, the defense called a forensic toxicologist to testify. On cross-examination the doctor testified:

Q. So just to clarify, you observed all of Ms. Hanks' testimony, correct, Sir?
A. I did.
Q. And your findings were consistent with how she described herself that evening, correct?
A. Yes they were.
Q. So if someone was to say that she was "quite inebriated,' that would be inconsistent with your findings?
A. Yes, and all the testimony I heard. She was not drunk, she was not intoxicated -- that's the testimony I heard. (R. at 637 lines 13-21)

Lt Col Wilkerson made it clear in his written statement to the OSI that Beth was claiming Kim was still drunk at 3 AM: ". . . she became concerned that Kim would be able to walk very far -- both in her condition and without shoes." By "her condition" he was clearly implying that she was drunk. (Prosecution Exhibit 1)

Beth Wilkerson's claim that Kim was "very drunk" was repudiated by every witness including the defense's own expert. This testimony is clearly not consistent with General Franklin's finding that Beth Wilkerson's testimony was consistent and credible. Having the defense counsel's opening and closing argument directly contradict her original statement to the OSI clearly does not "merge to a common picture" of consistency. No basis for reasonable doubt.

Franklin Explanation i) *Regarding the next morning after the alleged incident, Mrs. Wilkerson claimed she slept in until 0900 hours. In closing arguments, the prosecution argued she was "lying" because she had outgoing calls, incoming calls and texts before 0900 hours. The defense counsel countered that it was possible that Lt Col Wilkerson was using her phone (I am aware that occasionally wives will use husbands' phones, husbands*

will use wives' phones, kids will use adults' phones, etc.) The prosecution argued the defense explanation was impossible since the phone records showed Lt Col Wilkerson was on his own phone/texting at apparently the same time. When I closely checked the phone records to verify this prosecution argument, I determined the times of Lt Col Wilkerson's phone use were different from his wife's cell phone-use -- thereby making it entirely possible that Lt Col Wilkerson was using Mrs. Wilkerson's phone before 0900 hours. Likewise the letter of clemency from the mother of the two guest-children (who were staying overnight at the Wilkerson house), specifically indicated that she called Mrs. Wilkerson's phone that morning at approximately 0700 hours and that Lt Col Wilkerson answered it, saying his wife was still asleep. She also said that she spoke with her children during this same phone call. In addition she subsequently stopped by the house prior to 0800 hours to check on her children, she said Lt Col Wilkerson was awake/up and that her children said that Mrs. Wilkerson was still sleeping.

The mother testified at both the Article 32 hearing and at trial. Prior to making her claim in her clemency letter she made no mention of calling Beth Wilkerson's phone and talking to Lt Col Wilkerson. In fact, contrary to her seemingly perfect recall in her clemency letter about a phone call made almost a year earlier, the mother testified at trial:

I believe I saw them (her sons) Saturday morning, briefly, on my way to my class, again at the base. I had class that -- the next morning. I can't remember all the details, to be honest with you, because I was in a hurry.
(R. at 574 lines 3-5)

In her Article 32 testimony, the mother testified:

"I saw Beth Wilkerson that Saturday. She was normal. I saw both Wilkersons on Sunday." (I.O. Exhibit 31 P. 1 of 1)

She makes no mention of talking or seeing Lt Col Wilkerson on Saturday at all, let alone Saturday morning.

But, in her clemency letter, she claims:

"It is true Beth's phone was utilized. I personally called her cell phone and Jay answered it because he said Beth was asleep, just as she testified in court."

The problem is this: The call at 7 the morning of 24 March was not from the mother to Beth Wilkerson's phone. The call was from Beth Wilkerson's phone to the mother. At 0659 a call was made using Beth Wilkerson's phone to the mother. The call lasted about 7 minutes. Approximately one minute later, the mother calls back to Beth Wilkerson's phone and talks for 59 seconds. Three minutes later, Beth Wilkerson's phone was then used to text the mother at 0711. At 0731, the mother makes a 31 second phone call back to Beth Wilkerson's phone. (Prosecution Exhibit 5, pages 16 and 27).

Additionally, Lt Col Wilkerson was using his phone frequently before nine that morning. He received a series of texts starting at 0740 that morning and he sent a series of texts starting at 0817. (Prosecution Exhibit 5 at pages 37, 38 and 44)

So the phone records that Franklin claims to have spent 4 hours reviewing show just the opposite of what the mother is claiming for the first time in her clemency letter. The first phone call was not from her to Beth Wilkerson. The first phone call was from Beth Wilkerson to the mother. This was followed by two more phone calls and a text over the next half hour.

So, the mother when subject to cross examination and under oath makes no mention of talking to Lt Col Wilkerson on Saturday morning or seeing him on Saturday morning. In fact she testified she could not remember all the details of that morning. Clearly not, considering the phone records are the opposite of what her clemency letter claims.

Even more problematic is Franklin's failure to disclose his relationship with the mother. The mother's husband had been a squadron commander who worked directly for Franklin when he was the Wing Commander at Aviano. He was close to her husband who had been killed a year earlier. He knew the mother and her children. Her closing line in her clemency letter played on that close relationship:

"We didn't have a choice when the Lord took [my husband] home. I am asking that [the Wilkerson son] be able to have his Dad back home."

How could Kim Hanks ever hope for justice when the deck was stacked against her like this? Personal friends of Franklin are making allegations of an unfair trial, and he is the one passing judgment. Franklin should have recused himself from acting as the convening authority. Many of the letters refer to their personal relationship with Franklin, even Lt Col Wilkerson's did. Some of the most caustic letters attacking the prosecutors, the judge, the court members, the reporter covering the case, and the victim come from mutual friends. These are the letters that "provided additional clarity to [Franklin] on matters used effectively by the prosecution in the trial to question the character and truthfulness of both Lt Col Wilkerson and Mrs. Wilkerson."

General Franklin clearly did not correctly analyze the phone record evidence and chose to give weight to clemency letters from his personal friends that were inconsistent with the facts in evidence. No factual basis for reasonable doubt.

Franklin Explanation j) *The Office of Special Investigations (OSI) interviewed these two guest-children, ages 13 and 9 who were guests in the Wilkerson house the night of the alleged incident. Neither awoke or heard any yelling during the time of the incident. Yet, the alleged victim at one point said that Mrs. Wilkerson yelled at her to "get out of the house."*

As we have already discussed, Kim Hanks testified that Mrs. Wilkerson did not yell. Again, Franklin does not want to let the facts get in the way of his excuses.

However, since Franklin wants to delve into what the children told the OSI, let's explore that a little more closely. Beth testified that her husband went to bed around midnight and never came back down stairs until morning. She made it clear when she was drinking tea with Kim Hanks at 0100 that her husband was not with her. (R. at 716 lines 8-11) What

Franklin did not tell Secretary Donley is that the oldest child confirmed Kim Hanks' testimony and directly rebutted both Wilkersons. Kim testified that after talking to Suzanne Berrong she stayed up with both Wilkersons talking and drinking juice or tea. (R. at 237 line 22 – 238 lines 9-14) The child told the OSI that he woke up for a snack at approximately 0100. He saw Beth Wilkerson and she told him it was 0100 and he needed to go back to bed. He saw Lt Col Wilkerson and a woman he didn't know talking. (Report of Investigation 2-19)

If he actually read the transcript, how can Franklin possibly explain the contradiction and his failure to honestly explain the record to Secretary Donley? Furthermore, this explanation is inconsistent with the facts in evidence, so it provides no valid basis for reasonable doubt.

Franklin explanation k) "*In addition, the mother of the two children observed her kids and the Wilkersons the very next day following the alleged incident. She did not notice any change in the Wilkersons' behavior or her children's behavior, or that her children sensed any tension between the Wilkersons. Further, these two children apparently stayed at the Wilkerson house the following night. If an incident occurred as claimed by the alleged victim, it would be highly peculiar for the Wilkersons to volunteer to take care of these two children again the following evening."*

This issue was placed squarely before the court members and clearly they were convinced beyond a reasonable doubt that Wilkerson was guilty. Franklin is doing nothing but substituting his judgment for the judgment of the court. Franklin wants to credit the Wilkersons for not being stupid and acting guilty in public.

Franklin explanation L) *Additionally, witness testimony about the Wilkerson marriage before the night in question and in the immediate days and weeks after that night showed no perceptible tension or change in their relationship. Had the alleged sexual assault taken place as the alleged victim claimed, it would be reasonable to believe that their relationship would change and that close friends would perceive this change.*

What we know is that the Wilkersons did cancel a BBQ planned for that afternoon. A BBQ that Beth Wilkerson told detailed lies about her health in order to cancel -- a BBQ for which Lt Col Wilkerson had already prepared the food. We also know that Beth Wilkerson did not attend her only son's end of season basketball luncheon that same day. Moreover, on the two occasions the Wilkersons were separated, the Wilkersons sent dozens and dozens of texts back and forth. Many of those texts were long. (Prosecution Exhibit 5, pages 17 - 21 and 28 - 32) This texting occurred while Lt Col Wilkerson was supposedly playing baseball and consoling a friend. Multitasking indeed.

It is interesting that General Franklin is so concerned about how the Wilkersons were acting in the following weeks, but he gives no thought to the powerful testimony of the effects Lt Col Wilkerson's attack had on Kim Hanks.

Testimony of [name redacted] describing Kim Hanks immediately after the sexual assault:

Q. When you first got there and met her, what was her demeanor like?
A. She seemed upset, disoriented. She was kind of -- I don't know. She -- I could tell she'd been drinking just a little, but she was coherent. You know she was making complete sentences. I didn't think you know that she was drunk or anything.
Q. Was she crying?
A. Yeah, a little bit. Yes. Yes. She started crying more when we were in the car, on the drive back.
(R. at 309 lines 8-14)

and:

A. And she was upset. She was crying. You know she said nothing like this had ever happened before, and you know she didn't know what to do basically.
(R. at 311 lines 10-11)

Testimony of [name redacted], the nurse treating Kim Hanks 6 hours after Lt Col Wilkerson assaulted her:

Q. What was her demeanor when you first saw her?

A. She was really shaken up. Her eyes were puffy, like she had been crying. She wasn't her normal bubbly self. Kim is usually very energetic, very engaging woman. And that morning she appeared that she had something traumatic happen to her the evening prior, and she looked she had had a tough time.
(R. at 372 line 22 and 373 lines 1-4)

Contrary to Franklin's assertion, Beth Wilkerson cancelled their BBQ, after the food was prepared, did not attend her son's basketball game. Since Franklin was so concerned about the observations of how people were acting after the sexual assault, how could the victim's condition not figure into his review? Why did Franklin not, in his six-page letter, make a single reference about what happened to Kim Hanks and the obvious impact it had on her?

Franklin Explanation m) *Witness testimony from a female friend of the alleged victim (who also works at the 31st Medical Group, and who took the alleged victim to the hospital the next day) and her subsequent letter of clemency (in support of Lt Col Wilkerson) caused me notable additional doubt about the alleged victim's stated version of events. The friend's comments in this clemency letter also indicated a potential reasonable motivation for the alleged victim to have been less than candid in her stated version of events.*

This "friend of the alleged victim" was called as a witness by the defense at trial. The defense had every opportunity to bring up the allegations raised for the first time in the post trial clemency letter. They did not. After trial, Franklin gave great weight (notable additional doubt) to statements that were not part of her testimony at trial. The "friend"

was never cross-examined on her post-trial assertions. Again she was a defense witness. The defense chose not to go into her allegations.

One can only conclude the "friend's" allegations were without merit. Once again, Franklin glossed over his or his friends relationships with those submitting clemency letters. A more accurate description of this person he described as a "friend of the victim" would be a "girl friend" of Colonel Dean Ostovich.

Franklin explanation n) *One particular witness was not allowed to testify in court. The primary rationale was that the applicable events of which she had knowledge in regard to the character and truthfulness of the alleged victim occurred 10 years earlier (when the alleged victim was approximately 39 years of age). I reviewed the excluded testimony, as well as the clemency letter of this witness, which detailed court proceedings that involved the alleged victim 10 years earlier. The excluded witness had a strong opinion that the alleged victim (now 49 years old) might lie in a court proceeding when it would be in her personal interest to do so.*

Up until this point, Lt Gen Franklin has limited himself to believing he is smarter than the jury he picked. Now he has determined he knows better than the military judge as well. If not for the seriousness of his hubris, this stated reason would be laughable. First, he completely avoids mentioning that this witness is the current wife of Kim Hanks' ex-husband. Second, he fails to mention that the court proceedings involved a bitter child custody dispute. Third, he fails to mention that the allegations were reported to Kim Hanks through third parties (child abuse by both the witness and her husband), and fourth he blatantly mischaracterizes the military judge's ruling by stating the primary rationale was that the alleged events occurred 10 years ago. The judge actually ruled as follows:

"In light of that, I've concluded that this witness does not have sufficient foundation to provide the opinion as requested by the defense, to the extent she does have a foundation, the court will and does apply MRE 403, and to the extent there is some probative value, it is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by consideration of undue delay and a waste of time. And in making that determination under MRE 403, I consider the more than ten years ago that this was based on as well as the information was based on court filings in dispute in the context of a child custody dispute. As such, I sustain the government's objection."
(R. at 568 lines 12 - 19)

General Franklin states that, at least in part, he set a convicted sex offender free because the wife of the victim's ex-husband does not like the victim? He did so despite the judge finding the evidence inadmissible? No wonder why people are angry over Franklin's decision.

Franklin's explanation provides clear documentation that commanders, who are not trained in the legal process and are immersed in conflicting self-interest and biases,

should not have authority over investigation, prosecution, judicial, or appellate proceedings.

Franklin explanation o) *Significantly, I closely watched the video of the entire interview of Lt Col Wilkerson (3 hours and 25 minutes). I watched it not once, but twice (and several portions I watched additional times). The prosecution effectively used small segments of the video in closing arguments in attempts to portray Lt Col Wilkerson as a liar, or as someone trying to cover up misconduct. However, when I twice viewed the video in whole and I considered his answers in the context of the questions and paths the OSI attempted to take him down, I believed the entire OSI interview portrayed him as truthful.*

The prosecution's argument focused on several themes that Lt Col Wilkerson conveyed to the OSI; 1) that he didn't feel normal the next day implying he had been drugged, 2) that the women wanted to be with him and forced their way into his home, 3) he didn't want the women to be at his home and he tried to make that clear to them and 4) he wanted to portray Kim as drunk. Apparently, General Franklin is claiming the OSI tricked Wilkerson into making these claims with their questions ("paths the OSI attempted to take him down"). Even the most superficial review of the interview proves Wilkerson brought up on his own each one of his narratives.

After reading Wilkerson his rights, the OSI said to him:

Tell us what happened, who you were with, all of the details, and I just want to make this clear: we're in no hurry, we're not in any rush. We want to make sure we get all the information correct. So we'll be here as long as it takes to make sure that the information comes out.
(R at 393 line 20 -21 394 1-2)

Wilkerson started explaining the events of the evening of 23 March. The agent responded to his initial remarks with an "Okay" and an "Uh-huh." Wilkerson then said, "They [the women] wanted to go wherever we were going." (R. at 394 line 20) The OSI agent responded with "Okay," and Wilkerson continued with "I knew for a fact my wife didn't want them at home, and I knew I was going home, so I asked for a ride home." The agent responded with, "Uh-huh." (R. 395 lines 1-3) Wilkerson then said, "And my wife makes it clear she wants everyone gone, so I ask [name redacted] and [name redacted] to help me get them out of there repeatedly and they did." (R. 395 line 10-13) The agent responds, "Okay." Wilkerson's next statement was, "I know they were quite inebriated." (R. at 395 line 18).

The agent responds to some discussion of Wilkerson's drinking habits with, "so, right." Wilkerson then said, "my wife tells me -- this before I go to to bed -- that one of the ladies is too drunk and she's walking around the house and going to stay." (R. at 396 lines 13-14) Wilkerson then talked more about Kim Hanks, to which the agent responded twice with an uh-huh. Wilkerson then said, "and I felt like crap -- I can guarantee that. I don't know why, but I felt horrible from, I guess, drinking. I didn't feel good at all. (R.397 lines 8-10)" The

agent responds with an "uh-huh." (R. at 398) After a series of "rights," "okays," and uh-huhs," the agent asked if Wilkerson knew the names of the women who came to the house. After providing two names, Wilkerson said, "Let me make this very, very clear.(R.399 line 16)" The agent said, "yes? (line 17)" Wilkerson continued, "I know I did not want these women to come to my house. I know that I did not want these women to come to my house. I know my wife did not. And I know I tried to get them away." (R at 399 lines 18-20)

In response to "All right" (R. 403 line 19) from the agent, Wilkerson stated, "For the life of me, I don't know why they were hell-bent on wanting to come to my house." (R at 404 lines 1-2) Later the agent asked, "Can you describe what their demeanors were like at the Club -- the females?" Wilkerson: "Very much into us." OSI: "What do you mean by that -- 'into us'?" Wilkerson: "Wanted to -- made it very clear that where were we going, what were we doing." (R at 420 lines 1-5)

Wilkerson continued with his theme that the women were into him and his friends: The agent asked," . . .still at the bar at the Club. Do the girls -- I mean were they giggly, did they seem very intoxicated? What were they doing? Wilkerson: "not anything that would have made me say "I want to take that girl home and take advantage of her." Agent: "Right." Wilkerson: "Ah, they were very giggly, very much into -- they ended up getting Colonel Ostovich in trouble, but very much into him." Agent: "Okay." Wilkerson: "And they wanted that, but they did keep asking me what my rank . . ." (R.421 lines 2-10)

Agent: "The age old question." Wilkerson: "They did and what I do and who I was, and what my rank was. They did. I recall that now, and I'm sorry I'm not trying to play into the hand of being targeted. But what I am saying is they did -- I recall that specifically a few times there, while we were standing, which was right next to where they serve the food, right on the enlisted side, next to the popcorn machine, right there. I'm positive, and I bet you Bear – [name redacted] -- would recall that." (R. at 421 lines 11-16)

Wilkerson continued in response to the agent asking what the women were drinking: "I'll tell you this right now, I did say to you, I felt horrible the next day. I felt -- the way I felt the next day, was not, like I would normally feel for what I had had to drink, so . . ." The agent responded, "Uh-huh." Wilkerson: "I did say to my wife that I'm not sure that I -- that there wasn't something in my -- I don't think I was drugged, but I did not feel right the next day. I will say that for sure." (R. at 422 lines 14-18) The agent asked whether Wilkerson had "ever been drunk to the point where you don't recall details before?" Continuing with his theme, Wilkerson responded: "yeah, but not recently. I will say, as I said, I felt like crap the next day, and would not have. I don't know why I felt, based on what I'd had to drink, I would have been -- I ride bikes -- pedal bikes. I would have been able to go for a hundred miles normally, but that day, if I even looked at my bike, I would have either thrown up or fallen over." (R. at 430 lines 1-8)

It is very clear that General Franklin was not correct when he claimed that the OSI lead Wilkerson down a path. All those "uh-huhs," "okays," and "rights" do not constitute "leading down a path." The reality is Wilkerson brought up every one of the topics on his own. Unfortunately for him, all the witnesses refuted

his version of the events. General Franklin was right about one thing: the prosecution was effective in showing Wilkerson lied to the OSI.

Franklin Explanation p) *In addition, Lt Col Wilkerson waived his rights to remain silent, did not request a lawyer, and appeared cooperative throughout. The Special Agents who conducted the interview utilized a full gamut of investigative interviewing techniques in attempts to garner incriminating statements from Lt Col Wilkerson. He maintained his innocence throughout the interview, provided a written statement, never stopped the interview, nor did he ever ask for a lawyer at anytime. As I viewed the entire interview in whole (twice), it was my consistent impression that Lt Col Wilkerson answered all questions in a manner like an innocent person would respond if faced with untrue allegations against him.*

Franklin has created a new standard for reasonable doubt; just never admit you committed the crime. The court members also reviewed the OSI interview along with all the other evidence and by their verdict found Wilkerson had lied. A quick review of just a few conflicts between what Lt Col Wilkerson said, and what his wife said are illustrative.

As we have just seen, Wilkerson had gone to great lengths to infer he had been drugged and that he was very sick. But there is more:

"What I will tell you is I felt unbelievably F'd up the next day." "I don't, but I know I mentioned to my wife that, 'I feel horrible, horrible.'" (R. at 431 lines 16-19) "I remember - I'll tell you what I remember that first set me off was that morning, the pancake mix was under the lower cabinet, and I almost fell over -- forward as I went to get it out of the cabinet. I was having trouble focusing." (R. at 449 lines 1-3) "I know I told him I felt like crap, because I did. I sat in the outfield a while." "I'm telling you, I know I sat in the outfield. You know we were playing baseball. I felt so freaking vertigoish I had to sit down." (R. at 472 lines 4-10)

How did Beth Wilkerson describe Lt Col Wilkerson on the 24th?

Q. How was your husband feeling that day [24 March]?
A. He was -- he said he was hung over. (R. 745 lines 21-22)
Q. Okay, hung over. Did he describe anything else?
A. No, he was hung over and but for being hung over, he did an awful lot that day.
Q. Yeah, what did he do that day?
A. He got up early with the children, when they first woke up, and he went down and he made a big breakfast for them. And when I came down at 9 o'clock, he was preparing for the barbeque. We had not decided at that point we were going to cancel it. I had not talked to Angela. And he went a head and prepared the ribs to go into the smoker, and the brisket, and then he went to -- he took the kids to Burger King to have lunch. (R.746 lines 1-8)

Q. All right, so go on. Sounds like Colonel Wilkerson is a busy little bee, but go on. What else is going on?
A. After they had lunch and the end-of-season basketball party, he met up with Major [name redacted] and his children, and they went and played baseball. (R. at 747-lines 1-4)

Their two sets of testimony on this subject are not even close, but there is more.

"My wife asked me to go to bed, and I go to bed." (R. at 396 line 2) "My wife said, "You need to go to bed." And I said, "You got it." (R. at 426 line 18-19) "Kim is not there when my wife says, 'Time for you to go to bed.' I think I walk in and let the other girl outside, whatever -- the Captain, she is -- I don't know her name. I go back in and she (wife) said, 'You need to go to bed.'" (R. at 427 lines 7-9) "My wife tells me, 'Hey you've had enough to drink. It's time to go to bed.'" (R. at 429 lines 19-20) "She said, 'You go to bed.' And I said, 'I'm going to bed.'" (R. at 468 lines 15)

But what does Beth Wilkerson say?

Q. Do you often send your husband to bed? I mean are you the one that tells him when it's time for him to go to bed?
A. Ah, no.
(R. at 760 lines 1-3)

Here is another example:

"We were worried about the connotation of a woman being thrown out of the IG's house, leaving her shoes behind." (R. at 417 lines 6-7) "And she said she found her by the [name redacted] boys' room, and she told her to depart in rapid terms." (R. at 427 line 16) "And I believe she did get snippy with her and said, 'You need . . .' or she told me -- I was not privy to this; I'm going on what she told me, 'You need to depart.'" (R. at 437 lines 1-2) "She had to feel strongly about something to bring a story . . .I mean, she got kicked out of our house." (R. at 447 lines 15-16) "To get back at me for kicking her out. I didn't kick her out." (R. at 448 line 5)

More inconsistencies between the Wilkersons

"And then I told him that the other girl had been booted out a little aggressively by my wife, actually, and had left her shoes." (R. at 469 lines 14-15)

But according to Beth: "I was not kicking her out of the house." (R. 725 line 17) "And it wasn't like I was kicking her out . . ." (R. at 725 line 21)

Col Wilkerson's testimony was clearly not consistent or credible. How could General Franklin reasonably deem Wilkerson to have "*…answered all questions in a manner like an innocent person would respond….*"

Franklin Explanation q) *Lt Col Wilkerson voluntarily agreed to take an OSI polygraph examination. I am fully aware of and considered the polygraph results. As you are aware in a criminal investigation, a polygraph is only an investigative tool to assist in the potential focus of the investigation and/or attempt to elicit admissions of guilt. It is not a "lie-detector test," nor is it "pass" or "fail." Because of inherent unreliability of polygraphs, they are entirely inadmissible in a court-martial. Ultimately, Lt Col Wilkerson has consistently maintained his complete innocence -- throughout two lengthy OSI, interviews, through the entire court-martial, and throughout his nearly four months in prison (following the court-martial and during the post-trial process).*

Only Franklin's mental gymnastics could turn a finding of "deception indicated" on the very questions of which Wilkerson was convicted into reasonable doubt. He essentially claims that a failed polygraph means nothing. The testimony of an ex-husband's wife about her opinion based on a ten-year old child custody case (also inadmissible) is gold in his mind. Furthermore, it is easy to maintain your innocence during a court-martial, if you never say a word. Silence is hardly proof of innocence. No basis for reasonable doubt.

Franklin Explanation r) *Finally, I do not assert in any way that the event as argued by the prosecution was out of realm of possible. However when I considered all the evidence together in total, the evidence was not sufficient to prove this alleged version by the prosecution beyond a reasonable doubt. An addition, and as simply one more point of reference, I was perplexed in relation to this conundrum -- Lt Col Wilkerson was a selectee for promotion to full colonel, a wing inspector general, a career officer, and described as a doting father and husband. However, according to the version of events presented by the prosecution, Lt Col Wilkerson, in the middle of the night, decided to leave his wife sleeping in bed, walk downstairs past the room of his only son, and also near another room with two other sleeping guest-children, and then decided to commit the egregious crime of sexually assaulting a sleeping woman who he and his wife had only met earlier that night. Based on all the letters submitted in clemency, in strong support of him, by people who know him, such behavior appeared highly incongruent. Accordingly, this also contributed, in small degree, to my reasonable doubt.*

The defense went to great lengths to portray Wilkerson as a model officer and family man. Franklin fails to mention the other misconduct that rebutted this assertion. This “model officer” was caught peeking over a stall at a subordinate's wife while she urinated, egregiously violated safety standards and was abusive to the security forces sergeant who responded to a fire set by Wilkerson and fellow pilots (conduct he later bragged about in an email to his pilot friends). During the trial, a retired colonel testified about Wilkerson's poor military character and a captain submitted an affidavit about Wilkerson's poor character. Franklin ignores that evidence.

Once again, Franklin has substituted his beliefs for the beliefs of the court members he selected to serve as the fact finders in this case. He also failed to mention, anywhere in the entirety of his post hoc justification, anything about the evidence supporting the conviction. No one would ever know from reading this letter that Kim Hanks testified she was sexually assaulted and that she was believed beyond a reasonable doubt. Franklin's disbelief that a "model officer and family man" could commit sexual assault is not a valid basis for reasonable doubt.

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:

20 Park Road, Suite E Burlingame, CA. 94010 - [redacted]

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 through. 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.

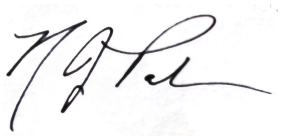
In this attempt to justify his actions, Lt. Gen. Franklin repeatedly substituted his judgment for the judgment of the court members and the military judge. He offers nothing new. The only evidence Franklin viewed that the members did not was found baseless by the military judge. Rather than look with 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