

Congress of the United States
House of Representatives
Washington, DC 20515-0918

March 28, 2022

Major General James F. Glynn, USMC
Commander
Marine Forces Special Operations Command
PSC Box 20116
MCB Camp Lejeune, NC 28542

Re: Prosecution of Marine Special Operators Gunnery Sergeants Daniel Draher and Joshua Negron

Dear Sir,

I write you today because I am concerned about the continuing legal charges against two of your Marine Raiders and believe that MARSOC is damaging its capability and credibility by persisting in efforts to unnecessarily prosecute these men.

As you are aware, this unfortunate event took place in the early morning hours of New Year's Day 2019 in a civilian pub across from the U.S. consulate in Irbil, Kurdistan, and later in the on-street parking area.

Specifically, I have reviewed video evidence that illustrates a clear-cut case of self-defense: A U.S. contractor was repeatedly aggressive toward Navy Hospitalman Chief Petty Officer Eric Gilmet. Kurdish bouncers ejected the visibly intoxicated and aggressive contractor, who remained outside to seek and provoke a violent confrontation.

Gilmet's colleague, Gunnery Sergeant Daniel Draher, attempted to deescalate the situation by approaching the contractor and his eight or nine colleagues. Draher's body language was clearly nonconfrontational, with his hands remaining at his sides. However, the contractor attacked Draher with a hand to his chest, an attempted head butt, and a flurry of punches to his face. As the attack continued, Gunnery Sergeant Joshua Negron stepped in to defend Draher, throwing a single punch that rendered the aggressor unconscious. Immediately, the corpsman, Gilmet, began providing medical care.

I have also familiarized myself with what happened next. When the contractor's colleagues dispersed, the trio brought the unconscious or passed out man, Rick Anthony Rodriguez, back to his room on base. Gilmet posted watch overnight out of concern about his heavily intoxicated state. In the morning, Gilmet asked the man's friend to maintain watch over him. Later, when left alone, the contractor choked on his own vomit and stopped breathing. The friend called for Gilmet, who responded and provided urgent medical care, then helped transport the man to the base hospital. Tragically, Rodriguez died some days later at Landstuhl.

Of note, on January 1, 2019, Draher forthrightly and transparently alerted his chain of command of the incident. MARSCOC investigated and apparently agreed it was a clear case of self-defense. Then, nearly 10 months later in September 2019, the three men—each of whom possesses an exemplary service record—were suddenly charged with involuntary manslaughter, negligent homicide, obstructing justice, dereliction of duty, and violations of orders. If convicted, the estimated time in the brig for each would be 22 years.

In addition to this being a clear case of self-defense, I am troubled by what appears to be ongoing and unlawful command influence (UCI) within the U.S. Marine Corps. In February 2022, the case against Gilmet was dismissed with prejudice because a senior Marine attorney, Col. Christopher Shaw, threatened the military attorney who represented Gilmet at the time. Unfortunately, we also now know that the chilling effect on military attorneys who defend high-visibility clients extends beyond Shaw, as evidenced in the sworn affidavit submitted by attorney Marine Captain Matthew Thomas describing his reasons for formally resigning from the service.

Shaw's significant misconduct calls the integrity of the UCMJ system into question. Draher and Negron had been confident in their own military attorneys until this improper threat interfered with their right to counsel. Accordingly, both were compelled by Shaw's actions to release their counsel when the attorneys themselves said they were not sure they could continue placing their clients' best interests at the forefront.

Accordingly, in order to assign replacement counsel, the military has had to look outside the Navy and Marine Corps. On February 28, Draher was assigned a Coast Guard attorney, while Negron was assigned two Army attorneys. Nearly three years in, these two Raiders must start over in preparing their defense with a new legal team who will represent them before an all-Marine jury. While this is permitted under the UCMJ, it is highly unusual and expected to serve as a negative distraction in the courtroom. Given the actions of Colonel Shaw and evidence demonstrating the Marines acted in self-defense, it appears that continued prosecution of these Marines is not about justice.

In fact, I am concerned that these charges are politically motivated. Your predecessor, Major General. Daniel Yoo did not file charges until 10 months after events transpired, and then he leveled the harshest possible charges, which, as I previously mentioned, would put Draher and Negron in the brig for 22 years if convicted by the general court martial. The timing of Yoo's actions coincided with a concerted effort by USSOCOM and component command leadership to demonstrate their commitment to good order and discipline in the aftermath of several high-profile episodes regarding misconduct in the ranks. I fear that Negron and Draher are being unjustly victimized in pursuit of that objective.

As such, I ask that you carefully review the evidence for yourself. You have the authority to put this unfortunate incident behind MARSOC by dismissing all charges against Draher and Negron – even if it is without prejudice while the appellate court reviews the well-reasoned dismissal order of the military judge in Gilmet's case. I am confident that you will make a swift and just determination.

Respectfully submitted,



Brian J. Mast
Member of Congress

Cc:

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