

TO THE PRESIDENT OF THE UNITED STATES

**PETITION FOR PARDON FOR
SEAMEN SECOND CLASS FREDDIE MEEKS
UNITED STATES NAVY**

**Convicted October 24, 1944, of
"Making a Mutiny"
by General Court-Martial at the
U.S. Naval Training Center, San Francisco, CA
Following the July 17, 1944
Explosion at Port Chicago, CA**

**PETITIONER'S APPLICATION FOR A PARDON
AND REQUEST FOR EXPEDITED CONSIDERATION**

For Petitioner:
G. Brian Busey
Jonathan Band
Bernice A. Harleston
MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006
(202) 887-1500

May 20, 1999

PETITION FOR PARDON

To the President of the United States:

The undersigned petitioner prays for a pardon and in support thereof states as follows:

Personal Information

1. Full Name: Seaman Second Class (S2c) (Ret.) Freddie Meeks

Address: 5324 Angeles Vista Boulevard
Los Angeles, CA 90043

Telephone Number: (323) 295-0384

Social Security Number: 412-09-9994

Date and Place of Birth: October 24, 1919, Natchez, MS

Physical Characteristics

Sex: Male

Height: 6'0"

Weight: 215

Hair Color: Dark Brown

Eye Color: Brown

Special Note: At the time of filing, S2c Meeks is 79 years old and in declining health. He respectfully requests an expedited review of his petition based on the Petitioner's age and health. He has undergone in the past two open heart surgeries - one triple and one double bypass. Presently, he is being treated for a blocked artery in his neck. Additionally, he has a pace maker, diabetes and high blood pressure and moves around by motorized wheelchair most of the time.

Citizenship: U.S.

Offense for Which Pardon Is Sought

2. Petitioner's Conviction: S2c Meeks entered a plea of not guilty to the charge of Making a Mutiny in violation of Article 4 of the Articles for the Government of the Navy (AGN) and was found guilty on October 24, 1944 in a trial by general court-martial convened at the U.S. Naval Training Center, San Francisco, California (Treasure Island).

3. Petitioner's Sentence: S2c Meeks was sentenced to a period of incarceration of 15 years, to be reduced to the rating of apprentice seaman (E-1), to be dishonorably discharged from Naval service and to suffer all the other accessories of said sentence. The term "other accessories of said sentence" meant Petitioner would perform his confinement at hard labor and would forfeit all pay.

Special Note: On November 15, 1944, the Convening Authority reduced his sentence to 12 years confinement with corresponding accessories. On November 20, 1945, Secretary Forrestal approved the recommendation of the Chief of Naval Personnel and reduced S2c Meeks's sentence to 17 months confinement with corresponding accessories, starting from June 19, 1945. In January 1946, Secretary Forrestal remitted the unexecuted portion of S2c Meeks's sentence and he was restored to duty on 12 months probation.

4. *Give a complete and detailed account of petitioner's offense(s), including dates (or time span) of the offense, names of codefendants and, when applicable, amount of money involved. Petitioner is expected to describe the factual basis of her/his offense completely and accurately and not rely on criminal code citations or name references only. If the conviction resulted from a plea agreement, petitioner should describe fully the extent of her/his total involvement in the criminal transaction(s), in addition to the charge(s) to which she/he pled guilty.*

BACKGROUND

In order to properly understand this case, Mr. Meeks's conduct and offense must be understood in the complete historical context of the Port Chicago explosion and the shameful aftermath. Accordingly, a brief biographical summary of S2c Meeks's life and career leading up to his conviction is presented below.

S2c Meeks's Personal History

Freddie Meeks was born in Natchez, Mississippi in 1919, the second of five children. He was raised in Memphis, Tennessee by his mother after his father died when he was eight years old. In order to help his mother with the costs of raising the family as a single parent, he began working when he was 11 years old. He dug ditches for sewer lines for a newly constructed city housing project. In 1940, at the age of 20, he married Eleanor Bolton. In 1941, at the suggestion of his wife's grandmother, Mr. Meeks moved

to Los Angeles, California to seek better work opportunities. He soon found work and became a certified welder for a shipyard in Los Angeles. His wife moved to Los Angeles in 1942.

Before Mr. Meeks left Memphis for Los Angeles, he had registered for the draft. His employer in Los Angeles requested a work-related deferment for Mr. Meeks when the first draft notice arrived. In August 1943, Mr. Meeks declined a second deferment, was drafted and entered the U.S. Navy.

Segregated Training Facility

S2c Meeks was trained at the U.S. Naval Training Center at Great Lakes, Illinois, the only Naval training facility for black sailors during World War II. At that time the Navy, like the other armed forces, was racially segregated. S2c Meeks was trained at Great Lakes for two-to-three months in personal hygiene, cleaning the barracks, marching and drilling, standing guard duty and shooting a rifle. Significantly, he was not trained in the handling of bombs or ammunition. After he completed basic training, S2c Meeks expected to be posted to a ship or assigned duty aboard a submarine to fight for his country in the war against fascism overseas. His wish to serve his country in combat was not honored; instead, he was shipped out to Port Chicago.

Port Chicago Naval Magazine

Port Chicago was a Naval ammunition magazine constructed in 1942 located on the south shore of upper Suisun Bay, approximately 1½ miles from the town of Port Chicago, California. The operations of the base exclusively centered on the handling and overseas shipment of ammunition to the Pacific war. Port Chicago was designed to receive ammunition by rail to be loaded directly from the railway cars onto seagoing

vessels or barges. Port Chicago was a Jim Crow base where all of the men actually physically handling the ammunition were enlisted black sailors while all of the commissioned officers, marine and civilian skilled workers were white. The black enlisted sailors lived in separate barracks from the white officers. The bathrooms also were segregated.

By July 1944 there were 1,431 black enlisted personnel at Port Chicago, 71 officers, and 106 marines who guarded the base. In addition, some 231 civilians were employed as skilled workers in carpentry, locomotive engineering and crane operation. Most of the black seamen were organized into eight shiploading divisions consisting of 100 to 125 men. On the loading pier the usual practice was to assign one work division to each ship being loaded. The division would be divided into five work gangs, one for each of the ship's hatches. The typical Liberty ship had five cargo holds, three in the forward section of the ship and two in the rear. Each hold was as deep as a four-story building. The gangs in turn were divided into two squads, one on the pier and one in the hold of the ship. One man was assigned to operate the winch for that hold and one man would act as hatch attendant to signal the winch operator.

Ammunition was brought onto the pier in railroad boxcars. One or two men were assigned to "break out" the car, using a sledge hammer and crowbar to remove dunnage (timber used in stowing bombs in boxcars and ships' holds). The rest of the squad would then manhandle the bombs onto the pier—large bombs would be rolled down a chute or removed by electric "mules," and small bombs and boxes of ammunition might be passed hand-to-hand or transported by hand trucks. The ammunition was placed in nets on the pier so it could be hoisted by the ship's booms and lowered through the hatch into the

hold, where another squad stowed it away. The ammunition was stowed layer by layer, rising slowly from the bottom of the hold to the hatch. During these operations the pier would be jammed with boxcars, locomotives, tons of bombs and high explosives and men jostling about everywhere. The types of ammunition handled included small-arms, artillery projectiles, depth charges, fragmentation bombs, and huge blockbusters weighing as much as two thousand pounds each.

S2c Meeks's Duty Assignment

When S2c Meeks arrived at Port Chicago on December 5, 1943, he was assigned duty as an ammunition loader in the Second Division. He worked in the hold of the ship below the deck and would receive ammunition by hand that was either hoisted into the hold by winch or rolled down a chute. His job entailed stacking the ammunition from the bottom of the hold to the hatch.

In no time at all, S2c Meeks recognized the dangerousness of his work environment. As the bombs, torpedoes, projectiles and other munitions were lowered into the hold of a ship, they were typically held in loose nets. Since there was no tray underneath to support the bombs, often the containers would bang into each other on the way down. Sometimes the single bombs hoisted by winches also would bang against the side of the boxcars as they were extracted. Sometimes the bombs, torpedoes, projectiles and other munitions were rolled down the chute too fast and would drop to the ship's floor before S2c Meeks could catch them or pull them off. Every time a bomb collided with another bomb in the nets or a bomb hit the floor of the ship, S2c Meeks thought there would be an explosion. With each episode during the seven hour shift, his anxiety

grew and his fear of an explosion escalated to a point where he believed he would die performing this job under the conditions.

With his nerves constantly on edge, S2c Meeks asked his commanding officer about the risk of the ammunition exploding in light of the rough handling. S2c Meeks was told by his commanding officer not to worry about the loading conditions. Since the bombs did not have detonators or fuses or warheads, he was instructed, they could not explode.

Complete Lack of Training

S2c Meeks had not received any training for his duty assignment of handling and loading ammunition, either at Great Lakes or at Port Chicago. The Navy did not have a manual on handling or loading high explosives during the entire time of S2c Meeks's service. S2c Meeks, moreover, was never given any instruction on safety procedures while at Port Chicago. When S2c Meeks arrived at Port Chicago, he was shown what to do by other enlisted men who also had been assigned the duty of loading ammunition and who had been on the job only a short time before S2c Meeks arrived.

Similarly, many of the officers at Port Chicago had no training or previous experience in loading or handling ammunition. Additionally, they lacked experience commanding battalions of enlisted men. Lieutenant James Tobin, division officer of the Second Division (S2c Meeks's division), was typical of this situation. Lt. Tobin, an auditor in civilian life, was a reservist called to active duty and had no experience whatsoever with explosives before arriving at Port Chicago in January 1943. Lt. George Hackenberg, an assistant loading officer at Port Chicago, similarly had not been trained in loading ammunition or commanding seamen prior to arriving at Port Chicago.

Pace of Loading Ammunition

S2c Meeks, like the other black seamen at Port Chicago, was under great pressure to load a large amount of munitions quickly during his shift. Captain Nelson H. Goss, Commanding Officer of the Naval Ammunition Depot, Mare Island (Port Chicago was a subcommand of Mare Island), set a goal of ten-tons per-hatch per hour as the objective for his loading crews. This goal was seldom attained. Captain Merrill T. Kinne, Officer In Charge of Port Chicago in April 1944, posted daily average rates of loading for each division in the dock office. In response to the pressure from "Captain Kinne's blackboard," coupled with criticism by senior officers regarding inefficient loading rates, the junior officers created a highly unsafe and reckless competition in loading munitions among the divisions. The junior officers promoted racing among the divisions, and S2c Meeks and the other men were rewarded with movies or extra liberty if they loaded more tonnage faster than the other divisions. If S2c Meeks and the other men fell short of the loading goals, they were punished with verbal abuse and denied liberty. S2c Meeks also was aware that some officers had a habit of placing bets on their divisions as part of the competition. Lt. George Hackenberg was also aware of the betting that occurred.

In November 1941, the Coast Guard served under the Navy Department and, by law, was required to supervise the safe loading and stowage of explosives and other munitions at all American ports. The Coast Guard's rules and regulations governing the safe loading and unloading of explosives were promulgated in the "Regulations Governing Transportation of Military Explosives on Board Vessels During Present Emergency" (also known as the "Red Book"). In October 1943, the Coast Guard explosives-loading detail assigned to Port Chicago complained about the unsafe loading

conditions that existed at the base. The Navy Inspector of Ordnance In Charge, Mare Island, Captain Nelson H. Goss, rejected out of hand the Coast Guard's safety recommendations. The Coast Guard was powerless to override Naval authority. Upon expressing their disapproval of the unsafe loading conditions, and at the request of Captain Goss, on November 1, 1943, the Coast Guard withdrew its explosives-loading details from Port Chicago.

In July 1944, the International Longshoremen's and Warehousemen's Union warned the Navy against using untrained seamen to load ammunition—the very same conditions that existed at Port Chicago. The union stressed that under its rules, for example, a winch operator would not be allowed to handle ammunition before he first had several years of experience with other cargo. By contrast, at Port Chicago, Seaman First Class Joseph Randolph Small of the Fourth Division was not trained at operating a winch before being assigned this duty; instead, he learned on the job by watching other enlisted seamen. The union offered to send experienced longshoremen to train the enlisted sailors in the safe handling of ammunition, but the Navy ignored the offer.

The Explosion and Its Aftermath

On the night of July 17, 1944, S2c Meeks was loading ammunition aboard the Liberty ship, the *E.A. Bryan*, which had been taking on ammunition at Port Chicago for four days. A second ship, the *Quinault Victory*, had arrived that evening. Loading of the *Quinault Victory* was scheduled to begin at midnight. S2c Meeks and the other men of Division Two completed their shift loading ammunition aboard the *E.A. Bryan*, and afterward mustered and marched back to the barracks as was customary. As they came off the ship, S2c Meeks and the other men sang "Anchors Aweigh" and waved to the men

of Division Three who were lined up on the side of the ship preparing to come aboard and begin their shift. That would be the last time S2c Meeks saw the men of Division Three alive.

S2c Meeks and the other men were rewarded with liberty that evening by their commander for completing the loading so fast, and they went into town. By 10:00 p.m., 4,606 tons of munitions (which contained 1780 tons of high explosives) had been loaded, including anti-aircraft shells, M-7 incendiary bomb clusters, fragmentation bombs, Mark 47 and Mark 54 dept bombs. A total of 429 tons of munitions (which contained 146 tons of high explosives) remained on the pier to be loaded. At approximately 10:19 p.m. there was a small explosion closely followed by a huge explosion at the pier at Port Chicago. The *E.A. Bryan* was literally blown to bits. The *Quinault Victory* was blown out of the water away from the pier and broken into sections. The Coast Guard fire barge was blown two hundred yards upriver and sunk. The 1,200 foot long pier completely disappeared. A diesel locomotive and all the boxcars on the pier were completely destroyed. Nearly every window on the base was blown in and extensive glass damage was recorded on structures up to 12 miles away. Practically every building and structure on the base was damaged.

The Port Chicago explosion was the worst home-front disaster of World War II, killing everyone on the pier, aboard the two ships, and the fire barge. A total of 320 men died, 202 of whom were the black enlisted loaders — 15 percent of all black sailors killed during World War II. Another 390 military personnel and civilians were injured, including 233 black enlisted men. In all of the devastation, only 51 bodies were able to be identified.

S2c Meeks and the others were recalled to the base only to be shocked by the terrible destruction they witnessed. The men of the Fourth and Eighth Divisions were transferred to the Ryder Street Naval Barracks, Mare Island, in Vallejo on July 31. S2c Meeks, however, remained at Port Chicago and was assigned clean-up duty which involved picking up and putting into baskets the pieces of burned, blackened and bloody body parts—all that remained of his friends and fellow seamen—that littered the ammunition depot. S2c Meeks picked up a shoe with just a foot in it, a decapitated body with no arms, a single arm, a lone head. The stench of charred flesh lingered in the air. The scene was utterly devastating to S2c Meeks and the men who remained at Port Chicago after the explosion.

Post-Explosion Investigations

At different times after the explosion, various Navy departments conducted investigations into the circumstances surrounding the episode and recorded their findings.

Navy Court of Inquiry

On July 21, 1944, four days after the explosion at Port Chicago, a Navy Court of Inquiry was convened to inquire into the circumstances surrounding the explosion and to reach a conclusion about what may have caused it. The inquiry lasted over a month and 125 witnesses were called to testify, including, among others, survivors, eyewitnesses, other Port Chicago personnel, ordnance experts, and ship inspectors. Despite the fact that only black enlisted men actually handled the ammunition and operated the winches at the base, only five black witnesses were called to testify.

When the Court of Inquiry was adjourned on October 30, 1944, it listed the probable causes of the explosion in the order of probability, which included the presence

of a supersensitive element¹ which was detonated in the course of handling, and rough handling by an individual or individuals.² The court also opined that the goal of loading ten tons-per-hatch per hour was high given the lack of training for the sailors performing the loading at Port Chicago.

Army-Navy Explosives Safety Board

On July 25, 1944, one week after the devastating explosion, Colonel Crosby Field, Assistant Director of Safety, Ordnance Department, Army-Navy Explosives Safety Board, issued the report of the Board's investigation of the events. While the Board concluded that the exact cause of the explosion was unknown, it believed it occurred "due to rough handling of a torpex filled mine at ship's side." Colonel Field further reported that, "[b]ombs and other ammunition containing torpex or similar explosives cannot be handled as roughly as is customary with TNT. The hazard is accentuated by cavitation³ possibilities. Evidence of rough handling [at Port Chicago] may not be found by the Board of Inquiry but observers have reported that it is not unusual." Torpex was shorthand for torpedo explosive. Among the Board's recommendations were that torpex become recognized as a hazard requiring special care in the handling of any ammunition

¹ The term "supersensitive component" as herein used is defined as:

a. One wherein a thin film of high explosives is present because of defects in the manufacture of the case or faulty filling of that particular component. (This condition could have occurred in the Mark 47 and the Mark 54 depth bombs.)

b. One which has become prematurely armed by reason of damage to the safety features either in transit to the magazine or in the handling after arrival. (This condition could have occurred in the M-7 incendiary bomb clusters.) Court of Inquiry Transcript ("C.I. Tr.") 1258.

² The term "rough or careless handling" as herein used is defined as handling which would subject a component or its container to a severe blow or cause deformation of the case or container by the application of concentrated stress. Examples of this would be a bomb which is allowed to swing against the ship's side or a hatch coaming, or a hoist which is dropped from a height or is allowed to strike the deck a hard blow in lowering, or the arrangement of the load in the net or sling which is such as to impose concentrated stress on one or more of the components of the load. C.I. Tr. 1258.

or bomb of which it is a component. The Board also recommended that the Navy adopt and strictly adhere to the safety regulations for loading ammunition set up by the Coast Guard.

Navy Bureau of Ordnance

The Bureau of Ordnance directed the receipt of ammunition and explosives at Port Chicago. In March 1945, the Bureau of Ordnance reported that rough handling of bombs and other ammunition could cause an explosion. Specifically, the Bureau of Ordnance reported that results of experiments showed "[a] TNT-loaded depth bomb dropped only 2 feet on a rounded corner produced a partial low-order detonation, and a warhead detonated when accidentally struck with a sledge hammer used for removing pieces of a crate, with no possible fuse action being involved in either case." The Bureau of Ordnance also noted that ammunition loaded with torpex is somewhat more sensitive than ammunition loaded with TNT and that, even TNT-loaded ammunition can be exploded by impacts slight enough to dent its container walls. Thus, the Bureau of Ordnance advised that the loading practices that existed before the explosion at Port Chicago be discontinued immediately.

Events Leading to the Court-Martial

After gathering body parts and debris and performing other work for 22 days as part of cleaning up the gruesome devastation at Port Chicago, S2c Meeks expected to be sent home to recuperate from this horrible tragedy on a 30-day pass for survivors' leave. He knew the Red Cross relief workers had recommended to the Navy that all personnel who experienced the explosion be given leave. In fact, many of the white officers had been granted 30-day passes for survivors' leave at this time. For example, Lt.

³ The formation of dents in the container walls.

Hackenberg, who was in his room in the barracks during the explosion, took 30-days' leave to recuperate rather than return to Port Chicago after he escorted one of the few identified bodies, that of Officer Harold A. Wood, home for burial. S2c Meeks's expectation for leave seemed justified, additionally, in light of the praise Rear Adm. Wright showered on him and the other black enlisted men three days after the explosion:

I am gratified to learn that, as was to be expected, negro [sic] personnel attached to the Naval Magazine Port Chicago performed bravely and efficiently in the emergency at that station last Monday night. These men, in the months that they served at that command, did excellent work in an important segment of the District's overseas combat supply system. As real Navy men, they carried on in the crisis attendant on the explosion in accordance with our Service's highest traditions.

In contrast to the survivors' leave readily granted to white officers after the disaster, S2c Meeks's request for 30-day leave was denied. The denial dealt a heavy blow to S2c Meeks. For his nearly nine months of service in the Navy, he dutifully and loyally performed without fail the most dangerous and back-breaking work, work deemed unfit for white personnel courtesy of Jim Crow. He endured the attendant badge of second class citizenship in every way, including eating all meals only after the white officers had finished dining and had cleared the mess hall. When he was loading ammunition, S2c Meeks was not permitted to use the bathroom on the ship and had to walk a half a mile to relieve himself. Even under the demoralizing conditions of a segregated base, S2c Meeks had maintained a perfect conduct rating throughout his Naval service. He had never disobeyed an order of a superior officer. Trial Transcript ("Tr.") 179. After the explosion, he performed the gruesome task of collecting the tattered body parts strewn about the base. Nevertheless, he was denied the 30-day

survivors' leave given freely to white officers who performed, arguably, less stressful duties both before and after the explosion, but who were victims all the same.

On August 8, 1944, three weeks after the Port Chicago explosion, a ship, the *U.S.S. San Gay*, arrived at Mare Island to be loaded with ammunition. On August 9, 1944, S2c Meeks was transported to Mare Island from Port Chicago, along with other members of Division Two, to load ammunition aboard the *San Gay*. The men of the Fourth and Eighth Divisions already were at Mare Island. After he got off the bus, S2c Meeks was requested by his commanding officer to load ammunition aboard the *San Gay* and he refused. He was deathly afraid of handling ammunition after the explosion. Following the devastating explosion at Port Chicago, neither he nor any of the other black seamen had received any additional training in loading ammunition, and he feared that he would die in another explosion.

Of the total 328 men in the three divisions who were ordered to load ammunition, only about 70 signified their intent to obey the initial order to load ammunition aboard the *San Gay*. Tr. 21. As a result of his refusal, S2c Meeks was confined to a barge tied to a pier along with the 257 other men of Divisions Two (also called Division Five after the explosion), Four and Eight, who also were frightened and unwilling to handle ammunition in the wake of the devastating explosion. Tr. 22.

S2c Meeks was imprisoned on the barge for two days while the Navy decided what to do. Several officers, to encourage the men to return to loading ammunition, specifically appealed to the seamen's racial pride. Tr. 45, 103. On August 11, 1944, Rear Adm. Wright came to Mare Island to address S2c Meeks and the other men. S2c Meeks and the other 257 men were marched onto a baseball field and assembled in

divisional formation to receive the Admiral's remarks. Tr. 22. Rear Adm. Wright warned S2c Meeks and the other 257 black sailors who refused to resume loading ammunition under the same conditions that, as Commandant, he would charge S2c Meeks and the other men with mutiny for failing to obey an order and that, in time of war, mutiny was punishable by death by firing squad.

S2c Meeks approached and told Rear Adm. Wright that he was afraid to resume loading ammunition after the explosion under the same unsafe conditions that existed before the explosion. S2c Meeks specifically explained to the Commandant that he believed if he resumed loading and if munitions were to fall to the ship's floor he would take off running which, in turn, might distract another man in the hold and prevent him from catching the ammunition being lowered, causing another explosion. Tr. 716. S2c Meeks requested a transfer to any other duty assignment until he recovered from his excitement. Tr. 716.

Commandant Wright did not respond to S2c Meeks individually. Approximately 24 other men spoke with Rear Adm. Wright and expressed their fears about resuming loading of ammunition. Before Rear Adm. Wright left, he told all of the men assembled that the hazards of facing a firing squad were far greater than the hazards of handling ammunition.

After Rear Adm. Wright left, all the men of the entire Eighth Division decided to resume loading ammunition. In spite of Rear Adm. Wright's threat, however, S2c Meeks remained terrified of loading ammunition and refused another order to do so. A total of 49 other men from the Fourth and Second Divisions also decided not to resume loading ammunition and individually refused another order to do so. Significantly, during this

time, S2c Meeks and the other men obeyed every order given except the order to load ammunition. S2c Meeks and the other men, as they were ordered, marched to and from the barge, assembled on the ball park, ate meals at the mess, and refrained from smoking on the barge. Additionally, S2c Meeks and the other men did not riot or resort to any violence but acted respectfully.

After collecting personal items from the barracks, S2c Meeks and the other men were marched off to the brig at Camp Shoemaker by the Shore Patrol where they were confined. While in the brig, as part of a pretrial investigation, S2c Meeks was questioned by Lt. Aylward about the events which occurred at Mare Island. S2c Meeks answered, "I am willing to be governed by the laws of the Navy and do anything to help my country win this war. I will go to the front if necessary, but I am afraid to load ammunition." Tr. 717. Lt. Aylward reduced S2c Meeks's statement to writing and S2c Meeks signed it after verifying it was accurate. The pretrial investigation lasted through August and statements also were taken from the other 49 men.

General Court-Martial

S2c Meeks was charged under the Articles for the Government of the Navy with one count of Making a Mutiny along with the 49 other men and tried by general court-martial. S2c Meeks was tried before an all white, seven-man court martial appointed by the Commandant. He testified that he refused to resume loading ammunition under the same unsafe conditions after the explosion because he feared another devastating explosion would result. He also testified that he would perform any other work except handling ammunition. He requested a transfer of duty until he recovered from his excitement. The trial lasted 33 days, the court heard testimony from 76 witnesses,

including S2c Meeks and the other 49 men charged, and produced a transcript totaling over 1,455 pages. At the conclusion of the evidence, in roughly eighty minutes, the court found S2c Meeks and the other 49 men guilty of Making a Mutiny.

Summary Court-Martial

The 208 black enlisted men who, after Rear Adm. Wright's address, said they would resume loading ammunition were also brought to Camp Shoemaker. Statements were taken from these men, too, as part of the pretrial investigation. The 208 men were charged with Refusing To Obey an Order, tried by summary court-martial and found guilty. They were sentenced to 90 days confinement at hard labor and fined according to their rating. For example, a sailor with a rating of S1c was fined \$198.

Judge Advocate General Review

In 1945, Mr. Thurgood Marshall, then a senior trial lawyer for the National Association for the Advancement of Colored People (NAACP) Legal Defense and Education Fund, filed an appellate brief with the Office of the Judge Advocate General for the Navy on behalf of S2c Meeks and the other men, and presented oral argument on April 3, 1945. Mr. Marshall argued that an excessive amount of inadmissible hearsay was admitted at trial. Mr. Marshall further argued that portions of the hearsay testimony involved statements of purported co-conspirators where the declarant was never identified or linked to the conspiracy. These statements were of the following kind: "If we stick together the Navy won't do anything to us." Mr. Marshall argued additionally that racially-loaded hearsay was admitted by prosecution witnesses who made statements such as: "Don't go to work for the white motherfuckers." Mr. Marshall also cited the following issues as error: the trial of the men in joinder; the court's verdict returned in only eighty minutes despite the lengthy record; the insufficient evidence to support a

mutiny charge; and the many instances of prosecutorial misconduct. Mr. Marshall concluded that the verdict should be reversed for all of these reasons.

On May 17, 1945, the Acting Secretary of the Navy , Ralph A. Bard, after reviewing the cases, agreed with Mr. Marshall on the limited point that 23 pieces of testimony were inadmissible hearsay and ordered the court to reconsider its findings and sentences without regard to the inadmissible testimony. The court reconvened on June 11, 1945 for three hours. On June 12, 1945, the court reaffirmed S2c Meeks's and the other mens' convictions. Thereafter, the Secretary of the Navy, James Forrestal, directed Captain Harold E. Stassen, Chief of Naval Personnel, to review the case. On October 15, 1945, Captain Stassen reported: "the evidence *is not particularly strong* of a concerted move," but nonetheless recommended that Secretary Forrestal approve the mens' convictions. Captain Stassen did, however, recommend that their sentences be reduced to three years for convicted sailors with prior records of minor misconduct and to two years for convicted sailors with no prior records. Secretary Forrestal approved Captain Stassen's recommendations on October 16, 1945. This drastic reduction of the sentences while sustaining the convictions in light of admittedly weak evidence of guilt is characteristic of the arbitrary and capricious nature of the entire general court-martial proceeding.

Congressionally Mandated Review

In 1991, Congress passed the Department of Defense Authorization Act for Fiscal Years 1992 and 1993, Public Law 102-190. Section 552 directed the Secretary of the Navy to conduct a thorough review of the cases of all 258 individuals convicted in the courts-martial arising from the explosion at Port Chicago "to determine the validity of the original findings and sentences and the extent, if any, to which racial prejudice or other

improper factors now known may have tainted the original investigations and trials.” The Navy Judge Advocate General’s office reviewed this case and reached the following conclusions:

- a. The court-martial was properly constituted and had jurisdiction over each of the accused.
- b. Under the standard of review applicable in 1944, considering the evidence in the light most favorable to the prosecution, sufficient evidence exist[ed] for the court to have found beyond a reasonable doubt that the accused committed each and every element of the offense of mutiny. The accused may have had different reasons they refused to obey orders, *e.g.* fear, safety concerns, perceived injury, discontent, and desire for social change, but they refused to obey nonetheless. When they chose to band together to effectuate their common purpose, they committed mutiny.
- c. The sentence, as mitigated, was appropriate for the offense committed by the accused.
- d. No error prejudicial to the substantial rights of the accused occurred.
- e. The convictions [by general court-martial] of the 49 remaining accused, as previously approved, mitigated, and ordered executed were proper and should not be disturbed.⁴

The Secretary also directed a civilian Board for Corrections of Naval Records (BCNR) to review the general court-martial proceedings. On July 13, 1993, the BCNR issued its findings and noted that racial discrimination explained why only the enlisted men were assigned the duty of loading ammunition at Port Chicago. It also acknowledged that the black enlisted men were subjected to segregated living and working conditions. The BCNR panel concluded, however, that racial discrimination played no part in the general court-martial convictions or sentences. The BCNR panel

⁴ The conviction of S1c William Fleece was set aside by the Secretary of the Navy in March 1946 based on a determination that he was not mentally competent at the time of the offense.

also noted that while the fear of the black sailors who refused to load ammunition was reasonable, they did not face greater danger than that faced by soldiers in combat.

On January 6, 1994, the Secretary of the Navy adopted both the Judge Advocate General's report and the BCNR panel's recommendations and concluded "that neither race prejudice nor other improper factors tainted the original investigations and trials." Thus, the Secretary upheld the court-martial convictions.

Post-Incarceration Activity

In January 1946, Secretary Forrestal remitted the unexecuted portion of S2c Meeks's sentence and he was restored to duty on 12 months probation. After being incarcerated for 17 months at Terminal Island, S2c Meeks was released and assigned to duty as a net tender—making cargo nets from hemp—aboard the *U.S.S. Corkwood*. S2c Meeks completed his service in the Navy and was discharged "under honorable conditions" on March 13, 1946. Navy regulations at the time prohibited issuing an honorable discharge to anyone who was convicted by general court-martial.

S2c Meeks hereby requests a pardon of his conviction for the crime of Making a Mutiny to completely clear his name.

Prior and Subsequent Criminal Record

5. S2c Meeks has never been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority, whether federal, state, local or foreign, either as a juvenile or adult for any incident, aside from the offense for which pardon is sought.

Biographical Information

6. Current Marital Status: Married.

Spouse's Name: Eleanor Meeks

Spouse's Date and Place of Birth: August 23, 1922, Memphis, TN

Date and Place of Marriage: June 29, 1940, Memphis, TN

Children

7. Name: Cheryl Elaine Jackson
Date and Place of Birth: March 10, 1951, Los Angeles, CA
- Name: Daryl Howard Meeks
Date and Place of Birth: August 20, 1957, Los Angeles, CA
- Name: Brian Harold Meeks
Date and Place of Birth: January 24, 1966, Los Angeles, CA

Schools Attended Since Conviction

8. School: Los Angeles Trade Technical College
Address: 400 West Washington Boulevard
Los Angeles, CA 90015
Telephone: (213) 744-9420
Dates Attended: January 1975-June 1976
Degree: None
Name of Reference: Ms. Mary Thompson

Residences Occupied Since Conviction

9. Address: 5324 Angeles Vista Boulevard
Los Angeles, CA 90043
From: April 1963
To: Present
- Address: 10959 South Hoover Street
Los Angeles, CA 90044
From: January 1959
To: April 1963

[check if Meeks can list any other addresses in Memphis]

Employment History

10. 1991 - Present: Retired
- 1980 - 1991: Housing Police, LA County Housing Authority, Los Angeles, CA.
- 1973 - 1976: Security Guard, KCBS Television, Los Angeles, CA.

1961 - 1971: Procurement Officer, LA County Mechanical Department, Los Angeles, CA.

1951 - 1961: Certified Molder and Welder, Foundry, Los Angeles, CA.

1946 - 1951: Butler and House-man to Sydney Sheldon (Writer/Producer), and Danny Thomas (Entertainer); Butler and Chauffeur to Ann Sothorn (Actress), in Los Angeles, CA.

Intermittent Intervals: General Construction, Los Angeles, CA.

- 10.(a) S2c Meeks has not been fired or left a job following allegations of misconduct or unsatisfactory job performance.
- 10.(b) S2c Meeks has not failed to list the conviction on any employment or other application where requested to list such information. **[check if accurate]**

Substance Abuse and Mental Health Information

- 11.(a) S2c Meeks has never used any illegal drug or abused prescription drugs or alcohol.
- 11.(b) S2c Meeks has never been involved in the illegal sale or distribution of drugs.
- 11.(c) S2c Meeks has never sought nor participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse.
- 11.(d) S2c Meeks has never consulted with a mental health professional (psychiatrist, psychologist, or counselor) or with another health care provider concerning a mental health-related condition.

Civil and Financial Information

- 12.(a) S2c Meeks is not in default or delinquent in any way in the performance or discharge of any debt or obligation imposed on him.
- 12.(b) S2c Meeks has not had any liens (including federal or state tax liens) or any law suits filed against him and has not filed for discharge of any debt in bankruptcy, since the conviction. **[check if accurate]**

Military Record

- 13.(a) S2c Meeks served in the armed forces of the United States.

Dates of service: August 1943 - March 13, 1945

Branch: U.S. Navy

Serial Numbers: 8790463

Type of Discharge: Under Honorable Conditions

Decorations (if any): None

- 13.(b) S2c Meeks was a defendant in a general court-martial. The nature of the charge, relevant facts, disposition of the proceedings and date thereof are fully detailed in answer to question 4 above. His conviction by general court-martial is the subject of this Petition for Executive Clemency. **[need name and address of the authority in possession of the records of the general court-martial (presumably the transcript)] [need a copy of the court-martial promulgating order]**

Civil Rights and Occupational Licensing

14. S2c Meeks was never denied any civil rights by reason of his conviction or sentence. **[check if accurate]**
15. S2c Meeks never suffered any firearms disabilities. **[check if accurate]**
16. S2c Meeks was never denied any type of business, professional or occupational license. **[check if accurate]**

Reasons for Seeking Pardon

17. *State your reasons for seeking a pardon. Please refer to paragraphs 4 and 11 in the attached Information and Instructions on Pardons. (As pointed out in paragraph 10 of the attached instructions, a pardon is a sign of forgiveness. Accordingly, in the usual request for pardon you should not reargue your case, assert innocence, or otherwise attack the validity of your conviction.)*

S2c Meeks should promptly be granted a pardon for several reasons. Most fundamentally, S2c Meeks did not commit the crime of Making a Mutiny because he did not intend to usurp, subvert or overthrow superior Naval authority by refusing to resume loading ammunition after the explosion at Port Chicago. In fact, when asked to resume loading ammunition, S2c Meeks respectfully stated: "I am willing to be governed by the laws of the Navy and do anything to help my country win this war. I will go to the front if necessary, but I am afraid to load ammunition." Tr. 717. In response, S2c Meeks was

charged with mutiny—"the gravest and most criminal of the offenses known to the military code." *Winthrop's Military Law and Precedents*, p. 578 (2d ed. 1920).

The circumstances surrounding the operation of the Port Chicago Naval base and the record of the general court-martial are replete with examples of the racial discrimination that permeated every aspect of living, working and existing at Port Chicago during World War II. The exercise of systemic racial discrimination resulted in a reckless and indifferent treatment of S2c Meeks and other black enlisted men assigned to Port Chicago and inherently infected the decisions both to prosecute and to convict the 50 black sailors of Making a Mutiny. In the wake of a horrific explosion that killed 320 men, 202 of whom were black enlisted men exclusively assigned the hazardous duty of loading ammunition, the Navy improvidently exercised its discretion in charging S2c Meeks and 49 other black enlisted men with Making a Mutiny for refusing to resume loading ammunition under the same unreasonably dangerous conditions that existed before the explosion, while at the same time granting white officers 30-days survivors' leave to recuperate. The court-martial was the largest general court-martial in Naval history and the only mutiny trial in World War II. The Commandant's decision to ratchet-up the charge against S2c Meeks and the other men was racially-motivated. As a result of the pervasive racial discrimination that existed at Port Chicago, the general court-martial produced an unfair and tainted result. Although the Department of the Navy reviewed the court-martial record in 1992 pursuant to Congressional direction, that review was inadequate because it ignored the prominent role that racial bias played in the illegitimate prosecution and conviction of S2c Meeks and the other 49 black sailors for mutiny.

I. The Conviction of S2c Meeks is Deserving of Presidential Pardon Because it Was the Product of Pervasive Racial Prejudice

S2c Meeks should be granted clemency in the form of a presidential pardon because his conviction for Making a Mutiny following the Port Chicago disaster was the result of pervasive and systemic racial bias. This racial prejudice appeared in virtually all aspects of S2c Meeks' experience at Port Chicago including his assignment to the base, and the segregated living and working conditions while at the base. Although segregated assignments and living conditions were official U.S. military policy at the time, the racial bias reflected in assignment, housing and other conditions at the base, converted into a pervasive and reckless indifference for the safety and lives of all the black enlisted men that exclusively loaded and unloaded bombs and ammunition at Port Chicago. The pervasive racial bias was reflected in the complete lack of training of the black sailors who were assigned the duty of loading high explosives under unsafe and reckless conditions. Furthermore, the pervasive racial discrimination also was prevalent immediately after the tragic explosion at Port Chicago that killed 320 men in that the white officers were freely given survivors' leave while the black seamen were denied survivors' leave and ordered to resume loading ammunition under the same dangerous conditions as existed before the explosion. The record also demonstrates that systemic racial prejudice affected the decision to prosecute S2c Meeks and 49 other black sailors for the most serious military offense, mutiny, and was the reason they were convicted of that offense. Racial prejudice blinded the general court-martial court to the fact that S2c Meeks and his fellow sailors refused to resume loading ammunition because of an individual and genuine fear that another explosion might result and not as a collective action to usurp military authority.

- **Discrimination in assignment and living conditions**

When S2c Meeks was assigned to Port Chicago in December 1943, Port Chicago was a Jim Crow base. The color of his skin determined the outcome of virtually every aspect of living and working there, including where he slept, went to the bathroom, his mode of transportation on the base and his duty assignment. Only the black enlisted men were assigned the duty of handling ammunition and only white men were officers assigned to supervise them. The black enlisted men lived in barracks on one side of the street while the white officers were housed in separate quarters across the street. The black enlisted men were driven in a bus from the barracks to the pier while the white officers rode separately in a jeep or car. The black enlisted men communicated little if any with the white officers and vice versa, apart from receiving or giving orders or about work-related issues. Considerations of race, then, permeated every aspect of life at Port Chicago.

- **Discrimination evidenced by lack of training in safe handling of high explosives**

At Port Chicago, the black enlisted men received callous and indifferent treatment concerning the safe performance of their duty assignment from the white commanding officers. S2c Meeks and the other black enlisted men received no formal training in the care and safe handling of volatile, high explosives at Port Chicago. Captain Merrill T. Kinne, Officer in Charge at Port Chicago, posted the existing safety regulations on the pier only and not in the enlisted men's barracks because he did not believe the black seamen were even capable of comprehending the regulations. Furthermore, white officers deliberately concealed the dangers of working with high explosives from the black seamen. S2c Meeks and the other black enlisted men were told by their

commanding officers not to worry about the loading conditions. The commanding officers told the enlisted men the bombs could not explode, despite rough handling, since they did not have fuses.

- **Discrimination demonstrated by promoting racing among the black loading crews**

The black enlisted men loaded ammunition under unsafe conditions at Port Chicago. The junior officers recklessly encouraged "racing" among the divisions of black enlisted men to determine which division could load more tonnage faster than the other divisions. The officers also placed bets on their divisions as part of this unsafe competition. Depth bombs were hoisted into the hold loose in nets without a pallet or tray to cushion landing shock and would bang into each other or the ship and also were rolled along the pier. Additionally, the bombs, torpedoes and other explosives were rolled down chutes into the hold so fast that sometimes they were not caught and would drop to the ship's floor. Under these circumstances, the recklessly promoted racing among the divisions increased the danger of an accident occurring in an already significantly hazardous duty assignment.

- **Discrimination reflected in the granting of "survivors' leave" to white officers but not to black sailors**

The treatment of the survivors after the explosion at Port Chicago also sharply diverged along racial lines. White officers were granted 30-day survivors' leave to recuperate after the explosion, while the black enlisted men were denied the same leave. Only three weeks after the explosion, the black enlisted men were ordered to resume loading ammunition under the same unreasonably dangerous conditions as those that permitted the explosion to occur.

- **Discrimination in decision to prosecute for mutiny**

The record reflects that stereotyping and racial prejudice dominated the opinions of even the top Navy officers in charge of Port Chicago. For instance, Rear Adm. Carleton Wright, the Commandant of the Twelfth Naval District which included Port Chicago, wrote in his memorandum to Secretary Forrestal dated August 12, 1944 explaining his decision to charge S2c Meeks and 49 other black sailors with mutiny:

5. After personal investigation and inquiry, the Commandant is of the opinion that:

* * *

- (c) A considerable portion of the men are of a low order of mentality, and as such are particularly susceptible to group influence and to believe of wild rumors.
- (d) The use of Negro [sic] enlisted personnel at ammunition depots is a logical employment where many of them will be more useful than in other naval assignments.

* * *

His memorandum reflected the racially-biased thinking that permeated the treatment of the black sailors at Port Chicago before and after the horrific explosion on July 17, 1944. Rear Adm. Wright believed—without any basis—that “the use of negro [sic] personnel as ammunition loaders is logical and where they will be more useful than in other assignments.” Objectively, however, there was no truth to this belief. Many of the black sailors at Port Chicago had attained a petty officer rating and were qualified to perform other tasks. Additionally, many of the black sailors serving at Port Chicago had received special training in gunnery, radio operation, quartermaster’s duties, signalling, cooking and other specialized duties before their assignment to Port Chicago.

Similarly, Adm. Wright's statements illustrated that racial prejudice and stereotyping infected the decision to charge S2c Meeks and his fellow sailors with mutiny. His statement that the black sailors were of "a low order of mentality and as such . . . particularly susceptible to group influence and to believe in wild rumors" confirmed that he decided to prosecute them for mutiny based on racial prejudice which was improper and fundamentally unfair racial prejudice.

- **Discrimination in the conviction for mutiny**

The black seamen who refused to resume loading ammunition after the explosion did so out of fear. The general court-martial and conviction of S2c Meeks and the other seamen for Making a Mutiny, in spite of their natural, well-founded fear of ammunition, was based on racial prejudice. As noted above, Commandant Wright believed the black enlisted men were "of a low order of mentality, and as such [were] particularly susceptible to group influence and to belief of wild rumors." Captain Goss described the black enlisted men as being ring leaders and agitators who were predisposed to question orders, argue and to complain unjustifiably about discrimination. During the general court-martial, the racially-loaded hearsay statement, "Don't go to work for the white mother fuckers," was admitted, over objection, for the purpose of inflaming the emotions of the all-white membered court. It is evident, then, that issues of race permeated all aspects of life at Port Chicago including the prosecution and conviction of S2c Meeks and his 49 fellow seamen.

- **Discrimination reflected in exoneration of white officers while covering up the fact that only blacks were assigned to hazardous loading duty at Port Chicago**

A pattern of racial discrimination was also reflected in the complete exoneration after the explosion of the white officers who were in positions of responsibility for operations at the base. Also, a fear that the revelation before the general court-martial that only black enlisted men were assigned to the hazardous duty of loading ammunition at Port Chicago would provoke a public outcry prompted Navy officials to take steps to mask the truth of the actual work conditions at the base.

First, several investigations into the causes of the Port Chicago explosion concluded that it most probably was due to rough handling of torpex. In characteristic fashion, however, the Navy Court of Inquiry placed blame along racial lines. It found that the black enlisted men were neither temperamentally nor intellectually capable of handling high explosives while it excused the white officers for failing to train them and commended the white officers for supervising the black enlisted men using "the most effective methods under the circumstances." The Navy Court of Inquiry even exonerated Captain Goss, despite his flouting of the Coast Guard's safety recommendations and ordering their explosives-loading details off of the Port Chicago base eight months before the explosion. Similarly, Captain Kinne was exonerated despite the reckless racing that resulting from his posting of the divisions' daily ammunition loading totals. The complete exoneration of the white officers reflected the racial prejudice inherent in the post-explosion investigation.

The Navy's post hoc efforts to mask the unreasonably dangerous conditions under which S2c Meeks and his fellow black enlisted men performed their duty assignment at Port Chicago likewise was a shameful display of racism. In his August 12, 1944

memorandum to Secretary Forrestal explaining the decision to prosecute S2c Meeks and others for mutiny, Rear Adm. Wright expressed concern that his treatment of black sailors at Port Chicago might be challenged as racially-motivated. Therefore, Rear Adm. Wright wrote that "pains must be taken to insure there is no justification for an opinion that hazardous work is assigned exclusively to negro [sic] personnel." In fact, from the opening of Port Chicago in December 1942 until the horrific explosion in July 1944, only black enlisted men, including S2c Meeks, loaded ammunition at the Naval magazine. Thus, Adm. Wright's decision to "take pains" to bring white enlisted men to load ammunition at Port Chicago for the first time only after the explosion clearly exposed his intent to mask the true history of the racially segregated division of labor regarding the performance of hazardous work.

In a similar move to mask a racially-discriminatory practice at Port Chicago, Rear Adm. Wright also wrote to Secretary Forrestal following the explosion that "it is necessary to set up a system of rotation of duty to insure that negro [sic] enlisted personnel are not indefinitely assigned to load ammunition at Port Chicago and can perform other duties." Ironically, S2c Meeks specially requested a different duty assignment from Rear Adm. Wright when they spoke at Mare Island on August 11, 1944, before Adm. Wright wrote the memo. In fact, S2c Meeks said he gladly would perform *any* other duty besides loading ammunition. Rear Adm. Wright declined his request.

The record of official blame placed after the explosion strictly along racial lines and the race-based remedial measures instituted by the Rear Adm. thereafter demonstrated that racial prejudice permeated all aspects of life for the black sailors at

Port Chicago and rendered their general court-martial and conviction for mutiny fundamentally unfair and improper.

II. The Commandant Improvidently Exercised His Discretion in Deciding to Charge Seaman Second Class Freddie Meeks with Mutiny, Based on the Facts

In 1944, article 38 of the Articles for the Government of the Navy (AGN), enacted by Congress in 1862, provided Rear Admiral Carleton H. Wright, as Commandant of the Twelfth Naval District, with authority to convene a general court-martial.⁵ Rear Adm. Wright, empowered with such authority, utilized his sole discretion and decided to charge S2c Freddie Meeks with Making a Mutiny. "A senior commander/commanding officer often has powers similar to those of a civilian district attorney regarding disposition of offenses (prosecutorial discretion)." Byrne, *Military Law*, p. 87 (3d ed. 1981). Based on the facts, Rear Adm. Wright improvidently exercised his discretion in deciding to charge S2c Meeks and the other 49 men with Making a Mutiny.

A. Commandant Wright decided to charge S2c Freddie Meeks with Making a Mutiny even though he knew S2c Meeks lacked the requisite specific intent for mutiny.

S2c Meeks was charged with and convicted by general court-martial of one count of Making a Mutiny in violation of Art. 4 of the AGN. The elements of mutiny are:

an unlawful opposition or resistance to or defiance of superior military authority, with deliberate purpose to usurp, subvert, or override the same. Simple violence without proof of purpose to usurp, subvert, or override

⁵ "It is entirely within the discretion of the officer empowered to convene a court-martial to direct what portions of the complaint against an accused shall be charged against him. When the competent officer has decided to have a person tried by general court-martial he shall cause charges and specifications against the offender to be prepared. . . ." Section 13 *Naval Courts and Boards*, p. 5 (1937). *Naval Courts and Boards* was the Navy's law manual in effect in 1944. The 1937 version was the last edition in existence before Congress enacted the Uniform Code of Military Justice in 1951.

authority is not mutiny. Specific intent is an essential element. To complete the offense an overt act of mutiny must occur. This may consist, however, of a persistent refusal or omission *with the essential intent*. To constitute mutiny it is not necessary that there should be a concert of several persons, though it will be rare that this is lacking.

Section 46, *Naval Courts and Boards*, p. 14 (1937) (emphasis added).

The authoritative military treatise, *Winthrop's Military Law and Precedents*, includes a full discussion of the law of mutiny as follows:

Mutiny has been variously described, but in general not in such terms as fully to distinguish it from some other military crimes, the characterizing *intent* not being sufficiently recognized. It may, it is believed, properly be defined as consisting in an unlawful opposition or resistance to, or defiance of superior military authority, with a deliberate purpose to usurp, subvert, or override the same, or to eject with authority from office.

It is this intent which distinguishes it from the other offences with which . . . it has often been confused Thus, disrespect toward a commanding officer . . . has sometimes been charged as mutiny. More frequently the doing or offering of violence to a superior officer, and disobedience of orders . . . have been so charged or considered. Still more frequently has the designation of "mutiny" been erroneously attached to disorders of the class known as "mutinous conduct"—such as defiant behaviour or threatening language toward superiors, muttering or murmuring against the restraints of military discipline, combinations of soldiers with a view to acts of violence or lawlessness which however are not committed, intemperate and exciting discussions at meetings held for the purpose of protesting against orders, declining to perform service in the honest belief that the term of enlistment has expired. . . . Such disorders, stopping short of overt acts of resistance, or not characterized by a deliberate intent to overthrow superior authority, do not constitute in general the legal offence of mutiny, but are commonly to be treated as "conduct to the prejudice of good order and military discipline"

The definition of mutiny at military law is indeed best illustrated by a reference to the adjudged cases treating of

that offence as understood *at maritime law*. Thus, in regard to mutiny or revolt on American merchant vessels, it has been expressly held that an intention to overthrow for the time at least the lawful authority of the master is an essential element of the crime, that simple violence against the officer, without proof of intent to override his authority is not sufficient to constitute revolt or mutiny, that mere disobedience of orders unaccompanied by such intent, does not amount to mutiny, and that that insolent language or disorderly behaviour is *per se* insufficient to establish it.

Winthrop's Military Law and Precedents, pp. 578-80 (2d ed. 1920).

On August 11, 1944, Commandant Wright was informed by Lt. Nelson H. Goss, commanding officer of the Naval Ammunition Depot, Mare Island, that, for two days, S2c Meeks and other enlisted men refused to load ammunition aboard the Liberty ship the *San Gay*. Thus, Rear Adm. Wright went to the Naval Ammunition Depot, Mare Island, to personally address S2c Meeks and the other enlisted men. Rear Adm. Wright told S2c Meeks and the other enlisted men that they should be proud to wear the white cap and should conduct themselves accordingly as good sailors. S2c Meeks thought to himself that he did not mind wearing the white cap; he did mind, however, resuming loading ammunition under the same excessively dangerous conditions that existed before the explosion. S2c Meeks told Rear Adm. Wright that he had developed a fear of ammunition at Port Chicago. If he resumed loading, S2c Meeks explained further, his performance would be negatively affected because he was extremely jittery and anxious and feared another bomb might drop and cause another explosion. S2c Meeks requested that Rear Adm. Wright assign him to a different duty until his anxiety subsided. Tr. 717. S2c Meeks was also concerned that no white personnel, only he and the other black seamen, were required to load ammunition, particularly after being denied his request for

a 30-day leave that had been granted to the white officers and recommended by the Red Cross emergency professionals.

After Rear Adm. Wright heard from S2c Meeks and about 24 other enlisted men, he told them all that if they refused to return to work they would be charged with mutiny which was punishable by death by firing squad. Thereafter, Commandant Wright wrote a three-page memorandum dated August 12, 1944 to the Secretary of the Navy, James V. Forrestal, concerning the "refusal of enlisted personnel to handle ammunition." In the memorandum, Rear Adm. Wright stated

After personal investigation and inquiry, the Commandant is of the opinion that:

The refusal to perform the required work arises from a mass fear arising out of the Port Chicago explosion. This fear is unreasonably associated with the handling of ammunition in ships, rather than in the handling of ammunition as such.

In spite of his stated opinion, then, that S2c Meeks and the other enlisted men refused to load ammunition based on *mass fear arising out of the Port Chicago explosion*,

Commandant Wright nevertheless decided:

The 208 men who refused duty, but who complied with orders today will be tried by Summary Courts Martial on charges of refusing to obey orders. The 50 men who have now continued to override authority will be brought to trial by General Courts Martial on charges of mutiny.

It is undisputed that S2c Meeks and at least 24 of the other enlisted men told Rear Adm. Wright on August 12, 1944 they refused to resume loading ammunition after the explosion under the same dangerous conditions that existed before the explosion because they feared another explosion might occur. Commandant Wright acknowledged he believed S2c Meeks and the other enlisted men refused to load ammunition aboard the

U.S.S. San Gay based on "a mass fear arising out of the Port Chicago explosion," and he reported as much to the Secretary of the Navy. Therefore, since Commandant Wright did not believe S2c Meeks and the other enlisted men acted with the specific intent to usurp, subvert or override military authority, his decision to charge S2c Meeks with mutiny was an improvident exercise of discretion.

B. Commandant Wright should have charged S2c Meeks, at most, with disobeying the lawful order of his superior officer since he knew S2c Meeks refused to resume loading ammunition after the explosion because of fear.

Article 4 of the AGN provides for the offense of disobeying the lawful order of superior officer. The elements of this offense are:

No specific intent is necessary, but the order must be understood, the accused know that it is from his superior officer, and the disobedience willful. The order must relate to military duty and be one which the superior officer is authorized under the circumstances to give the accused. The form of the order is immaterial so long as it is definite and positive, as is the method by which it is transmitted to the accused; but the communication must amount to an order.

Section 47 *Naval Courts and Boards*, p. 16 (1937). S2c Meeks explained to Rear Adm. Wright that he refused to resume loading ammunition after the explosion under the same conditions that existed before the explosion because he was afraid another explosion might occur. S2c Meeks testified under oath at the general court-martial to the same. Tr. 716. It is uncontroverted that Rear Adm. Wright believed S2c Meeks on this point.

Under the applicable Naval law, a "charge" designated an offense in general terms and a "specification" set forth the facts constituting the charge. Section 12 *Naval Courts and Boards*, p. 5 (1937). Comparing the charges and specifications for the crime of making a mutiny with the crime of disobeying the lawful order of a superior officer, as

follows, illustrates a key point about which charge more appropriately fits the facts of S2c Meeks's case.

Charge: Making a mutiny

Making a mutiny, on or about 11 August 1944, against the lawful authority of their superior naval officers duly set over them, by willfully, concertedly, and persistently refusing to obey, *with deliberate purpose and intent to override superior military authority*, an order to work in the operation of loading ammunition aboard ships and unloading ammunition from ships; the United States then being in a state of war.

Charge: Disobeying the lawful order of his superior officer

Disobeying the lawful order of his superior naval officer, on or about 11 August 1944, by willfully and persistently refusing to obey a lawful order to work in the operation of loading ammunition aboard ships and unloading ammunition from ships; the United States then being in a state of war. Section 47 *Naval Courts and Boards*, p. 16-17 (1937).

The sole difference between the two specifications, then, is that making a mutiny requires S2c Meeks to have acted with the specific intent to override superior military authority, whereas disobedience of orders requires only a general intent *i.e.*, that S2c Meeks acted on purpose and not by accident. S2c Meeks was prosecuted on the theory that he conspired with the other 49 men in collectively refusing to resume loading ammunition and his concerted action with the others signified his mutinous intent to strip authority from his superiors. Merely refusing to obey an order two or three times, however, is not sufficient to constitute mutiny.

In exercising discretion to charge, the AGN guided that "where the legal character of the offense cannot be precisely known or defined until developed by the proof," the specification should be laid under the more serious charge. Section 19, *Naval Courts and Boards*, p. 7. By direct implication, then, when the commander knows the legal character of the offense, the less serious charge should be brought. This conclusion also is supported by the *Manual for Courts - Martial*, implemented in 1969 and revised in 1984, which applies to all of the armed services and which requires that "in exercising his prosectorial discretion, the commander should seek resolution of the case at the lowest level consistent with the seriousness of the offense." Schlueter, *Military Criminal Justice*, p. 40 (4th ed.). "Commanding officers, in forwarding charges, may well be, and have sometimes been, required in Orders to certify that they fully investigated the case,

and believe that the charge can be fully established. Winthrop's Military Law and Precedents, p. 151 n.18 (2d ed. 1920) (emphasis added). Rear Adm. Wright believed that S2c Meeks refused to resume loading ammunition out of fear. Moreover, Rear Adm. knew that S2c Meeks and the other men had been *individually* ordered to resume loading and each had *separately* refused. Thus, the facts, as known to Rear Adm. Wright, did not support bringing the charge of Making a Mutiny against S2c Meeks or the other 49 men under the theory prosecuted since it required evidence of concerted action as proof of the necessary specific intent. Consulting the Naval law of joinder also illustrates this point:

The mere fact that several persons happen to have committed the same offense at the same time does not authorize their being joined in the charge. Thus where two or more persons take occasion to desert or absent themselves without leave, in company but not in pursuance of a common unlawful design and concert, the case is not one of a single joint offense, but of several separate offenses of the same character, which are no less several in law though committed at the same moment. Section 17, *Naval Courts and Boards*, p. 7 (1937).

Therefore, at most, Rear Adm. Wright should have charged S2c Meeks with the less serious charge of disobeying the lawful order of his superior officer. Commandant Wright's failure to charge S2c Meeks appropriately based on the facts known to and believed by Rear Adm. Wright at the time was an improvident exercise of discretion.

C. Commandant Wright's conclusion that S2c Meeks's fear of loading ammunition after the explosion was unreasonable was not objective, did not make sense and was not supported by the facts.

As previously noted, in his 12 August 1944 memorandum to Secretary Forrestal, after visiting S2c Meeks and the other men at Mare Island, Rear Adm. Wright stated

After personal investigation and inquiry, the Commandant is of the opinion that:

the refusal to perform the required work arises from a mass fear arising out of the Port Chicago explosion. This fear is unreasonably associated with the handling of ammunition in ships, rather than in the handling of ammunition as such.

Rear Adm. Wright's conclusion that S2c Meeks's stated fear was unreasonable, in light of the facts, was not objective. During the general court-martial, Lt. Richard H. Pembroke, Jr., testified as an expert witness in the area of neuro-psychiatry. Lt. Pembroke described the typical mental and physical reaction experienced by any survivor of the Port Chicago explosion. Lt. Pembroke testified that "such an experience would generate an emotion of fear" in its victims. Tr. 1034. Lt. Pembroke explained that "fear is a condition which prepares the body organism for impending or anticipated action protective in nature." Tr. 1034. Lt. Pembroke further explained that "along with fear there is a general body reaction, a physiological reaction which involves the entire body which prepares the entire body for this impending or anticipated need for action, need for defensive action." Tr. 1035. Lt. Pembroke opined the only way to determine the lasting effects of such fear on S2c Meeks and the other victims of the Port Chicago explosion was to examine each man individually. Tr. 1035. No such examination of S2c Meeks was conducted to learn the full extent of his fear resulting from the Port Chicago explosion. Lt. Pembroke's testimony was uncontroverted. Moreover, S2c Meeks's precise fears he described to Rear Adm. Wright about breaking and running if someone dropped munitions that might lead to another explosion were consistent with Lt. Pembroke's explanation about the body's "defensive reaction," and thus, legitimate.

Two authorities on psychology in California also gave opinions on the effects of the Port Chicago explosion at the time. Dr. Cavendish Moxon, a practicing psychologist in San Francisco in 1945 said, "[t]here are sound psychological reasons why the 50 negro [sic] sailors should not be accused of conspiracy to mutiny. When men are shocked by an explosion into a serious state of panic, they are not free to undertake new risks or even

normal activities until they have been helped to overcome their nervous and mental upset. To accuse such persons of a crime is as meaningless and cruel as to punish a neurotic for being unable to overcome his panicky fears.” NAACP, *Mutiny?*, p. 8 (1945). Professor Harry C. Steinmetz, chairman of the psychology department at San Diego State College in 1945 said, “[m]en who have not received unusual reassurances after an unusual catastrophe obviously have provocation for acting unusually. If adequate reassurances were not given following the tragic Port Chicago explosion, certainly the men involved deserve not public condemnation, but rather public sympathy.” NAACP, *Mutiny?*, p. 8 (1945). Therefore, Rear Adm. Wright’s conclusion that S2c Meeks’s fear was unreasonable was not objective on this record.

Additionally, upon close examination, Rear Adm. Wright’s statement makes no sense. He concluded “[t]his fear is unreasonably associated with the handling of ammunition in ships, rather than in the handling of ammunition as such.” S2c Meeks’s duty assignment specifically was to load the ammunition aboard *ships* by hoisting it from the pier into the ship’s cargo hold. Thus, Rear Adm. Wright’s distinction between an “unreasonable fear of handling ammunition in ships” versus “handling ammunition as such” made no difference in the context of S2c Meeks’s duty assignment or the order to resume loading ammunition aboard the *San Gay* given on August 11, 1944. To the extent Rear Adm. Wright’s decision to charge S2c Meeks with mutiny was based on this distinction, then, he improvidently exercised his discretion.

By contrast, S2c Meeks’s expressed fear of loading ammunition after the explosion were objectively reasonable under the totality of the circumstances. First, the explosion at Port Chicago was the most devastating home-front disaster of World War II.

320 men were killed in the explosion, 202 of whom were black enlisted men. A remarkable fifteen percent of all black casualties suffered in the Navy in World War II occurred in the Port Chicago explosion. Another 390 military personnel and civilians were injured, including 233 black enlisted men. S2c Meeks lost his friends and compatriots in the explosion. The force of the explosion was equal in magnitude to a small atomic bomb.

Second, S2c Meeks did not know what caused the explosion at Port Chicago when he was ordered to resume reloading ammunition. Significantly, Commandant Wright did not tell S2c Meeks what had caused the explosion, nor did any of the other white officers, which might have assuaged S2c Meeks's fear. Presumably Commandant Wright did not know on August 12, 1944 what had caused the explosion. The Court of Inquiry that Commandant Wright convened on July 21, 1944 to investigate the explosion had not yet concluded. Rear Adm. Wright's conclusion on August 12, 1944, then, that S2c Meeks's fear of resuming loading ammunition after the explosion was unreasonable lacked credibility under the circumstances.

Third, on August 31, 1944, Secretary Forrestal sent a copy of Rear Adm. Wright's memorandum to President Franklin D. Roosevelt for consideration. On September 2, 1944, President Roosevelt replied in a memorandum to Secretary Forrestal as follows:

It seems to me we should remember in the summary court martials of these 208 men that they were activated by mass fear and that this was understandable. Their punishment should be nominal.

It is most significant that the President of the United States, as Commander-In-Chief of the Armed Forces, the United States then being in a state of war, thought the fear experienced by S2c Meeks and the other enlisted men who were assigned the duty of

loading ammunition was "understandable under the circumstances," and he reported as much to the Secretary of the Navy. The President's opinion, then, lends support to the conclusion that S2c Meeks's fear was reasonable. Additionally, First Lady, Eleanor Roosevelt, weighed in on this case, albeit after the court-martial. She wrote a letter to Secretary Forrestal dated April 8, 1945, expressing her view that the general court-martial "seemed a sad story" and her hope that "special care would be taken."

Fourth, the Coast Guard's explosives-loading detail assigned to Port Chicago was not on duty when the explosion occurred. Eight months earlier, by direction of the Coast Guard Captain of the Port and in conjunction with a request of the Navy Inspector of Ordnance in Charge of the Naval Ammunition Depot at Mare Island, the Coast Guard explosives-loading details were removed from Port Chicago. After the Coast Guard officers objected to the methods of loading ammunition they observed at Port Chicago as being unsafe, the Naval officers rejected the Coast Guard's safety recommendations. It is significant that the Coast Guard removed its explosives-loading details from Port Chicago after it deemed the loading methods unsafe and the Navy rejected its safety recommendations. Furthermore, the Coast Guard did not suffer any adverse repercussions from abandoning their assigned detail at the time of the explosion, neither did Captain Goss for rejecting the safety recommendations and ordering that the Coast Guard be removed. That S2c Meeks's fear was reasonable is supported additionally by these considerations.

Fifth, when the Court of Inquiry completed its investigation, it concluded that the explosion probably resulted from the rough handling in loading of a supersensitive element. This conclusion played right into S2c Meeks's fears that another explosion

might occur if he resumed reloading ammunition *under the same unsafe conditions existing before the explosion.*

Sixth, S2c Meeks's fear was reasonable for the additional reason that after the explosion an atmosphere of distrust existed at Port Chicago. His commanding officer had told him that, despite the rough handling and loading under conditions involving racing among divisions, the bombs, torpedoes, projectiles and other ammunition would not explode because of lack of fuses and detonators. Those assurances had proved to be false, however, in the most horrific way. For these reasons, then, S2c Meeks no longer trusted his commanding officer's assurances that resuming loading ammunition after the explosion was safe.

D. The Commandant's decision to charge 208 men with a lesser offense by general court-martial and to charge S2c Meeks with mutiny by general court-martial was arbitrary based on the Commandant's opinion that *all* the men were motivated by fear and since S2c Meeks had not committed a mutinous act.

In remarking that "[a]fter personal investigation and inquiry, the Commandant is of the opinion that . . . [t]he refusal to perform the required work arises from a mass fear arising out of the Port Chicago explosion," Rear Adm. Wright did not distinguish between the explanations of fear given both by the 208 men who returned to work after being threatened with a mutiny charge and facing death by firing squad and the 50 men who continued to refuse to resume loading ammunition out of fear. Since Rear Adm. Wright concluded that all the men refused to resume loading out of fear, it necessarily follows that S2c Meeks and the other 49 men refused to resume loading ammunition for the same reason given to Rear Adm. Wright as the other 208 men. Moreover, it is undisputed that S2c Meeks did not commit an intervening mutinous act before refusing to

resume loading ammunition. In fact, Commandant Wright reported in his memorandum to Secretary Forrestal he had a respectful exchange with S2c Meeks and the other men: "[t]he men were given an opportunity to explain the reasons for their actions. About 25 did so and they appeared to speak freely but respectfully." For Rear Adm. Wright to charge 208 men with disobedience of orders and 50 men with mutiny after he acknowledged *all* 258 refused to act for the same reason was an improvident exercise of his discretion.

Additionally, that Rear Adm. Wright never stated the basis for concluding that S2c Meeks's fear of loading ammunition was unreasonable undercuts its legitimacy on the record. It is undisputed that Rear Adm. Wright never stated a cause of the explosion to counter S2c Meeks's expression of fear of resuming loading ammunition. Further, Commandant Wright never stated that the loading procedures would be changed from those in existence before the explosion to counter S2c Meeks's fear that, under the same conditions, an explosion would occur again. Thus, Rear Adm. Wright's belief that S2c Meeks's fear was unreasonable appears arbitrary in this light.

Moreover, Rear Adm. Wright reported the following in his memorandum after he visited the 258 black sailors at Mare Island on August 12, 1944:

* * *

(d) The negro [sic] divisions have heretofore turned in a satisfactory record in the loading of ammunition. Their records of tons per man per day equal those of civilian stevedores in this area.

(e) Since the explosion of Port Chicago, negro [sic] personnel at that station have done necessary work at the Naval Magazine in connection with transfer of ammunition including loading of barges.

By these representations, then, Rear Adm. Wright acknowledged the lack of any evidence from which he could reasonably have concluded that S2c Meeks and the other men acted with an intent to override the authority of a naval superior officer, and signified his disbelief, in any event, of the same. Thus, it was an abuse of discretion to charge S2c Meeks with Making a Mutiny.

Therefore, for all of the foregoing reasons, Rear Adm. Wright improvidently exercised his discretion in deciding to charge S2c Meeks with Making a Mutiny.

III. The Commandant's Decision To Ratchet-Up The Charge Against S2c Meeks Was Influenced By Racial Bias

It is apparent on this record that Rear Adm. Wright's decision to charge S2c Meeks and the other men with Making a Mutiny was influenced by his prejudice against blacks. Captain Goss, who concurred in Rear Adm. Wright's recommendation for the general court-martial, harbored similar racial prejudices against S2c Meeks and the other men.

In Rear Adm. Wright's memorandum dated August 12, 1944 to Secretary Forrestal informing the Secretary of the Admiral's decision to charge S2c Meeks and the other men with mutiny, Rear Adm. Wright wrote the following:

* * *

5. After personal investigation and inquiry, the Commandant is of the opinion that:

- (c) A considerable proportion of the men involved are of a low order of mentality, and as such are particularly susceptible to group influence and to belief of wild rumors.

Rear Adm. Wright had no objective evidence to support his belief that S2c Meeks and the other 49 men were "of a low order of mentality, and as such [were] particularly

susceptible to group influence and to belief of wild rumors.” He thought they were of a low order of mentality and particularly susceptible to group influence because they were black. His racist belief that they were particularly susceptible to group influence clearly factored into his decision to charge S2c Meeks with mutiny. As discussed above, S2c Meeks was prosecuted on the theory that he conspired with the other 49 men in collectively refusing to resume loading ammunition, and his concerted action with the others signaled his specific intent to usurp authority from his superiors. Rear Adm. Wright obviously thought people of low order of mentality who are particularly susceptible to group influence are more likely to conspire in a collective refusal to obey an order. Yet S2c Meeks was separated from the men of Divisions Four and Eight for the 22 days he cleaned up after the explosion, and he was not reunited with the others until August 9, when he was transported to Mare Island and ordered to load ammunition. Thus, the evidence shows he could not have conspired with the other men during that time since he had not been in contact with them.

Captain Nelson H. Goss concurred in Rear Adm. Wright’s recommendation of a general court-martial of S2c Meeks and the other men. Captain Goss harbored a racial bias against the black seamen and this bias tainted his perception of the seamen’s actions. Captain Goss wrote a memorandum dated August 13, 1944 to Rear Adm. Wright concerning “mutinous action; enlisted personnel from Naval Magazine, Port Chicago.” In his memo, Captain Goss described his version of events surrounding S2c Meeks’s refusal to resume loading ammunition and also included the following statements:

* * *

9. There are undoubtedly agitators, ringleaders, among these men. They have always been present since such personnel were first received at this Depot in early July 1942. It has

been found, in practice, that it is extremely difficult to determine who the ringleaders are. Such negro [sic] enlisted personnel are very close-mouthed, and while a considerable number of agitators have been identified in the past, such identification has mostly come from adding various circumstances together. In most all cases the correctness of the selection has mostly been shown by whether or not particular aspects of difficulty disappeared when the suspected individual was eliminated.

10. In the early days particularly, but to an apparent lesser degree recently, negro [sic] enlisted personnel have certainly been subjected to outside propaganda and subversive influence. The first ones to arrive, all of whom were voluntary enlistments, were much endowed with it. Enlisted personnel of this character have all along exhibited the normal characteristics of negroes [sic], as was to be expected. *They have, however, continuously exhibited additional characteristics which have never been observed by me in a long experience in dealing with naval personnel, which has generally included some negroes [sic]. These are a persistent disposition to question orders, to argue and in effect to attempt to bargain.* Another new characteristic which I had never observed before among negro [sic]s [sic], has been a consistent attitude towards discrimination; never justified, as far as I could ascertain, after earnest effort; generally fancied and often purely imagined. The disposition, however, to seek opportunity to complain against fancied discrimination has always been present among present day negro [sic] enlisted personnel. Some of the disposition to argue and to attempt to bargain has possibly been due to the extreme care and patience which has been exercised both at Mare Island and at Port Chicago to avoid discrimination, and particularly to explain what was needed, what was required, and in actual fact to assist and help these men in every possible manner, realizing their background and the very slight amount of military training they have had.

Captain Goss's opinions that the black seamen, as an entire class: were agitators and ring leaders; were subject to outside propaganda and subversive influence; exhibited "the normal characteristic of Negroes"; and were predisposed to question orders and consistently complain about discrimination unjustifiably; exposed his deep-rooted racial

prejudice against the men. Moreover, the express nature of Captain Goss's racial prejudice infected his decision to concur in Rear Adm. Wright's decision to charge the black seamen with Making a Mutiny for their refusal to resume loading ammunition in spite of their insistence that they acted out of fear.

IV. S2c Meeks Was Wrongly Convicted of Mutiny

As discussed above, S2c Meeks should never have been charged with mutiny. Once he was charged, however, he should not have been convicted since the evidence in the record does not support that result.

First, S2c Meeks was prosecuted under the theory that he acted in concert with the other 49 men as the proof of his specific intent to usurp superior military authority. S2c Meeks testified, however, that after the explosion, he remained at Port Chicago and the men of the Fourth Division were *not* at Port Chicago. Tr. 714. S2c Meeks remained at Port Chicago for 22 days cleaning up body parts and other debris while the men of the Fourth Division were transferred to the Ryder Street Barracks at Vallejo after the explosion. S2c Meeks testified that he was not reunited with the other men from his Division until August 9, 1944 when they all boarded a bus to Vallejo. Tr. 714. S2c Meeks said he did not talk to anyone about not resuming loading ammunition either during the 22 days at Port Chicago or on the bus to Vallejo. Tr. 714-15. The prosecution did not attempt to impeach S2c Meeks on these points. S2c Meeks testified that when he got off the bus at Vallejo, after being ordered individually by Cmdr. Tobin to load the *San Gay*, S2c Meeks gave his name to Lt. Clement as refusing to resume loading ammunition. Tr. 715, 173-174. Thus, an impartial review of the record reveals evidence tending to show that in initially refusing to resume loading ammunition, S2c Meeks did not act in concert with anyone.

S2c Meeks also testified that the first time he saw the men of Division Four after the explosion was about half an hour after he was marched onto the brig for refusing to resume loading ammunition. Tr. 715. He testified that between August 9 and August 11, he did not attend any meetings or see a list of names of men unwilling to load ammunition. Tr. 715. Thus, reviewing the record without according the prosecution any beneficial inferences, again there is evidence that S2c Meeks did not act in concert with anyone in refusing to resume loading ammunition for the second time on August 11, 1944. Thus, the Navy's conclusion that record evidence establishes beyond a reasonable doubt S2c Meeks's specific intent to usurp superior military authority by acting in concert with the other men is unsupported.

Second, the court overruled objections by defense counsel to evidence most foul—racially loaded inadmissible hearsay—the presence of which tainted the proceedings. The prosecution asked Lt. Ernest Delucchi, Command Officer, Fourth Division, the following questions on direct examination:

Q. When you had your fourth division mustered the first time in front of Barracks "C" on the ninth of August, state whether or not you heard any remarks from either your division or from the eighth division, who were standing around, about refusing to work or not going to work - anything of that nature.

A. Yes, sir.

Q. Well, I was standing on the sidewalk in front of division eight; the men were behind me, and on the ladder around the end of my division and on the lawn of the mess hall and I heard at least three times the statement, "Don't go to work for the 'white mother-fuckers'". Tr. 42.

* * *

Q. As you approached the division from the rear, state whether or not you heard any remarks in the ranks of the men of your division.

A. Yes, sir, I did.

Q. What did you hear?

A. "Let's all stick together."

Q. Now, by the way, while the commandant was on the field and before he had left, state whether or not you heard any remarks from any of the men of your division of any kind or character.

A. Yes.

Q. State what they were.

A. The first remark I heard was, "The mother-fuckers won't do anything to us; they are scared of us; they won't even send us to sea."

Q. Did you hear any other remark?

A. Yes, sir.

Q. What was it?

A. "Let's run over the mother-fuckers." Tr. 61-62.

The court repeatedly overruled the defense counsel's objections to this line of testimony.

That this was error is even more apparent when Lt. Delucchi could not identify who made the remarks:

Q. Now, you have attributed in the record a number of statements of profanity, to some extent, or words that aren't used in common society, to some men; isn't that right?

A. That is right, sir.

Q. Will you look at the accused and identify the men that said that?

A. I can't sir, because I had my back to them. I was standing facing the Admiral. Tr. 69.

In his appellate brief, Mr. Thurgood Marshall explained why these statements should not have been admitted:

The judge advocate should have known that these remarks were inadmissible because they were hearsay. Even on the theory that an actual conspiracy occurred[,] before remarks such as these can be admitted into the record the persons who make them must be identified as conspirators.

Thus, this inadmissible hearsay went right to the core issue of whether there was a conspiracy. Letting it into the record tainted the proceeding.

Mr. Marshall's brief eloquently spelled out harmful effects of the admission of Lt. Delucchi's racially loaded testimony:

Because of the persistence of the judge advocate in pursuing this line of inquiry it must have been his intention to use these hearsay statements in order to prejudice the rights of the accused. This is an appeal to race prejudice and is most reprehensible. The men's guilt does not rest upon their racial identity. It rests upon proof of the commission of the crime alleged. In any trial under our system of justice such appeals by counsel to racial prejudice are grounds for a new trial or reversal. Marshall Brief at 17.

Thus, the Navy's review was inadequate additionally because it concluded the general court-martial was not tainted by race and was fair, notwithstanding the prosecution's overt eliciting of racially-loaded hearsay testimony.

Third, Lt. Cmdr. Jefferson M. Flowers, the chaplain for the Naval base, testified for the prosecution. He stated that on August 9, at the request of Cmdr. Tobin, he spoke to the men of the Fourth Division about their refusal to resume loading ammunition.

Tr. 103. Chaplain Flowers testified that he first spoke to the men in a group and then spoke to 28 men individually. At both times, all the men said they would obey *any* order

given except to load ammunition because they were afraid. Tr. 103-111. Chaplain Flowers described the physical condition of some of the men with whom he spoke individually: "I recall one man who said at first that he would not go over because he was afraid, and his chin was quivering, and he afterwards went, and some of the others evidenced similar strains." Tr. 110. Incidentally, 20 of the 28 men Chaplain Flowers spoke to individually were charged with and found guilty of Making a Mutiny. Tr. 107.

Chaplain Flowers also testified that, when he first spoke to the men gathered together, they "asked me a few questions about whether they were not entitled to survivor's [sic] leave or something of that kind. I told them I didn't know, that I would find out for them." Tr. 104. Chaplain Flowers restated on cross-examination that some of the men asked him about survivor's [sic] leave. Tr. 110.

Chaplain Flowers's testimony is significant for several reasons. He stated facts tending to show that the men with whom he spoke did not act in concert or for the purpose of overthrowing superior military authority; rather, that "with quivering chins" and other visible strain, they individually expressed a natural fear of loading ammunition after the explosion. He stated the men were "very respectful" and that some of the men were "reclining" on the pavement before he gathered them in conversation. Tr. 103. This is hardly the demeanor or posture of "mutineers." Moreover, Chaplain Flowers, as a chaplain, has strong credibility and his testimony was not impeached. He testified as a prosecution witness, no less. His testimony presents two equally plausible alternative motives for the mens' individual refusals to resume loading ammunition—fear and resentment over being denied survivors' leave. Chaplain Flowers's testimony indicated

that evidence of guilt beyond a reasonable doubt of collective action with an intent to usurp superior Naval authority did not exist on this record.

There are other overt examples in the record of insufficient evidence for the mutiny convictions. S1c Ollie Green was charged with and found guilty of Making a Mutiny; yet, he had broken his wrist on August 8, his hand was in a splint (cast) and arm in a sling and Doctor Kuhe advised he would need about six weeks to heal. Tr. 82, 328, 332. S1c Green testified that he refused to resume loading ammunition because "my left wrist was broken and I was on the sick list and because I was afraid of ammunition." Tr. 344. The prosecution attempted to elicit testimony that a man with only one working arm could still participate in loading ammunition. Tr. 82, 346-347. Lt. Delucchi countered, however, that a one-armed man could not successfully work on the docks. Tr. 82. Even if the prosecution very generously is given the benefit of the doubt on this point, there still is insufficient evidence on the record from which to conclude beyond a reasonable doubt that S1c Green intended to concertedly usurp superior military authority by refusing to reload ammunition in the face of his very real physical injury.

Similarly, S2c John H. Dunn was charged with and convicted of Making a Mutiny. S2c Dunn testified his duty at Port Chicago was a mess cook and he had never loaded ammunition because, weighing only 104 pounds, the base doctor determined he was too light for that work. Tr. 349, 360. S1c Bennon Dees was charged with and convicted of Making a Mutiny; yet he testified he injured his hand, leg and back in the explosion and was afraid to resume loading ammunition for that reason. Tr. 408-409, 413. S2c Julius Dixson, Jr. was charged with and convicted of Making a Mutiny; yet he testified he had been assigned duty as a mess cook for three months prior to the

explosion. Tr. 651. S2c Dixon testified that, after loading ammunition for only nine days, Dr. Wallace at Port Chicago removed S2c Dixon from this duty because S2c Dixon was too light and suffered from dizzy spells. Tr. 651. Additionally, S2c Dixon was in the hospital for a week and a half as a result of an injury he suffered from the explosion. Tr. 650-652. Lt. Delucchi corroborated S2c Dixon's testimony: "[t]he man wasn't efficient on the dock, had no control over himself and was a hazard to anybody working on the dock; so I had him permanently assigned through the doctor to being a mess cook." Tr. 77. Lt. Delucchi even expressed doubts about the sufficiency of the evidence:

I think that two of the men accused here in this court are not up to par, in my own opinion, with the rest of the men that stand accused, Bennon Dees and Julius Dixon. The[y] were men that were in my division. Dees was one of the men, although a good worker, couldn't do much thinking for himself and would follow any suggestion or any order given to him faithfully. Dixon is a man that I myself hesitated to have on the dock because he was a liability rather than anything; so I had him assigned, through the doctor, as a permanent mess cook. Tr. 89

By the testimony of the prosecution's own witness, then, a division commander no less, the evidence of specific intent to usurp superior military authority obviously was lacking as to S1c Dees and S2c Dixon.

Fifth, the 208 men convicted of Refusing to Obey an Order by summary court-martial were sentenced to 90 days at hard labor, fined according to their ratings and confined in the stockade at Camp Shoemaker. The length of their sentences, however, violated Naval law at the time, which provided that punishments by summary courts-martial consisted of confinement "not to exceed two months." Article 30, *Naval Courts and Boards*, p. 464.

S2c Meeks and the other seamen at Port Chicago were wrongfully convicted and sentenced.

V. The Navy's 1992 Review Of The General Court-Martial Was So Unreasonably Narrow In Scope That It Rendered Its Conclusion About The Sufficiency Of The Evidence Against S2c Meeks Inadequate

Pursuant to the Department of Defense Authorization Act for Fiscal Years 1992 and 1993, P.L. 102-190 (1991), the Secretary of the Navy directed the Judge Advocate General of the Navy (JAG) to review the cases of all 258 black enlisted seamen convicted in the courts-martial arising from the explosion at Port Chicago. On April 10, 1992, the JAG concluded that 256 of the 258 cases were legally sufficient and that those convictions were supported by evidence of the guilt of the accused beyond a reasonable doubt. On January 6, 1944, the Secretary upheld the convictions based on the JAG review and a later review by the Board for Correction of Naval Records.

The JAG unnecessarily reviewed the courts-martial with an unreasonably narrow scope which rendered its conclusions inadequate. The Congressional mandate to the Navy had a very broad purpose: "to determine the validity of the original findings and sentences and the extent, if any, to which racial prejudice or other improper factors now known may have tainted the original investigations and trials." Notwithstanding the broad purpose, the JAG employed the following narrow standard of review in the testing sufficiency of the evidence: "whether the evidence taken *in the light most favorable to the prosecution* would sustain a finding that a reasonable trier of fact could have found all of the elements of the offense were committed beyond a reasonable doubt." JAG Review at 65 (emphasis added). The Secretary of the Navy reviewed the courts-martial pursuant to a public law, however, and was not meant to act as if it were an appellate court.

Therefore, it was unreasonable for the JAG to employ the narrow standard of review that applies to review by an appellate court. Consequently, the JAG severely limited the possibility of discovering "the extent, if any, to which racial prejudice or other improper factors now known may have tainted the trial" since it reviewed the evidence in the light most favorable to the prosecution. Additionally, by utilizing this narrow standard, the JAG gave a presumptive validity to the convictions in direct contravention of the Congressional mandate for the Navy to "determine the validity" of the trial in its review. Moreover, the BCNR panel's analysis failed to address the survivors' leave issue, the lack of training of the black seamen and the racism involved in exposing only black seamen to the hazardous duty of loading ammunition. Therefore, the results of the Navy's one-sided review are facially inadequate.

VI. Conclusion

Justice and fundamental fairness demand that S2c Freddie Meeks be granted a pardon of his conviction of Making a Mutiny. S2c Meeks did not intend to usurp superior Navy authority in refusing to resume loading ammunition after the horrific Port Chicago explosion but was motivated by fear. A Naval neuro-psychiatrist affirmed that the explosion would have created fear in any person who experienced it. Yet under the aegis of legalized segregation, the Navy granted 30-day survivors' leave to the white officers and ordered S2c Meeks and the other 49 men to resume loading ammunition under the same unsafe conditions that existed before the explosion. S2c Meeks said he would obey any lawful order of the Navy but was afraid to load ammunition and requested a new duty assignment. In response, the Navy charged him with and convicted him of Making a Mutiny under a conspiracy theory since the evidence of his individual guilt was non-existent. Even after the Navy acknowledged multiple errors in the court-

martial and the weakness of the evidence of concerted action, it nonetheless remained incapable of conducting an objective review of the proceeding and reversing the convictions as warranted.

S2c Meeks has suffered in silence from this unjust conviction long enough. He served his country honorably in a time of war despite the Navy's complete neglect of both his worth as a human being and the benefits of his contribution because S2c Freddie Meeks is black. The undeserved stain of his conviction by general court-martial for mutiny should be removed from the record of his life history which otherwise he has lived as a model citizen.

Respectfully submitted,

G. Brian Busey
Jonathan Band
Bernice A. Harleston
MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006
(202) 887-1500

May 20, 1999

Certification and Personal Oath

I hereby certify that all answers to the above questions and all statements contained herein are true, and I understand that any misstatements of material facts contained in this petition may cause adverse action on my petition for pardon, in addition to subjecting me to any other penalties provided by law.

In petitioning the President of the United States for pardon, I do solemnly swear that I will be law-abiding and will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I take this obligation freely and without any mental reservation whatsoever, So Help Me God.

Respectfully submitted this ____ day of _____, 1999.

(signature of petitioner)

Subscribed and sworn to before me this ____ day of _____, 1999.

Notary Public

My commission expires on _____.