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| UNITED STATES                   | ) |                                   |
|                                 | ) |                                   |
| v.                              | ) |                                   |
|                                 | ) | AFFIDAVIT OF LTG THOMAS G.        |
| LAKIN, TERRENCE L.,             | ) | McINERNEY, USAF (Ret.) IN SUPPORT |
| LTC, U.S. Army,                 | ) | OF DEFENSE REQUEST FOR            |
| Headquarters Company            | ) | DISCOVERY/MOTION TO COMPEL        |
| Medical Center Brigade,         | ) |                                   |
| Walter Reed Army Medical Center | ) |                                   |
| Washington, D.C.                | ) |                                   |

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I, THOMAS G. McINERNEY, make oath and say as follows:

1. I retired from the United States Air Force in 1994 in the rank of Lieutenant General. Attached hereto is a true copy of my official biography as it appears on a website of the USAF.
2. During my career with the Air Force I developed extensive command experience and held a number of major commands, including Vice Commander in Chief of USAF forces in Europe; Commander of the Alaskan Air Command, Alaskan NORAD Region; Commander, 3d Air Force, Commander of the 3<sup>rd</sup> Tactical Fighter Wing and Assistant Vice Chief of Staff of the United States Air Force. In these and other commands, I was responsible for, among other things, insuring all personnel under my command were properly trained in the Chain of Command and in the meaning of the oath taken by all officers to “support and defend the Constitution of the United States.” At times during my career, I personally trained officers in these subjects. I am thus well-familiar with the doctrines of the unified chain of command, of civilian control over the military and of all of the provisions in the United States Constitution relating to the military.
3. I have served as Convening Authority in many Courts Martial, and for many years held UCMJ authority over officers under my command.
4. Officers in the United States military service are –and must be– trained that they owe their highest allegiance to the United States Constitution. There can be no question that it is absolutely essential to good order and discipline in the military that there be no break in the unified chain of command, from the lowliest E-1 up to and including the Commander in Chief who is under the Constitution, the President of the United States. As military officers, we owe our ultimate loyalty not to superior officers or even to the President, but rather, to the Constitution.
5. All officers must be and are trained that their loyalty to the Constitution requires them to obey all lawful orders, but they are also trained that they must disobey an illegal order,

and that the failure to do either is equally a betrayal of their oath. Therefore, good order and discipline requires not blind obedience to all orders but instead requires officers to judge –sometimes under great adversity– whether an order is illegal.

6. The President of the United States, as the Commander in Chief, is the source of all military authority. The Constitution requires the President to be a natural born citizen in order to be eligible to hold office. If he is ineligible under the Constitution to serve in that office that creates a break in the chain of command of such magnitude that its significance can scarcely be imagined.
7. As a practical example from my background I recall commanding forces that were equipped with nuclear weapons. In my command capacity I was responsible that the personnel with access to these weapons had an unwavering and absolute confidence in the unified chain of command, because such confidence was absolutely essential –vital– in the event the use of those weapons were authorized. I cannot overstate how imperative it is to train such personnel to have confidence in the unified chain of command. Today, because of the widespread and legitimate concerns that the President is constitutionally ineligible to hold office, I fear what would happen should such a crisis occur today.
8. In refusing to obey orders because of his doubts as to their legality, LTC Lakin has acted *exactly* as proper training dictates. That training mandates that he determine in his own conscience that an order is legal before obeying it. On the other hand, it is also perfectly appropriate that LTC Lakin’s conscience now stand the test of a general court-martial. Indeed, he has publicly stated that he “invites” this court martial, and were I the Convening Authority, I would have acceded to his wishes in this regard. By thus stepping up to the bar, LTC Lakin is demonstrating the courage of his convictions and his bravery. That said, it is equally essential that he be allowed access to the evidence that will prove whether he made the correct decision.
9. For the foregoing reasons, it is my opinion that LTC Lakin’s request for discovery relating to the President’s birth records in Hawaii is absolutely essential to determining not merely his guilt or innocence but to reassuring all military personnel once and for all for this President whether his service as Commander in Chief is Constitutionally proper. He is the one single person in the Chain of Command that the Constitution demands proof of natural born citizenship. This determination is *fundamental* to our Republic, where civilian control over the military is the rule. According to the Constitution, the Commander in Chief must now, in the face of serious –and widely-held– concerns that he is ineligible, either voluntarily establish his eligibility by authorizing release of his birth records or this court must authorize their discovery. The invasion of his privacy in these records is utterly trivial compared to the issues at stake here. Our military MUST have confidence their Commander in Chief lawfully holds his office and absent which confidence grievous consequences may ensue.
10. LTC Lakin has voluntarily sought court-martial, and history will record whether this Court treats this matter with the seriousness it deserves. If LTC Lakin is wrong, the records will show this and the Court will make its decision as to his guilt or innocence

accordingly. On the other hand, if LTC Lakin is RIGHT, and the records prove this, then this Court should also make its decision based on that evidence. Either way, allowing access to these records is critical to our Republic. An obscure Lieutenant Colonel has come forward at great personal risk in adherence to his oath of office. In so doing he is standing in for all the American people. Far and above the issues before this Court is the American people's right to know their President holds his office pursuant to the Constitution *or not*. That is why this Court should grant the defense request for discovery of records with the State of Hawaii and the schools and colleges the President attended.

I do hereby swear and affirm under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed on August 20, 2010.

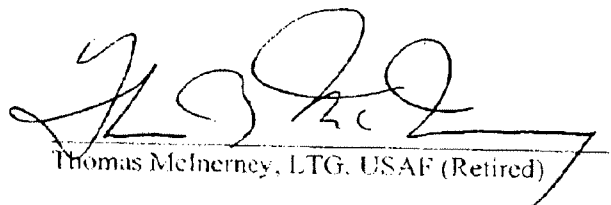
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Thomas McInerney, LTG, USAF (Retired)

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Thomas McInerney, LTG, USAF (Retired)



# BIOGRAPHY

## UNITED STATES AIR FORCE

### LIEUTENANT GENERAL THOMAS G. MCINERNEY

**Retired July 1, 1994.**

Lieutenant General Thomas G. McInerney is assistant vice chief of staff, Headquarters U.S. Air Force, Washington, D.C. He is responsible for the organization and administration of the Air Staff. Additionally, he serves as deputy chairman of the Air Force Council and is the Air Force accreditation official for the Air Attache Corps.

General McInerney was born in 1937, in Havre de Grace, Md., and graduated from Garden City (N.Y.) High School in 1955. He earned a bachelor of science degree from the U.S. Military Academy in 1959 and a master's degree in international relations from The George Washington University in 1972. The general completed Armed Forces Staff College in 1970 and the National War College in 1973.

After graduating from the academy in June 1959, he was commissioned as a second lieutenant in the Army. He then joined the Air Force, and completed initial pilot training at Bartow Air Base, Fla., and Laredo Air Force Base, Texas, in November 1960. General McInerney was assigned to Luke Air Force Base, Ariz., and later to Nellis Air Force Base, Nev., for advanced gunnery training. His first operational assignment was in October 1961 with the 476th Tactical Fighter Squadron, flying F-104s at George Air Force Base, Calif. There he took part in the Berlin and Cuban crises in 1962, flying escort missions in the Berlin Corridor and escort reconnaissance missions over Cuba. In April 1963 he was one of the first forward air controllers assigned to South Vietnam with a Vietnamese army division.

Upon his return to the United States in April 1964 he was assigned to the Tactical Air Warfare Center, Eglin Air Force Base, Fla., as an F-4C aircraft commander. In February 1966 he attended the F-4 Fighter Weapons School, Nellis Air Force Base, where he remained as an instructor with various F-4 assignments in the Weapons School and the Tactical Fighter Weapons Center, Test and Evaluation Division. Also, he participated in two Southeast Asia deployments as introduction team chief, bringing the F-4D and F-4E into combat.

The general volunteered for a fourth tour in Southeast Asia and served with the 469th Tactical Fighter Squadron, Korat Royal Thai Air Force Base, Thailand, from February until August 1969. After completing the Armed Forces Staff College in February 1970, he was transferred to the Directorate of Operational Requirements, Air Force headquarters. During this assignment he participated in many high-level study groups on the Middle East, air-to-air missile requirements and the F-15 advanced air superiority fighter.

Upon graduation from National War College in July 1973, General McInerney was assigned to the 58th Tactical Fighter Training Wing, Luke Air Force Base, as F-104 and F-5 director of operations. He was primarily responsible for German F-104 training and the F-5E Military Assistance Program. In August 1974 he became the air attache to the U.S. Embassy in London. There he worked for three different ambassadors, assisting them in changing U.S. policy toward the multi-role combat aircraft, and increased standardization with European aerospace and North Atlantic Treaty Organization air forces.

From November 1976 until October 1977 he was vice commander of the 20th Tactical Fighter Wing, Royal Air Force Station Upper Heyford, England. The general then became military assistant to Ambassador Robert W. Komer, the adviser to the secretary of defense on North Atlantic Treaty Organization affairs. In this capacity, he assisted in developing the organization's long-term defense program, which was announced at the 1978 Washington Summit. In March 1979 General McInerney became commander of the 3rd Tactical Fighter Wing, Clark Air Base, Philippines, and was deeply involved in implementing the base agreement that

placed Clark Air Base under Philippine sovereignty.

In February 1981 he was assigned as commander of the 313th Air Division, Kadena Air Base, Japan. The general then served as deputy chief of staff for operations and intelligence, Headquarters Pacific Air Forces, Hickam Air Force Base, Hawaii, from June 1983 to July 1985, when he became commander of 3rd Air Force, Royal Air Force Station Mildenhall, England. In October 1986 General McInerney was assigned as vice commander in chief, Headquarters U.S. Air Forces in Europe, Ramstein Air Base, West Germany.

He became commander of Alaskan Air Command, Alaskan NORAD Region, and Joint Task Force Alaska in May 1988. The general assumed command of Alaskan Command upon its activation in July 1989, and became commander of 11th Air Force when Alaskan Air Command was redesignated 11th Air Force in August 1990. He assumed his current position in July 1992.

The general is a command pilot with more than 4,100 flying hours, including 407 combat missions (243 in O-1s as a forward air controller and 164 in F-4C's, D's and E's). His military awards and decorations include the Distinguished Service Medal, Defense Superior Service Medal, Legion of Merit with oak leaf cluster, Distinguished Flying Cross with oak leaf cluster, Bronze Star Medal with "V" device and oak leaf cluster, Meritorious Service Medal with oak leaf cluster, Air Medal with 17 oak leaf clusters, Air Force Commendation Medal with oak leaf cluster and Vietnam Service Medal with six service stars. He has also been awarded the Third Order of the Rising Sun by the Japanese government.

In addition, the general was inducted into the Order of the Sword in July 1980. This award recognizes both military and civilian individuals for conspicuous and significant contributions to the welfare and prestige of the noncommissioned officer corps and the military establishment. The general was the sixth Pacific Air Forces officer and the 63rd officer overall inducted into the order since the Air Force became a separate branch of the armed services in 1947.

He was promoted to lieutenant general Oct. 8, 1986, with same date of rank.

(Current as of August 1992)