

**Congress of the United States**  
**Washington, DC 20515**

January 13, 2010

Honorable Robert Gates  
Secretary of Defense  
1400 Defense Pentagon  
Washington DC 20301-1400

Dear Secretary Gates:

First Lieutenant Michael Behenna is a young Army Ranger who is currently serving a 20-year sentence at Fort Leavenworth for "unpremeditated murder" of a known member of Al Qaeda. Due to the circumstances surrounding his conviction, we strongly encourage you to review Lieutenant Behenna's case. We believe justice would be served by suspending his sentence pending the outcome of his appeal.

Lieutenant Behenna was serving with the 101<sup>st</sup> Airborne Division in Iraq during 2007-2008. Reports indicate that in April of 2008, Lieutenant Behenna's platoon was hit by an IED, killing two of his soldiers, two Iraqis who were traveling with the platoon, and seriously injuring two other soldiers including his platoon sergeant.

Reports also indicate that after the explosion, Lieutenant Behenna read a military intelligence report that identified Al Qaeda in Iraq as the cell responsible for the attack and further identified Ali Mansur as a member of that terrorist organization. After reading this report, Lieutenant Behenna and his platoon detained Ali Mansur and turned him over to military intelligence officials. Ten days later, Lieutenant Behenna was ordered to take Mansur home. Before returning Mansur to his home, Lieutenant Behenna interrogated Mansur to determine the names of the other cell members. At one point, when Lieutenant Behenna turned his head, Mansur threw a rock at the lieutenant and reached for his gun. Lieutenant Behenna fatally shot Mansur in self defense.

As a result of this act of self-defense, Lieutenant Behenna was charged with premeditated murder. Lieutenant Behenna's defense team presented forensic experts corroborating his claim that he shot Mansur in self defense. The government's own forensic expert, unbeknownst to the defense lawyers, agreed with the defense experts. Unfortunately, it was only after Lieutenant Behenna was convicted of unpremeditated murder that the defense team learned of the favorable testimony provided by the government's forensic expert.

It is for this reason we believe Lieutenant Behenna's sentence should be suspended pending the outcome of his appeal. He is an American hero and a patriot of the highest order. Sentencing Lieutenant Behenna to 20 years in prison is a profound miscarriage of justice, and we believe that with the admission of the exculpatory evidence that was withheld he will be exonerated.

Furthermore, the Army does not believe Lieutenant Behenna is a threat to society. We understand that he served on President Bush's security detail in November 2008 when President Bush visited the 101<sup>st</sup> Airborne Division. At the time of this assignment, charges were pending against Lieutenant Behenna of premeditated murder. Even after his conviction, while post-trial motions were being argued on the prosecutor's failure to turn over the favorable evidence, Lieutenant Behenna was released to return to work. Clearly, Lieutenant Behenna is not a danger to Americans. On the contrary, as the saying goes, "We sleep soundly in our beds because rough men [like Lieutenant Behenna] stand ready in the night to visit violence on those who would do us harm."

Thank you in advance for your prompt attention to this matter and thank you for your great service to the American people. We look forward to your response.

Most sincerely,

  
\_\_\_\_\_  
Trent Franks  
Member of Congress

  
\_\_\_\_\_  
Steve King  
Member of Congress