



CLARA BARTON

INTERNATIONAL HUMANITARIAN LAW COMPETITION

10TH ANNIVERSARY

ROUND 6 MATERIALS

Team B

Defense Counsel



**American
Red Cross**

International
Humanitarian Law

Round 6 Roles:

Judge Roles (5)	<ol style="list-style-type: none">1. Chief Justice, Arthur Traldi2. Deputy Chief Justice, Amanda Grafstrom3. Justice Ronald Sullivan4. Justice Laurie Blank5. Justice Jason Wright6. Clerk of Court, Keith Petty (Observing Judge)7. Clerk of Court, Bernard Dougherty (Observing Judge)
Team Roles	Team A: Prosecution Team B: Captain Bannister Defense Counsel

Prep Time: 1 hr. 30 minutes

Round Time: 50 minutes

Round Background:

The ongoing conflict between Westphalia and Floraland has taken a new turn, as Floraland forces expand their operations into Westphalian territory. In response to the Floraland offensive, WeSoft Technologies has developed a mobile app called "The West Remembers." This app has sparked significant controversy for several reasons. It allows users to alert both civilians to dangerous areas and provide real-time location updates to Westphalian forces about Floraland troop movements. In an attempt to counter this, Floraland Military Captain Bannister has issued orders for his troops to detain any Westphalian person found with the app on their phone and label them as a civilian directly participating in hostilities.

As a result of these orders, numerous Westphalians have been detained, and in some instances, shot and killed. One particular case has drawn significant legal attention and led to growing calls for Captain Bannister to be charged with crimes. And so, in the chambers of the International Criminal Court begins the first act in the case against Captain Bannister.

Each team may provide an opening statement no longer than 10 minutes in length. Each team will be provided a 5 minute closing statement.



May 1, 2024

The conflict involved between Floraland and Westphalian forces has expanded in to Westphalian territory. Wishing to defend their country from the forces they refer to as the “Floral Aggressors” or “F-As”, the Westphalian technology company WeSoft developed an application for mobile telephones called TheWestRemembers and popularly known as TWR in Westphalia. The application could be downloaded by anyone with a smartphone.

After downloading the application, users would have to create a login name and provide a Westphalian phone number to authenticate their accounts. Once accounts were approved, when a user logged in, they were prompted to share their locations. By touching a single button, they could report to TWR that at their location they had encountered:

- Mines (by touching ‘M’);
- Unexploded ordinance (by touching ‘U’);
- Damage to buildings, property, or the environment (by touching ‘D’);
- Dead bodies (by touching ‘B’); and
- Floralandian forces (by touching ‘F’).

Users were informed that WeSoft would pass the information they uploaded directly to the Westphalian military, which it in fact did. On at least two occasions, Westphalian armed forces successfully targeted Floralandian forces based on information they had received from TWR. These incidents of successful targeting took place within minutes of the information being provided to TWR.

The Westphalian President gave Wesoft CEO Mackenzie Gyver a medal for her company’s contribution to their country.

Users could also select to receive alerts. If they chose to receive alerts, they would receive alerts about the locations of mines, ordinance, or damaged buildings so that they could avoid dangerous situations.

The ICC Office of the Prosecutor (OTP) opened a preliminary examination into allegations of crimes committed during the conflict on its own initiative. It subsequently requested to open an investigation into ‘The Situation in Westphalia and Floraland’, and the Pre-Trial Chamber granted authorization to do so.

In the course of its investigation, OTP found evidence of the following facts:

- Captain Ames Bannister had issued a standing order to Floralandian forces that anyone their forces identified as having TWR installed on their phone would be detained and treated as a prisoner of war. OTP has obtained evidence this order was implemented and several persons were detained on the basis that they had TWR installed on their phones; and;
- On one occasion, on the night of January 1, 2024, a Floralandian unit had encountered a group of Westphalians dressed in civilian clothes. None were armed and none explicitly attempted to surrender. One Westphalian yelled “Quick, put the F-As on TWR!” Another Westphalian named Jack Hagar pulled out his phone and pressed a button. A Floralandian soldier yelled at him to stop, but he continued to tap his phone. Captain Bannister ordered the soldier to shoot Hagar, which he did, and Hagar died. No other civilians were physically harmed in the encounter, though three who were found to have installed TWR were detained as POWs. The gunfire damaged Hagar’s phone, and when it was initially picked up by Floralandian forces it had turned off and could not be powered back on due to the gunshot damage. However, a subsequent forensic search of Hagar’s phone revealed that he had downloaded and installed TWR and established an account on the app.

There have been reports which OTP has found collectively provide reason to believe that other Floralandian units also killed TWR users around the same time, but they are not part of this case and none of them have yet led to charges being filed at ICC. OTP does not allege that the persons detained pursuant to Captain Bannister’s order were physically abused during their detention.

The Prosecution has charged Captain Bannister under Article 25(3)(b) of the Rome Statute with one count of wilful killing as a war crime under Article 8(2)(a)(1), one count of directing an attack against civilians as a war crime under Article 8(2)(b)(1), and two counts of unlawful confinement of civilians under Article 8(2)(a)(7).

Floralandia’s army has a functioning court-martial system which has prosecuted service members for war crimes including wilful killing and unlawful detention, though none of the servicemembers who have been prosecuted for these crimes has received a substantial prison sentence. Early in the war, they issued a statement expressing their commitment to investigate allegations of international crimes and prosecute the perpetrators when and if they could be identified.

When the Chief Military Prosecutor became aware of these allegations, a military prosecutor interviewed members of the unit present at the shooting of Jack Hagar. The existence of the investigation became public and led to a massive outcry in Floralandia, where Bannister is a hero because of a well-known incident where he was wounded rescuing a unit pinned down by Westphalian fire.

Before the investigation was completed but after it became public (and after the resulting outcry), the Floralandian Parliament on March 23, 2024, passed a new retroactive law directing that TWR's programmers and administrators and any person who used it were directly participating in hostilities. Consequently, the military prosecutor closed the investigation against Captain Bannister and his soldiers, concluded that at the time he was shot Mr. Hagar was directly participating in hostilities, and that he was consequently a lawful target. No charges were filed.

OTP now requests that a Pre-Trial Chamber of the ICC confirm the charges against Captain Bannister under Article 61 of the Rome Statute and allow it to proceed to trial. The Defence has requested that the charges be dismissed before trial.

Pre-Trial Chamber VII has scheduled a hearing to be held in 90 minutes. It has asked the Prosecution and Captain Bannister's Defense to address three issues:

- 1. Whether the evidence as described satisfies the elements of the charges;**
- 2. Whether the charges, if proven, are of sufficient gravity to be admissible under Article 17;**
- 3. Whether the ICC should refrain from considering the case out of complementarity under Article 17.**

Phone Data of Jack Hagar

Date (YEAR-MO-DY)	Time	App Name	Device
2024-01-01	11:31 PM	TheWestRemembers	iPhone X (iOS 14)
2024-01-01	01:45 PM	TheWestRemembers	iPhone X (iOS 14)
2023-12-31	11:55 PM	Snapchat	iPhone X (iOS 14)



Date: February 15, 2024

Press Statement from the Floraland Ministry of Justice

The Government of Floraland is deeply concerned about recent reports of human rights abuses and potential war crimes committed during the ongoing conflict with Westphalia. As a signatory to the Rome Statute of the International Criminal Court, Floraland is committed to upholding international humanitarian law and ensuring that any violations are prosecuted to the fullest extent of the law.

We want to make it clear that no one, regardless of rank or position, is above the law. The Floralandian Armed Forces have clear rules of engagement that emphasize the importance of minimizing harm to civilians and complying with international law. Any violation of these rules will not be tolerated, and we will investigate and prosecute those responsible.

Floraland remains committed to achieving a peaceful resolution to the conflict and ensuring that justice is served for any victims of human rights abuses or war crimes. We will continue to work closely with our international partners to promote human rights and uphold international law.



Declaring TWR and its users DPH

Be it Enacted by the Floraland Parliament here assembled on this day, March 23, 2024.

SECTION 1:

TheWestRemembers (TWR) Application developed by WeSoft Technologies, as defined in Section 2 of this Act, shall be considered a weapon used by the Westphalian forces and all its users shall be considered direct participants in hostilities.

SECTION 2:

TWR means the mobile application, known as TheWestRemembers, which enables its users to report encounters with mines, unexploded ordnances, damage to buildings, property or the environment, dead bodies, and enemy forces to the Westphalian military.

SECTION 3:

This Act applies retroactively to any person who used TWR from the beginning of the conflict between Floraland and Westphalia.

SECTION 4:

Any person who used TWR or was involved in the development, programming or administration of TWR shall be treated as a prisoner of war upon capture

TOP SECRET

TO: Task Force Alpha Operational Staff

FROM: Captain Ames Bannister, Commander of Task Force Alpha

DATE: November 1, 2023

SUBJECT: TWR App Users

Effective immediately, any individuals identified as having the TWR app installed on their mobile phones will be detained.

All units must report any TWR users immediately to the chain of command, including their location and any other relevant information.

The TWR app is a tool used by the enemy to report on the location and movements of Floralandian forces. It is a direct threat to our mission and the safety of our personnel.

Any violations of these orders will be met with appropriate disciplinary action.

By Order of Captain Ames Bannister

Commander of Task Force Alpha



Colombia

By: Angela Patricia Castaneda-Torres

Updated 8:34 AM EDT, MON March 19, 2024

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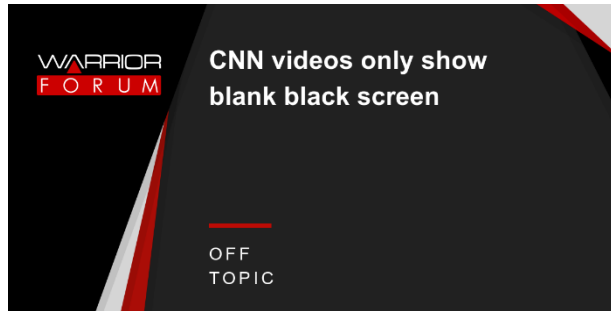
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In a shocking revelation, an audio transcript has been leaked to the public which exposes a disturbing conversation between Captain Ames Bannister, a Floralandian military officer accused of war crimes, and two of his subordinates. The audio, which was recorded covertly by one of the subordinates present during the conversation, highlights a callous and brutal attitude towards civilian casualties and raises serious questions about the conduct of Floralandian forces during the ongoing conflict.

The conversation, which took place in an undisclosed location, features Captain Bannister and his subordinates discussing the targeting of civilians using the TWR app, a mobile application developed in Westphalia to report the presence of Floralandian forces. Throughout the conversation, Captain Bannister appears to express a disturbing lack of concern for the potential misidentification of civilians as combatants. At one point, he even seems to suggest that he is grateful for the TWR app, as it provides more opportunities to carry out violent acts.

One of the subordinates in the conversation appears to be uncomfortable with the callous nature of the discussion, while the other displays a similarly brutal attitude towards the civilian population, aligning with Captain Bannister's views. This leaked audio transcript has sent shockwaves through the international community, and it is expected to play a significant role in any proceedings against Captain Bannister.

The full transcript of the leaked audio has been provided below. Please note that some readers may find the content of the conversation disturbing.



Audio begins with muffled background noise and footsteps, followed by the sound of a door opening]

Captain Bannister (CB): [laughing] Oh man, you won't believe this. We bagged another one of those TWR-using Westphalians last week.

Private Brian Tarmel: Seriously, sir? What went down this time?

CB: [chuckling] This little punk was actually on Snapchat! Yeah, he had TWR installed, but we caught him snapping a selfie with some idiotic dog filter.

Private Brian Tarmel: [laughs nervously] Uh, wow. That's something else.

Third Soldier (TS): [laughs] What a joke! Those Westphalians think they're so clever.

CB: I know, right? But we detained him regardless. If they're messing with that app, they're just like cockroaches scurrying about, spreading filth.

Private Jalen Langford : Exactly! They deserve what they get.

Private Brian Tarmel: Um, I guess so, sir. Erring on the side of caution?

CB: Precisely. They're a real pain, but it's our job to keep things under control. If they're dabbling with TWR, they're practically our enemies. In a twisted way, I'm almost grateful for TWR. It gives us an excuse to deal with them more...efficiently.

Private Brian Tarmel: [hesitantly] I can understand that Captain. So, what's the deal with the Snapchat individual now?

CB: He's locked up with the rest of them. He'll face the same consequences. They really should've thought twice before playing around with that app. But you know, sometimes a few mistakes are inevitable. Better safe than sorry, I say.

Private Jalen Langford: Couldn't agree more, Captain. No mercy for that vermin.

Private Brian Tarmel: [nervously] Yeah, true, sir. Can't take any chances these days.

CB: Exactly. If we get it wrong once in a while, that's just the cost of keeping our people safe.

[The audio ends with the sound of footsteps and muffled conversation fading away]

As the situation develops, we will continue to provide updates and analysis on the legal and political implications of this startling revelation. The leaked audio transcript has undoubtedly added a new dimension to the ongoing discussions surrounding the conflict and the responsibility of military officers like Captain Ames Bannister.



WeSoft Technologies

“Not all heroes wear capes”

October 1, 2023

Launch of *TheWestRemembers* App: Your Mobile Guardian Angel

WeSoft, a patriotic Westphalian technology company, is proud to announce the launch of *TheWestRemembers*, a new mobile application designed to provide users with real-time information about the ongoing conflict in Westphalia.

The app is available for download on both Android and iOS devices and is free to use. Users simply need to create an account, provide their Westphalian phone number to authenticate their accounts, and share their locations. Once logged in, they can report to TWR any encounters with mines, unexploded ordnances, damage to buildings or property, dead bodies, and Floraladian forces. WeSoft will pass this information directly to the Westphalian military.

But *TheWestRemembers* is more than just a reporting tool. Users can also view the information uploaded by other users, which can help them stay informed of potential dangers in their area. By creating a community of TWR users, we hope to provide valuable information to everyone affected by the conflict in Westphalia.

WeSoft CEO Mackenzie Gyver stated, “We are committed to providing our fellow Westphalians with the information they need to stay safe and make informed decisions. With *TheWestRemembers*, we hope to give users the power to contribute to the protection of their community. Not all heroes wear capes.”

WeSoft encourages all Westphalians to download *TheWestRemembers* and start contributing to the safety of their community. Together, we can make a difference.