IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES Appellee	**MOTION TO UNSEAL**
v.	Docket No. ARMY 20210306
Chief Warrant Officer 3 (CW3) **JASON J. GERANEN** United States Army Appellant	Tried at Fort Hood, Texas, on 19-22 May 2021, before a general court martial, appointed by the Commander, Headquarters, III Corps and Fort Hood, Lieutenant Colonel Scott Hughes, military judge, presiding.

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES ARMY COURT OF CRIMINAL APPEALS

The Appellant, CW3 Jason Geranen, through undersigned appellate defense counsel, respectfully moves pursuant to Rule 23 of this Court's Rules of Appellate Procedure for the Court to unseal the matters currently under seal.

The military judge signed a sealing order sealing the following: "a CD containing the closed session audio; closed proceeding transcript pages 136-153; 428-434; 480-484; Appellate Exhibits XXXII and XXXIII (GOV Mot 412 and ENCL); Appellate Exhibit XXXIV (DEF Resp to AE XXXII); and Appellate Exhibits XXXVI and XXXVII (GOV Resp to AE XXXIV w ENCL)." (Sealing Order dated 5 January 2022). The military judge signed a second sealing order sealing Appellate Exhibit LX, which is his ruling denying the Government's Mil. R. Evid. 412 motion. (Sealing Order dated 12 August 2022).

Panel No. 4

Pursuant to the Court's Order granting permission to examine, both civilian and military appellate defense counsel reviewed all of the sealed documents on 1 September 2022. That review indicated that *all of the evidentiary matters discussed in the pleadings and transcripts of closed sessions were fully disclosed in open court on the record*; thus, no justification exists for the items to remain under seal.

Specifically, the Government sought to introduce certain evidence. (App. Ex. XXXII, XXXIII (GOV Mot 412 and ENCL)). The Defense sent a responsive email stating no objection, but seeking to cross-examine the complainant about other related matters should the Government elicit the testimony at issue. (App. Ex. XXXIV (DEF Resp to AE XXXII)). The parties addressed these matters in closed sessions. The military judge denied the Government's motion. (App. Ex. LX).

At trial, the complainant did, in fact, testify in open court before the members to the matters the Government sought to admit, as well as related matters. (R. at 423, 445, 462-63, 526, 556, 735). The Defense did cross-examine in accordance with the relevant email. (R. at 445-46).

Later, the Government objected to certain testimony and another closed session took place. The military judge overruled the objection and the complainant testified to this matter. (R. at 475).

As the Court knows, filing pleadings involving sealed matters involves additional administrative requirements, which, while appropriate in most cases, can

be somewhat burdensome. (Rule 17.2(b)). When documents contain or the parties discuss in closed sessions matters that are not disclosed in open court, these additional steps are necessary and justified. However, we respectfully submit that in cases such as the instant one, where nothing was discussed in a sealed pleading or closed session that was not aired in open court, there is no further justification for keeping those materials sealed. Filing the Brief, Answer, and Reply Brief will be much more efficient for counsel and the Court if the Court unseals the materials.

We respectfully ask the Court to unseal the sealed matters in this case.

PANEL NO. 4

MOTION TO UNSEAL

GRANTED: [redacted]

DENIED:

DATE: 8 September 2022

[redacted]

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CERTIFICATE OF SERVICE

This motion was filed by email to the Court and counsel for the Government on 7 September 2022.

[redacted]

TERRI R ZIMMERMANN
Lead Civilian Appellate Defense Counsel
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