

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee

v.

Private (E-2)

MATTHEW L. COE

United States Army,

Appellant

**MOTION TO EXAMINE
SEALED MATERIALS**

Docket No. ARMY 20220052

Tried at Fort Benning, Georgia, on 7 January, and 1–3 February 2022, before a general court-martial appointed by Commander, U.S. Army Maneuver Center of Excellence, Lieutenant Colonel Trevor I. Barna, military judge, presiding.

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

COME NOW the undersigned appellate defense counsel, pursuant to Rules 6.9 and 23 of this court’s Rules of Appellate Procedure, and move to examine the following sealed materials contained in the record of the above captioned case, which were reviewed by trial counsel and defense counsel at trial, and which were subsequently sealed* pursuant to Military Rule of Evidence 412 and Rule for Courts-Martial 1113:

1. Audio CDs: M.R.E. 412 closed sessions on 7 January and 1 February 2022;

* The military judge ordered his ruling and the related motions and papers to be sealed (App. Ex. XXXIX, p.6), but these documents (App. Exs. II-XII, XXXIX) were placed in the unsealed portion of the record of trial.

2. Pages 13-74 and 312-316 of the transcript;
3. Appellate Exhibit II: Defense Motion in Limine under M.R.E. 412, dated 30 December 2021;
4. Appellate Exhibits III through XI: Defense evidence supporting Motion in Limine under M.R.E. 412;
5. Appellate Exhibit XII: Prosecution Response to Defense Motion in Limine under M.R.E. 412, dated 5 January 2022;
6. Appellate Exhibit XXXIX: Essential Findings of Fact, Conclusions of Law, and Ruling – Defense Motion to Admit Evidence under M.R.E. 412, dated 31 January 2022.

Review of these materials is consistent with appellate defense counsel's obligations under Army Reg. 27-26, Rules of Professional Conduct for Lawyers, and is reasonably necessary to evaluate the effect of the military judge's evidentiary rulings on the appellant's trial. Review of the materials is also reasonably necessary in order for appellant, through counsel, to determine whether issues exist that merit presentation to this honorable court for consideration as part of its Article 66, UCMJ, review.

WHEREFORE, appellate defense counsel respectfully request that this court grant the instant motion.


PANEL NO. 3

MOTION TO EXAMINE
SEALED MATERIALS


GRANTED: 

DENIED: _____

DATE: 15 September 2022



ANDREW R. BRITT
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division



JOYCE C. LIU
Major, Judge Advocate
Branch Chief
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to the
Army Court and Government Appellate Division on 12 September 2022.

A solid black rectangular box used to redact the signature of Andrew R. Britt.

ANDREW R. BRITT
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division