

**IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS**

UNITED STATES

Appellee

**MOTION TO EXAMINE SEALED  
MATERIALS**

v.

Docket No. ARMY 20220248

Staff Sergeant (E-6)  
**DANIEL D. HERMAN,**  
United States Army,

Appellant

Tried at Fort Hood, Texas, on 10-14  
May 2022, before a general court-  
martial appointed by the Commander,  
Headquarters, III Corps and Fort  
Hood, Lieutenant Colonel Scott Z.  
Hughes, Military Judge, presiding.

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

COMES NOW the undersigned appellate defense counsel, pursuant to Rules 6.9(a) and 23 of this court's Rules of Appellate Procedure, and moves to examine sealed materials contained in the record of *United States v. SSG Daniel Herman*.

The undersigned counsel, [REDACTED] (Branch Chief, Defense Appellate Division), seeks to examine the following exhibits, all of which contain explicit images that formed the basis of the charges and specifications for which appellant was convicted and Military Rule of Evidence 404(b) material used during appellant's trial. The military judge sealed following materials and exhibits:

1. Prosecution Exhibits: 10-15, 26-27, 33-34, 36, 38, 41-43, 55, 60-62, 65, 69, 70, 73-75, 88, 92, 105-106, 118, 123-125, 140-141, 143-144, 146-148, 151-152, 154, 156-158, 160-161, 164-165, 167, 169, 170, and 172-174.

2. Defense Exhibits: S and T.

3. Appellate Exhibits: VII-F, VII-G, VII-H, VII-I, XI-D, XVI-B, XVI-C, XVI-E, XVI-F, and XVI-G.

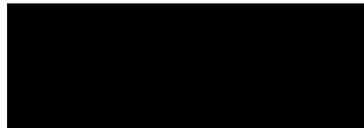
4. Additional Materials: Pages 40 and 48-61 of the Forensic Examination in Support Law Enforcement Report 51-20-CID609.

This is not a request to review material protected under Mil. R. Evid. 513.

In the present case, review of the materials sealed pursuant to the military judge is consistent with appellate defense counsel's obligations under Army Reg. 27-26, Legal Services: Rules of Professional Conduct for Lawyers (28 June 2018), and is reasonably necessary to allow undersigned counsel to evaluate this material in order to adequately advise appellant.

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

PANEL NO. #2



MOTION TO EXAMINE SEALED MATERIAL



MITCHELL D. HERNIAK  
Major, Judge Advocate  
Branch Chief  
Defense Appellate Division

GRANTED: \_\_\_\_\_

DENIED: \_\_\_\_\_

The examination of prosecution exhibits 35, 81, 84, and 89 was not requested and is not included in the granting of this motion.

DATE: 17 March 2023

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was electronically submitted to Army Court and Government Appellate Division on March 15, 2023.



**MICHELLE L.W. SURRETT**  
**Paralegal Specialist**  
**Defense Appellate Division**

