

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

**MOTION TO FILE
SUPPLEMENTAL BRIEF UNDER
SEAL**

v.

Docket No. ARMY 20220345

Private First Class (E-3)
ANTHONY M. ELMORE
United States Army,

Appellant

Tried at Fort Bragg, North Carolina on
17 February, 31 March and 27-30 June
2022, before a general court-martial
appointed by Commander, 82nd
Airborne Division, Colonel J. Harper
Cook, 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 17.2(b) and 23 of this court's Rules of Appellate Procedure, and moves to file appellant's brief under seal. The current due date for this brief is 6 August 2023.

In this case, one assignment of error challenges the military judge's decision to exclude evidence under Mil. R. Evid. 412. Appellant's brief requires reference to sealed materials including the following:

1. Appellate Exhibits: II, II-A, III, III-A, III-B, VIII, VIII-A, IX, IX-A, XIII.
2. Audio and Transcript: Closed sessions from 31 March, 27 June, and 28 June 2022; pages 43-88; 450-455.

For the following reasons, appellant has good cause to file this brief under seal:

1. Appellant was convicted of two specifications of sexual assault in violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920.
2. One of appellant's assignments of error requires reference of sealed materials to challenge the military judge's ruling to exclude Mil. R. Evid. 412 evidences.
3. The undersigned appellate counsel cannot properly fulfill his appellate responsibilities and cannot adequately explain the assignment of error without citing to sealed appellate exhibits and transcripts.

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

PANEL NO. 2

MOTION TO FILE BRIEF UNDER
SEAL

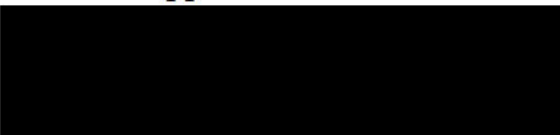
GRANTED

DENIED: _____

DATE: 8 August 2023



ROBERT FELDMEIER
Civilian Appellate Defense Counsel



TUMENTUGS D. ARMSTRONG
Captain, Judge Advocate
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army
Court and Government Appellate Division on August 7, 2023.



MICHELLE L.W. SURRATT
Paralegal Specialist
Defense Appellate Division

