

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

**MOTION TO VIEW SEALED
MATERIALS**

v.

Docket No. ARMY 20230236

Sergeant (E-5)

VICTOR F. MORALES II,

United States Army,

Appellant

Tried at Fort Liberty, North Carolina, on 22 November 2022, 13 February, 3 March, 3 April, 20 April, and 25-29 April 2023, before a general court-martial appointed by the Commander, Headquarters, 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 6.9(a) and 23 of this court's Rules of Appellate Procedure and moves to photocopy and view sealed materials contained in the record of *United States v. Victor Morales*. The undersigned appellate defense counsel seeks to examine the following portions of the record sealed pursuant to Rule for Court-Martial (R.C.M.) 1113: Prosecutions Exhibits 9, 10, 19, and 34.

This is not a request to review material protected under Mil. R. Evid. 513 or Mil. R. Evid. 412.

The undersigned appellate defense counsel, Major Mitchell Herniak (Branch Chief, Defense Appellate Division), [REDACTED] (Deputy

Chief, Defense Appellate Division), and [REDACTED] (Chief, Defense Appellate Division) seek to examine all materials and related trial transcripts mentioned above and sealed by the military judge in this case.

In the present case, review of the materials sealed pursuant to R.C.M. 1113 is consistent with appellate civilian 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 counsel to evaluate the material to adequately advise appellant.

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

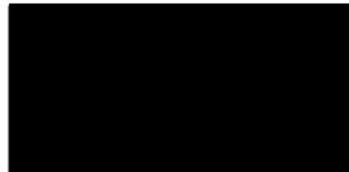
PANEL NO. 3

MOTION TO VIEW SEALED MATERIAL

GRANTED: [REDACTED] part, as to viewing

DENIED: [REDACTED] in part, as to photocopying

DATE: 8 December 2023



TUMENTUGS D. ARMSTRONG
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division



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

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was electronically submitted to the Army Court and Government Appellate Division on 6 December 2023.



TUMENTUGS D. ARMSTRONG
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division