

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
PENLAND, HAYES, and MORRIS  
Appellate Military Judges

UNITED STATES, Appellee  
v.  
Captain ROSS E. DOWNUM  
United States Army, Appellant

ARMY 20220575

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ORDER  
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WHEREAS:

On 18 September 2023, appellant filed his brief to this Court alleging his defense counsel were ineffective in their representation of him by calling [REDACTED] as a witness at trial, because his testimony conflicted with appellant's.

NOW THEREFORE, IT IS ORDERED:

1. Appellate government counsel shall obtain affidavits from Mr. Patrick McLain and Captain Jestyne Venardi, regarding appellant's allegations of ineffective assistance of counsel. At minimum, such affidavits should address:

a. Why was [REDACTED] called as a defense witness?

2. Mr. Patrick McLain and Captain Jestyne Venardi shall attach any documents relevant to support their affidavits not otherwise found in the record of trial. *See* Army Reg. 27-26, Rules of Professional Conduct for Lawyers, App. B, Rule 1.6(b)(2) (28 June 2018).

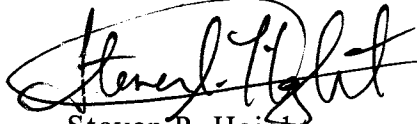
3. Appellate government counsel shall obtain from Mr. Patrick McLain and Captain Jestyne Venardi such affidavits, along with any other documents provided, and file them with this Court no later than 22 January 2024.

4. The government may provide Mr. Patrick McLain and Captain Jestyne Venardi any portion of the record that may assist them in their response but may not provide them any sealed portion of the record absent further order of this court.

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DATE: 11 January 2024

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Steven P. Haight", written over a horizontal line.

Steven P. Haight  
Acting Clerk of Court

CF: JALS-DA  
JALS-GA  
JALS-CCR  
JALS-CCZ  
JALS-CR3