

CORRECTED COPY

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
WALKER, POND, and PARKER
Appellate Military Judges

UNITED STATES, Appellee
v.
Captain BRETT M. HANSEN
United States Army, Appellant

ARMY 20220162

ORDER

WHEREAS:

On 11 September 2023, appellant filed his brief to this Court alleging he did not receive effective assistance of counsel.

Appellant asserts his defense counsel were ineffective in a number of ways, but specifically as to failing to give appellant competent advice on whether he should testify, failing to object to testimony by [REDACTED] about her medical records, failing to introduce documentary evidence, and failing to litigate relevant discovery requests. Appellee filed their response on 10 January 2024. On 17 January 2024, appellant filed his reply.

NOW THEREFORE, IT IS ORDERED:

1. Appellate government counsel shall obtain affidavits from Mr. Stephen Carpenter and Captain Michael Barrett addressing appellant's allegations of ineffective assistance of counsel. At minimum, such affidavits should address:

a. Details of all communications counsel had with appellant regarding his decision to testify at trial. Include what advice counsel provided to appellant as to whether he should testify and strategic reasons for that advice. Detail any preparation of appellant in the event he elected to testify. Also include the content of any communication with appellant regarding prior child abuse allegations against him and the effect this had on appellant testifying.

b. Whether counsel were aware of the medical records referenced by [REDACTED] regarding a chaperone, and if so, did counsel review and/or possess a copy of such records? Additionally, explain whether such records indicated a

chaperone was present and what counsels' strategic reasons were for not attempting to admit such records at trial.

c. All strategic reasons for counsel's approach to the cross-examination of [REDACTED], including but not limited to, the topic of the chaperone policy and [REDACTED]'s prior statements to law enforcement regarding patient complaints about appellant.

d. Did counsel attempt to obtain any Interactive Customer Evaluation (ICE)* records, Joint Outpatient Experience Survey (JOES) reports, or other patient complaints or records referencing appellant, and if so obtained, what was the substance of such records? If not obtained, what were the strategic reasons for not requesting such records?

2. Mr. Stephen Carpenter and Captain Michael Barrett 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. Stephen Carpenter and Captain Michael Barrett such affidavits, along with any other documents provided, and file them with this Court no later than fourteen days from the date of this order.

4. The government may provide Mr. Stephen Carpenter and Captain Michael Barrett documents referenced in this order and 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.

DATE: 5 February 2024

FOR THE COURT:

[REDACTED]

✓ JAMES W. HERRING, JR.
Clerk of Court

CF: JALS-DA JALS-CCR
JALS-GA JALS-CR4

* Corrected.