

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
FLEMING, PENLAND, and MORRIS
Appellate Military Judges

UNITED STATES, Appellee
v.
Staff Sergeant CORY N. PENVEN
United States Army, Appellant

ARMY 20230087

ORDER

WHEREAS:

On 24 January 2024, appellant filed his brief alleging his trial defense counsel, Mr. Lance Wood and CPT Gabrielle Heim, were ineffective in their representation of appellant.

NOW THEREFORE, IT IS ORDERED:

1. Appellate government counsel shall obtain affidavits from Mr. Wood and CPT Heim, addressing appellant's allegations of ineffective assistance of counsel. At a minimum, such affidavits should address:
 - a. In cross-examining [REDACTED] why did defense counsel not ask about all previously-litigated evidence from a pretrial M.R.E. 412 hearing, evidence which the military judge allowed?
 - b. In cross-examining [REDACTED] and in order to establish a potential motive to fabricate, why did the defense not ask about her knowledge of appellant's preliminary assertion that [REDACTED] engaged in sexual activity with him while he was too intoxicated to consent?
2. Mr. Wood and CPT Heim 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. Government appellate counsel shall obtain from Mr. Wood and CPT Heim such affidavits, along with any other documents provided, and file them with this Court no later than 14 days from the date of this order.

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4. The government may provide Mr. Wood and CPT Heim any portion of the record of trial that may assist them in their response, but the government may not provide them any sealed portions of the record absent further order of this court.

DATE: 30 May 2024

FOR THE COURT:



JAMES W. HERRING, JR.
Clerk of Court

CF: JALS-DA
JALS-GA
JALS-CCR
JALS-CR2