

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
PENLAND, MORRIS, and ARGUELLES
Appellate Military Judges

UNITED STATES, Appellee
v.
Sergeant MICHAEL V. SMITH
United States Army, Appellant

ARMY 20230029

ORDER

WHEREAS:

On 19 January 2023, a military judge sitting as a general court-martial convicted appellant, contrary to his pleas, of one specification of sexual assault, one specification of abusive sexual contact, one specification of assault consummated by a battery, and one specification of extramarital sexual conduct.

NOW, THEREFORE, IT IS ORDERED:

On its own motion, this Court specifies the following issues:

I.

IS APPELLANT'S CONVICTION FOR WRONGFULLY ENGAGING IN EXTRAMARITAL CONDUCT LEGALLY SUFFICIENT?

II.

DO APPELLANT'S CONFINEMENT CONDITIONS, EITHER AT THE COCHISE COUNTY JAIL OR THE JOINT REGIONAL CORRECTIONAL FACILITY, CONSTITUTE VIOLATIONS OF THE EIGHTH AMENDMENT, ARTICLE 55, UCMJ, OR OTHERWISE WARRANT SENTENCING RELIEF?

Appellant shall file a brief on the specified issue no later than seven days from the date of this order. Appellee shall file a responsive brief no later than seven

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days from the date of Appellant's brief. Appellant may file a reply brief no later than seven days after Appellee's reply brief.

DATE: 12 June 2024

FOR THE COURT:



STEVEN P. HAIGHT
Acting Clerk of Court