

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
POND, FLEMING, and MORRIS
Appellate Military Judges

UNITED STATES, Appellee
v.
Staff Sergeant GARY L. GOINS
United States Army, Appellant

ARMY 20220088

ORDER

WHEREAS:

A military judge sitting as a general court-martial convicted appellant, pursuant to his pleas, of one specification of sexual assault of a child, four specifications of sexual abuse of a child, one specification of violating a general order, and one specification of obstructing justice, in violation of Articles 120b, 92, and 131b, Uniform Code of Military Justice, 10 U.S.C. §§ 920b, 892, and 931b [UCMJ]. The military judge sentenced appellant to a dishonorable discharge, forty-two months of confinement, and reduction to the grade of E-1. Appellant's case is now pending review before this court pursuant to Article 66, UCMJ.

Before this court, appellant alleges he received ineffective assistance of counsel during his trial proceedings by his defense counsel, Major Marcus Deel and Captain Andrew Whitlock.

In reviewing the record and appellant's allegations of ineffectiveness, we conclude affidavits from appellant's trial defense counsel are required to address appellant's allegations.

NOW, THEREFORE, IT IS ORDERED:

1. Appellate government counsel shall obtain an affidavit from Major Marcus Deel and Captain Andrew Whitlock addressing allegations of ineffective assistance of counsel during appellant's case. At a minimum, Major Deel and Captain Whitlock shall answer the following questions:

- a. What steps did you take to investigate the charged offenses against appellant to include reviewing the evidence?

- b. What steps did you take to investigate any potential motive to lie on behalf of the victim?
- c. Why did you decide not to cross-examine the victim, her mother, or the Department of State Special Agent when called to testify during the Article 39(a) session on 31 January 2022?
- d. What steps did you take to investigate any possible defenses including, but not limited to, the enforceability of General Order No. 1C, United States Central Command, dated 21 May 2013, and any exceptions to that General Order?
- e. Did you review the full text exchange involving the language charged as “indecent language” in Specification 3 of Charge I before advising appellant to plead guilty to that specification?
- f. Did you explain all the possible defenses to the charged crimes to appellant prior to his pleading guilty? Why did you believe any potential defenses did not apply in his case?
- g. Did you, at any time, pressure or coerce appellant into pleading guilty?
- h. Why did you advise appellant to plead to all charges and specifications without the benefit of a plea agreement?
- i. Did you prepare a script for appellant to use for his providence inquiry? If so, how was it prepared? Did appellant have any input into creating the script?
- j. What steps did you take to prepare for appellant’s presentencing case to include contacting potential witnesses to testify or provide written letters on appellant’s behalf to include witnesses from appellant’s current unit, previous unit, or people he may have previously worked with? Why did you not present testimony or letters from witnesses from his teaching career?
- k. Did you at any point talk to appellant’s wife before determining your sentencing case strategy? If not, why did you decide not to interview her? Why did you decide not to call her to testify during pre-sentencing?
- l. What steps did you take to investigate any potential Article 13, UCMJ violations or restriction tantamount to confinement? Why did you decide not to file a motion for confinement credit either for any

potential Article 13, UCMJ violations or restrictions tantamount to confinement?

- m. Were you in possession of any evidence indicating the victim had pre-existing mental health concerns? If so, why did you decide not to cross-examine the Government's witnesses during pre-sentencing about whether any of the victim's mental health concerns existed before the charged offenses?

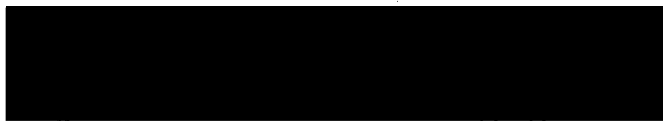
2. Major Deel and Captain Whitlock shall attach any documents relevant to these questions not otherwise found in the record of trial.

3. Appellate government counsel shall obtain from Major Deel and Captain Whitlock the foregoing affidavit, along with any other documents provided, and file them with this court by no later than 19 March 2025.

4. The government may provide Major Deel and Captain Whitlock any portion of the record that may assist them with their respective responses.

DATE: 5 March 2025

FOR THE COURT:



JAMES W. HERRING, JR.
Clerk of Court

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