

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee

v.

Sergeant (E-5)
TREVAR D. TINSLEY
United States Army,

Appellant

BRIEF ON BEHALF OF
APPELLANT

Docket No. ARMY 20200337

Tried at Fort Bragg, North Carolina, on
14 April, 22-24 June, and 1 July 2020,
before a general court-martial
appointed by Commander, United
States Army John F. Kennedy Special
Warfare Center and School, Colonel
Charles Pritchard and Lieutenant
Colonel Christopher Martin, Military
Judges, presiding.

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS**

Statement of the Case¹

On 14 April, 22-24 June, and 1 July 2020, Sergeant (SGT) Trevar Tinsley, was tried at Fort Bragg, North Carolina, by an enlisted panel sitting as a general court-martial. Contrary to his plea, SGT Tinsley was convicted of one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920 (2015) [UCMJ]. The panel members sentenced the appellant to be reprimanded, to be reduced to E-1, and to be discharged with a dishonorable

¹ Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), appellant respectfully requests this court consider those matters set forth in Appendix A.

discharge. The convening authority approved the adjudged sentence. (Action).

The military judge entered judgment on 23 July 2020. (Entry of Judgment).

Statement of Facts

Allegation

SGT Tinsley and Ms. [REDACTED] connected on Bumble, met at a strip club, got a hotel room, and then engaged in sexual activities. After Ms. [REDACTED] performed oral sex upon SGT Tinsley, he asked her to bend over the bed while she was nude. (R. at 382). SGT Tinsley and Ms. [REDACTED] began having sex as she bent over. (R. at 387). Ms. [REDACTED] claimed that she had previously said no to sex despite bending over in front of SGT Tinsley while nude. (R. at 387). During sex, Ms. [REDACTED] claimed that she tensed up and her body language changed. (R. at 387). SGT Tinsley immediately stopped having sex with Ms. [REDACTED] as soon as he got the impression that she may not be enjoying it. (R. at 388). According to Ms. [REDACTED], SGT Tinsley stopped and said, “I guess you didn’t like that.” (R. at 388). SGT Tinsley stopped before he ejaculated. (R. at 388).

Timeline of Events

SGT Tinsley traveled from North Carolina and gathered with his friends in the Washington D.C. area to meet for a funeral. (R. at 299). He met Ms. [REDACTED] on a dating and casual romance application, Bumble, during the morning timeframe and they met in person later that same evening. (R. at 299). He told Ms. [REDACTED] he was out

with his friends but that she was welcome to join him if she was okay with meeting at a strip club. (R. at 302). Ms. [REDACTED] claimed that she was looking for a long-term relationship, but she still met SGT Tinsley at a strip club on the same day they connected on Bumble during his short trip. (R. at 302).

Ms. [REDACTED] arrived at the strip club around 10 pm via Lyft because she intended on drinking alcohol. (R. at 302-03) SGT Tinsley was at the strip club with 14-16 of his friends from the Army. (R. at 306). Ms. [REDACTED] claimed that she had no intention of staying overnight with SGT Tinsley and she would take a Lyft home. (R. at 303). SGT Tinsley and Ms. [REDACTED] split a bottle of Moet Rose at the strip club. (R. at 304).

While drinking together, SGT Tinsley invited Ms. [REDACTED] to sit on his lap and she agreed. (R. at 304). Ms. [REDACTED] claimed that she did not want to sit on his lap because they just met but she agreed anyway. (R. at 304). While sitting on his lap, Ms. [REDACTED] said that SGT Tinsley moved his hands towards her chest and hips. (R. at 305). She repositioned his hands any time she did not want him to touch her. (R. at 305). He said sorry, respected her requests, and never made any threats or tried to impose his will upon her. (R. at 305).

Despite Ms. [REDACTED] claiming that SGT Tinsley was making unwanted advances upon her, she went to a late night dinner with him after the strip club. (R. at 307). Ms. [REDACTED] and SGT Tinsley each ordered an alcoholic cider and some food. (R. at

307). SGT Tinsley offered Ms. [REDACTED] a shot of fireball with her cider. (R. at 308).

Ms. [REDACTED] claimed that SGT Tinsley was insistent for “15 minutes” about the shot of fireball but she still managed to say no to him. (R. at 308).

After dinner around midnight, Ms. [REDACTED] felt intoxicated but could still walk, talk, and remembered everything. (R. at 310). Ms. [REDACTED] went back to the SGT Tinsley’s hotel with him. (R. at 310). Instead of taking an Uber or Lyft home as originally planned, Ms. [REDACTED] decided to stay in a hotel room with SGT Tinsley and his friends, despite meeting him the first time that day, because she was tired and she did not want to pay for an Uber. (R. at 310). Ms. [REDACTED] had an important internship starting the next day at 8 am but still went back to the hotel with SGT Tinsley. (R. at 316).

SGT Tinsley and Ms. [REDACTED] entered the hotel room where four men were already sleeping in the two queen-sized beds. (R. at 312). Ms. [REDACTED] claimed that she tried to sleep on the floor but SGT Tinsley insisted that they sleep on the bed. (R. at 313). Ms. [REDACTED] then stated that SGT Tinsley left to get another room. (R. at 314).

[REDACTED] and [REDACTED] were asleep in the queen-sized bed when SGT Tinsley and Ms. [REDACTED] jumped into the bed. (R. at 462). At first, Mr. [REDACTED] did not know what to do when SGT Tinsley and Ms. [REDACTED] started kissing and undressing in the bed. (R. at 463, 465). After taking a moment in the hallway, Mr. [REDACTED] returned to the room and flipped the lights on. (R. at 464). Ms. [REDACTED] had her shirt off and

covered herself up. (R. at 464). Mr. [REDACTED] told SGT Tinsley and Ms. [REDACTED] to get another room if they were going to continue to be intimate with each other. (R. at 465). SGT Tinsley and Ms. [REDACTED] left the room holding hands and headed to their own room. (R. at 472).

SGT Tinsley and Ms. [REDACTED] decided to go to sleep in the new room. (R. at 315). Ms. [REDACTED] stripped down to her romper and SGT Tinsley slept naked. (R. at 315). Ms. [REDACTED] set the alarm for 5:45 am because of her important first day at work. (R. at 316).

The next morning after awakening around 5:45am, Ms. [REDACTED] claimed that SGT Tinsley placed her hand on his genitals. (R. at 317). Despite not making a single threat or intimidating gesture, Ms. [REDACTED] claimed that she did not think that she could leave unless she did something to please him. (R. at 317). At that point, and throughout the night before, Ms. [REDACTED] stated that she trusted SGT Tinsley (R. at 318).

“Fuck my mouth,” Ms. [REDACTED] stated to SGT Tinsley before she performed oral sex on him. (R. at 318-19). Instead of leaving the hotel room to make it to her new internship on time, Ms. [REDACTED] performed oral sex on SGT Tinsley. (R. at 319). SGT Tinsley did not ejaculate and told Ms. [REDACTED] that he could only ejaculate if they had vaginal sex. (R. at 319).

SGT Tinsley then performed oral sex on Ms. [REDACTED]. (R. at 319). Ms. [REDACTED] claimed that she did not want to participate but never told him no when he started, and she never tried to leave the room. (R. at 319). Ms. [REDACTED] claimed that SGT Tinsley tried to position himself on top but that she said no. (R. at 319). Ms. [REDACTED] claimed that she said “no” and tried to wiggle out of having sex with SGT Tinsley. (R. at 319). At no point did SGT Tinsley hold her down or make any threats. (R. at 321). Ms. [REDACTED] claimed that they talked about the lack of a condom and SGT Tinsley said, “[w]ell, what’s the worst that can happen? We’ll just see each other again.” (R. at 322). At that point, Ms. [REDACTED] said she was concerned for her safety, yet she still did not make any effort to put on her clothes and leave. (R. at 322). Ms. [REDACTED] also had concerns about her HSV-1 diagnosis despite the fact that she never told SGT Tinsley about her medical condition. (R. at 322).

After oral sex, Ms. [REDACTED] got up from the bed and SGT Tinsley asked Ms. [REDACTED] to bend over the bed because Ms. [REDACTED] claimed that he wanted to see what she looked like from that view. (R. at 323). Ms. [REDACTED] claimed that she only complied to appease him because she felt scared despite no previous threats or use of force. (R. at 323). SGT Tinsley inserted his penis into Ms. [REDACTED] vagina after she bent over in front of him. (R. at 323). Ms. [REDACTED] claimed that she said no. (R. at 323). Ms. [REDACTED] claimed that sex lasted for 1-3 minutes before SGT Tinsley stopped when he noticed something seemed off. (R. at 387).

After the two stopped sexual activity, Ms. [REDACTED] gathered her things to make it to her internship on time. (R. at 325). At no point did SGT Tinsley threaten her or try to stop her from leaving the room. (R. at 389). Apparently not scared of SGT Tinsley, Ms. [REDACTED] came back into the room after leaving to get her phone after she forgot it. (R. at 389).

Ms. [REDACTED] went to the lobby to call a Lyft. (R. at 389). In the lobby, she was confused, and she said she was trying to process what happened. (R. at 390). She texted SGT Tinsley from the lobby to confront him and give him a chance to clarify. (R. at 391). She wanted to give SGT Tinsley a chance to “redeem himself.” (R. at 392). As she texted SGT Tinsley, it appeared as if SGT Tinsley blocked her phone number. (R. at 392).

Inconsistent and Incomplete Reports

After it appeared that SGT Tinsley blocked Ms. [REDACTED] phone number, Ms. [REDACTED] reported the situation to the local police and canceled her first day of work. (R. at 394). Ms. [REDACTED] also told her friends, [REDACTED] and [REDACTED], that she thought she was raped. (R. at 423). Ms. [REDACTED] spoke with Detective [REDACTED] about the allegations for about an hour. (R. at 394). Ms. [REDACTED] claimed to have told Detective [REDACTED] everything that happened between her and SGT Tinsley. (R. at 394).

Detective [REDACTED], however, then interviewed SGT Tinsley who voluntarily explained everything that happened between him and Ms. [REDACTED]. (R. at 395). Ms. [REDACTED]

asked Detective [REDACTED] what SGT Tinsley had to say about what happened. (R. at 395). Detective [REDACTED] asked Ms. [REDACTED] if she left out the part about oral sex and saying “fuck my mouth” in her original report. (R. at 395). Ms. [REDACTED] conceded that she intentionally left that part out because she did not think it was important. (R. at 395). And then Ms. [REDACTED] told Detective [REDACTED] that she had HSV-1 and did not include that in the original report or inform SGT Tinsley. (R. at 395).

On the stand, Ms. [REDACTED] stated that she was scared of SGT Tinsley during the sexual activity. (R. at 396). Ms. [REDACTED], however, never mentioned being scared of SGT Tinsley to the police in her first or second report. (R. at 396). She mentioned fear of SGT Tinsley for the first time to when she was interviewed by defense counsel closer to trial. (R. at 396).

During her testimony, Ms. [REDACTED] admitted that in her head she did not want to perform certain sexual activities but outwardly she was consenting with SGT Tinsley. (R. at 397). She moaned and expressed pleasure during oral sex with SGT Tinsley, while giving and receiving. (R. at 397). But Ms. [REDACTED] believed that she said no to intercourse. (R. at 397).

Ms. [REDACTED] testified that SGT Tinsley never restricted her from leaving the room. (R. at 367). He never pushed her or held her down. (R. at 369). He never showed any force or made any threats in the eight hours that he knew her. (R. at 369). He did not give her any reason as to why she could not resist sexual activity or put on

her clothes and walk out of the room. (R. at 369). Ms. [REDACTED], for some unknown reason, thought that she had to participate in sexual activities in order to “get it over with” despite her actions indicating to SGT Tinsley that she was interested and consenting. (R. at 371). She claimed that she pretended to like it and faked it. (R. at 371). She was touching him, fondling his genitals, and she allowed him to put his fingers in her vagina. (R. at 372).

Errors and Argument

I.

WHETHER THE MILITARY JUDGE ERRED WHEN HE DENIED THE DEFENSE REQUEST FOR A FORENSIC PSYCHOLOGIST.

Facts

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Standard of Review

A military judge's ruling regarding the appointment of a government-funded expert is reviewed for an abuse of discretion. *United States v. Anderson*, 68 M.J. 378, 383 (C.A.A.F. 2010).

Law and Argument

In requesting a defense expert witness, or seeking to compel production of a defense expert witness, defense must show the witness is relevant and necessary. R.C.M. 703(d)(2)(A)(i); *United States v. Rivers*, 49 M.J. 434 (C.A.A.F. 1998). The standard for production of an expert consultant is “whether the assistance of the expert is necessary for an adequate defense.” R.C.M. 703(d)(2)(A)(ii). Service members are entitled to expert assistance when “necessary for an adequate defense, without regard to indigency.” The military accused has the resources of the Government at his disposal to pay for this assistance. *United States v. Garries*, 22 M.J. 288, 290 (C.M.A. 1986), *cert. denied* 479 U.S. 985 (1986). The defense must demonstrate the necessity for the services.

Applicable military case law has established a three-prong test to determine the necessity of a requested expert consultant. Those three prongs are: (1) Why is the expert needed?; (2) What would the expert accomplish for the defense?; and (3) Why is the defense counsel unable to gather and present the evidence that the expert assistant would be able to develop? *See United States v. Ford*, 51 M.J. 445,

455 (1999) (quoting *United States v. Gonzalez*, 39 M.J. 459, 461 (1994)); *see also* *United States v. Ndanyi*, 45 M.J. 315, 319 (1996). According to *United States v. Turner*:

An expert may be of assistance in two ways. The first is as a witness to testify...[A]n expert may also be of assistance to the defense as a consultant to advise the accused and his counsel as to the strength of the government's case,...to suggest questions to be asked of prosecution witnesses, evidence to be offered by the defense, and arguments to be made.

Turner, 28 M.J. 487, 488 (CMA 1989).

“Necessary” means reasonably necessary, and an “adequate defense” includes, among other things, preparation for cross-examination of the government witnesses and any government expert. *United States v. Durant*, 545 F.2d 823, 827 (2d Cir. 1976). The defense must show more than a “mere possibility” of assistance from a requested expert. *United States v. Robinson*, 39 M.J. 88, 89 (C.M.R. 1994). There must be a reasonable probability both that the expert would be of assistance to the defense and that the denial of expert assistance would result in a fundamentally unfair trial. *Id.*

For expert testimony to be admissible, certain factors must be established: (A) the qualifications of the expert, Military Rule of Evidence [Mil. R. Evid.] 702; (B) the subject matter of the expert testimony, Mil. R. Evid. 702; (C) the basis for the expert testimony, Mil. R. Evid. 703; (D) the legal relevance of the evidence,

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Law and Argument

If constitutionally required, the military judge can order in camera review or release of mental health records. *LK by & through Gorman v. Acosta*, 76 M.J. 611, 615 (Army Ct. Crim. App. 2017). The psychotherapist-patient privilege must not infringe upon the basic constitutional requirements of due process and confrontation. *J.M. v. Payton-O'Brien*, 76 M.J. 782, 788 (N-M. Ct. Crim. App. 2017). The United States Supreme Court and the Court of Appeals for the Armed

² [REDACTED]

Forces (CAAF) have not offered clarifying interpretations as to what is constitutionally required. The accused has a right to fair trial, effective assistance of counsel, and to confront the accuser. *Sixth Amendment, U.S. Constitution*.

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[REDACTED]

III.

**WHETHER THE MILITARY JUDGE ERRED BY
DENYING THE DEFENSE THE ABILITY TO
CONFRONT MS. [REDACTED]**

[REDACTED]

Facts

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Law and Argument

Mil. R. Evid. 412 states that evidence offered by the accused to prove the alleged victim's sexual predispositions, or that she engaged in other sexual behavior, is inadmissible except in limited contexts. Mil. R. Evid. 412(a)-(b). The rule "is intended to 'shield victims of sexual assaults from the often embarrassing and degrading cross-examination and evidence presentations common to [sexual offense prosecutions].'" *United States v. Gaddis*, 70 M.J. 248, 252 (C.A.A.F. 2011).

The exception for constitutionally required evidence in [Mil. R. Evid.] 412(b)(1)(C) includes the accused's Sixth Amendment right to confrontation. An accused has a

constitutional right to be confronted by the witnesses against him. That right necessarily includes the right to cross-examine those witnesses. In particular, the right to cross-examination has traditionally included the right to impeach, i.e., discredit the witness.

United States v. Ellerbrock, 70 M.J. 314 (C.A.A.F. 2011).

In applying Mil. R. Evid. 412, the judge is not asked to determine whether the proffered evidence is true; it is for the members to weigh the evidence and determine its veracity.” *United States v. Banker*, 60 M.J. 216, 222 (C.A.A.F. 2004). Instead, the military judge must simply determine whether the evidence is relevant under Mil. R. Evid. 401, and then, if applicable, apply the balancing test under Mil. R. Evid. 412(c)(3).³ In addition to the right to confront witnesses against them, defendants have a constitutional right to present a complete defense. *Crane v. Kentucky*, 476 U.S. 683, 690 (1986). An essential component of procedural fairness is an opportunity to be heard. *Id.*

The erroneous exclusion of constitutionally-required evidence is reviewed for harmlessness beyond a reasonable doubt. *See Ellerbrock*, 70 M.J. at 320. For non-constitutional evidentiary errors, the test for prejudice “is whether the error had a substantial influence on the findings.” *United States v. Fetrow*, 76 M.J. 181, 187 (C.A.A.F. 2017). In conducting the prejudice analysis, this Court weighs: “(1)

³ The balancing test is not required for the constitutional exception. Mil. R. Evid. 412(c)(3).

the strength of the Government’s case, (2) the strength of the defense case, (3) the materiality of the evidence in question, and (4) the quality of the evidence in question.” *United States v. Savala*, 70 M.J. 70, 77 (C.A.A.F. 2011); *United States v. Kerr*, 51 M.J. 401, 405 (C.A.A.F. 1999).

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IV.

WHETHER SEX BETWEEN MS. [REDACTED] AND SGT TINSLEY WAS CONSENSUAL. THE SPECIFICATION OF THE CHARGE IS NOT FACTUALLY AND LEGALLY SUFFICIENT.

Facts

All facts provided in AEs I-III.

Law and Argument

Pursuant to Article 66(c), UCMJ, this court is required “to conduct a de novo review of [the] legal and factual sufficiency of the case.” *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002). The standard of review for legal sufficiency is whether, considering all the evidence in the light most favorable to

the government, a reasonable fact-finder could have found all the essential elements of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also United States v. Tollinchi*, 54 M.J. 80, 82 (C.A.A.F. 2000).

The test for factual sufficiency is “whether, after weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, [the members of the Court] are themselves convinced of the accused's guilt beyond a reasonable doubt.” *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987). An Article 66, UCMJ, review involves a “fresh, impartial look at the evidence” and this court must make “its own independent determination as to whether the evidence constitutes proof of each required element beyond a reasonable doubt.” *Washington*, 57 M.J. at 399. The evidence must leave no fair and reasonable hypothesis other than appellant's guilt. *United States v. Billings*, 58 M.J. 861, 869 (Army Ct. Crim. App. 2003) (citations omitted).

Sexual activities between Ms. [REDACTED] and SGT Tinsley were consensual.

SGT Tinsley invited Ms. [REDACTED] out with his friends. The two had drinks. He did not insist that she come back to the hotel. He never threatened her, forced himself on her, or do anything to put Ms. [REDACTED] in fear. He respected her desire not to be sexually intimate when they first got into the private hotel room and they both went to sleep. One would think that if SGT Tinsley intended to sexually assault

Ms. ■■■, he would have done it as they entered the private hotel room instead of both of them going to sleep and waiting to engage in sexual activities until the morning.

More importantly, SGT Tinsley stopped having sex with Ms. ■■■ as soon as he noticed that her body language shifted, and he observed that she might not be enjoying sex. That is what we should expect from someone who even has the slightest belief that their partner might not be interested in continued intimacy. He did not continue until he ejaculated. SGT Tinsley did not continue until “he got what he wanted.” He did not force her to do anything. He did not hold or pin her down. He stopped as soon as he believed that Ms. ■■■ might not be enjoying sex. SGT Tinsley only intended to have consensual sex with Ms. ■■■. He never threatened her after. He never told her not to report anything. He respected all of her wishes and all sexual activity was consensual.

Ms. ■■■ expressed consent during sexual activities and was able to firmly convey her boundaries to SGT Tinsley throughout the evening.

Ms. ■■■ consumed alcohol on her own. She had no problem moving SGT Tinsley’s hands from her body at the strip club when she did not want them on her. She said no to SGT Tinsley when he offered her a fireball shot for her cider despite claiming that he was insistent. She willingly went to SGT Tinsley’s hotel room when he got a private room for them instead of going home, as originally planned, the night before her first day at work.

Ms. [REDACTED] was never without agency and there is no reason to believe that she was not consenting with SGT Tinsley. Ms. [REDACTED] claimed that, despite sexually moaning and saying, “fuck my mouth,” that she did not want to perform oral sex on SGT Tinsley. She also claimed that while she bent over nude in front of SGT Tinsley, while he was naked as well, that she did not want to have sex. All of these actions show either consent or a reasonable mistake of fact as to consent.

Ms. [REDACTED] was able to say no or express her desires throughout the night to SGT Tinsley. He respected her requests. Ms. [REDACTED] did not explain how all of the sudden she ended up doing all sorts of sexual activities supposedly against her will, especially when she was able to create boundaries and express her desires to SGT Tinsley throughout the night.

Ms. [REDACTED] is not credible.

Ms. [REDACTED] failed to report to the police that she told SGT Tinsley to “fuck my mouth.” She also failed to disclose that she had HSV-1 to SGT Tinsley and to the police in her first interview. Ms. [REDACTED] provided important and relevant information to the police only after SGT Tinsley provided the truth as to what happened between them. She never told the police that she feared SGT Tinsley, as she only added that fact when she was preparing for trial.

Ms. [REDACTED] had a motive to fabricate.

In the lobby of the hotel after having sex with SGT Tinsley, Ms. [REDACTED] was “confused” about what happened. She texted SGT Tinsley but thought that he had blocked her number. She was going to be late for her first day at the internship that was critical for her schooling. She just participated in sexual activities without informing her partner about her HSV-1. Any of one of these issues was enough for Ms. [REDACTED] to convince herself that sex was not consensual.

SGT Tinsley acted reasonably and appropriately. All sexual activity between Ms. [REDACTED] and SGT Tinsley was consensual.

SGT Tinsley requests that this Court set aside the finding and sentence.

[REDACTED]

Michael J. Millios
Civilian Appellate Defense Counsel

[REDACTED]

[REDACTED]

LAUREN M. TEEL
CPT, JA
Appellate Defense Counsel

APPENDIX A

Pursuant to *United States v. Grostefon*, SGT Trevar Tinsley requests the Court to consider the following matters and set aside the findings and sentence.

My name is Trevar David Tinsley and my story didn't begin on January 20th 2018. I was born in Lacey, Washington on [REDACTED] to [REDACTED] and [REDACTED] and was raised in a split household since my parents were split up. Growing up I was mainly raised by my mother. She was a single parent at age 20 when I was born going to school and working at gas station while trying to raise me. We never had much but we had each other. Despite being on reduced lunches, only having second hand clothing, nor the finances for a lot of opportunities I did extremely well in school and was a happy child. It wasn't until my mother married my step father which was in the Army that we were able to move out from my grandparents basement and have our own place in the country to call our own. I'm thankful I grew up without much because it helped me appreciate what I do have and hard work to achieve it. Ever since that point, I looked up to my new step father and how a military man came in and not only gave my mother a better life, but me more opportunities. From then on, I knew the Army is where I wanted to be and stand for.

Fast forward in time, I graduated from high school and the first thing I did was join the military. I came in as a 11B (infantrymen) before getting offered an airborne RASP contract. After airborne school, I went to RASP and suffered

hamstring tendinitis to where I got medically dropped from the program. I then was stationed in JBER, Alaska 4-25th 3/509th. It wasn't long before I tried out for the infantry scout platoon and made the cut. We deployed from Dec 2011- October 2012 in Afghanistan, Paktika Province, FOB Gardez. It was a tough deployment.

After that deployment I knew I didn't want to stop there. My goal was still to become a Green Beret. Three months after deployment, I went to special forces selection (SFAS) in March 2012. I was selected. I was in the special forces qualification course (q course) for a year before being told to come back after a year so I could have more experience. I went straight to the 82nd ABN Division where I jumped into their deployment in Afghanistan. After the 6 month tour, I spent my time as a team leader, then quickly a squad leader. I turned my packet back in to go back into the q course, however I was one week late. I had to do SFAS again. After getting selected a 2nd time, I went through the Q course with flying colors. After SERE school, I was informed that my long time friend [REDACTED] [REDACTED] had passed away in Afghanistan January 2nd 2018 from injuries sustained from combat. SFC [REDACTED] had not only been a close friend, but he was one of my squad leaders in 4-25 3/509th scout platoon on my deployment and had also took the path to become a green beret and achieved it.

After the accusations, I informed my chain of command immediately that I got accused of sexual assault. I came back to my unit and had to talk to my chain

of command. I continued training for the next few months with great despair. Having a hard time trying to focus on class, lack of appetite, trouble sleeping, confusion, amongst many other mixed emotions made life extremely difficult.

Being falsely accused of something you don't stand for and goes against everything you are against is the hardest thing I've ever experienced in my life. Despite that, I finished the Q course and was told to wait. After the civilian sector dismissed the case and chose not to prosecute after 8 months of waiting. The Army CID decided it was their turn now. I got questioned again and waited another 1 1/2 years until I was informed it was going to trial after 2 1/2 years of waiting. I had trial and couldn't believe it was possible that I got convicted for something I didn't do.

Between that 2 1/2 years, I had gotten married. And knew that not only is my life turned from what felt like the proudest moment of my life accomplishing my life goal of becoming a Green Beret, to having to live the life of a registered sex offender, but my wife had to as well. After the verdict, I went down the sheriff's office to register. I was told I wasn't allowed to sleep in my own apartment because it was too close to a park. So for the month of me waiting for orders to be able to leave, I couldn't sleep next to my wife. The first 4 nights I'd sleep in my truck in front of the sheriff's office. The rest of the month I'd spend the day with my wife and go back and sleep in the barracks alone.

After my wife had to quit her job and I had no source of income, we were living with my mother in Washington State. It was hard to find a job that didn't do background checks because to no surprise, being labeled as a sex offender, it's difficult to get hired. Especially in the height of covid. Even with an impressive resume. I finally got lucky and found a job doing construction. Finding a new place other than my parents to live at proved to be even more difficult. Apartment complexes also don't want registered sex offenders living in their neighborhood which should come to no surprise. After a while, my wife and I were able to find a very old house made in 1952 for relatively cheap in this astronomical housing market bull run because that's the only option we have.

To this day, I don't know why Ms. [REDACTED] made these claims. I can certainly guess. I never did anything without her consent or, at least, thinking that she was consenting. I would never want to put her or anyone else through sexual assault. I hope that you will review my case and this letter to see that I would never do the things that I was accused of.

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically and hand delivering a
unredacted copy of the brief to Army Court and Government Appellate Division
on April 23, 2021.



MICHELLE L. WASHINGTON
Paralegal Specialist
Defense Appellate Division

