

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
PENLAND, ARGUELLES and MORRIS  
Appellate Military Judges

**UNITED STATES, Appellee**  
**v.**  
**Specialist TONEY E. HENDERSON**  
**United States Army, Appellant**

ARMY 20210543

Larry A. Babin, Military Judge

-----  
NOTICE OF HEARING  
-----

TO: Appellate Defense Counsel: Captain Matthew S. Fields

Appellate Government Counsel: Captain Lisa Limb

Notice is hereby given that a hearing in this case before the United States Army Court of Criminal Appeals, Panel 3, has been set for 5 July 2023 at 1000. Argument will be heard on the following issues:

I.

WHETHER THE MILITARY JUDGE ABUSED HIS DISCRETION UNDER MIL. R. EVID. 413 BY ALLOWING THE GOVERNMENT TO INTRODUCE EVIDENCE OF A CASE WHERE APPELLANT WAS ACQUITTED

II.

WHETHER THE GOVERNMENT CHARACTERIZATION OF THE MIL. R. EVID. 413 EVIDENCE AMOUNTED TO PROSECUTORIAL MISCONDUCT CAUSING APPELLANT TO RECEIVE AN UNFAIR TRIAL

The parties shall file four copies of the Joint Appendix by 23 June 2023.

HENDERSON—ARMY 20210543

Panel Composition: Senior Judge PENLAND, Judge ARGUELLES, and Judge MORRIS.

Date: 23 May 2023



R. TIDEMAN PENLAND, JR.  
Colonel, JA  
Senior Judge, Panel 3

CF: Chief, DAD	JALS-TJ
Chief, GAD	JALS-CCO
JALS-CR4	JALS-CCZ
JALS-CRZ	JALS-CCC