

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
PENLAND, MORRIS, and ARGUELLES  
Appellate Military Judges

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

ARMY 20210543

Larry A. Babin, Jr., Military Judge

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AMENDED NOTICE OF HEARING  
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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 Wednesday, 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

III.

CONSIDERING THE TERMINAL ELEMENT ALLEGED, WHETHER THE FINDING OF GUILTY FOR THE SPECIFICATION OF CHARGE V IS LEGALLY AND FACTUALLY SUFFICIENT

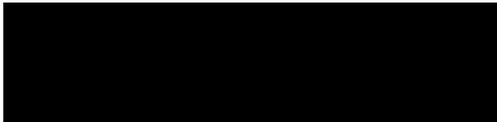
IV.

CONSIDERING THE FIRST AMENDMENT, AND THE TERMINAL ELEMENTS ALLEGED, WHETHER THE FINDING OF GUILTY FOR THE SPECIFICATION OF ADDITIONAL CHARGE II IS LEGALLY AND FACTUALLY SUFFICIENT

The parties may file supplemental briefings on issues III and IV by 28 June 2023. The parties shall file four copies of the Joint Appendix by 23 June 2023.

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

Date: 08 June 2023



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

CF:	Chief, DAD	JALS-TJ
	Chief, GAD	JALS-CCO
	JALS-CR3	JALS-CCZ
	JALS-CRZ	JALS-CCC