

**CORRECTED COPY**

**UNITED STATES ARMY COURT OF CRIMINAL APPEALS**

Before  
COOPER, WILLIAMS, and SCHLACK  
Appellate Military Judges

**UNITED STATES, Appellee**  
**v.**  
**Staff Sergeant MASON L. WOLLERSHEIM**  
**United States Army, Appellant**

ARMY 20250050

Headquarters, Fort Carson  
Jacqueline L. Emanuel and Alexander N. Pickands, Military Judges  
Colonel Jason M. Elbert, Staff Judge Advocate

For Appellant: Colonel Frank E. Kostik, Jr., JA; Lieutenant Colonel Kyle C. Sprague, JA; Major Beau O. Watkins, JA; Major Andrew M. Hopkins, JA (on brief).

For Appellee: Colonel Richard E. Gorini, JA; Major Isaac J. Dickson, JA; Lieutenant Colonel Jonathan P. Robell, JA (on brief).

20 August 2026

-----  
SUMMARY DISPOSITION  
-----

*This opinion is issued as an unpublished opinion and, as such, does not serve as precedent.*

WILLIAMS, Judge:

Appellant filmed himself barging into a bedroom to document his wife's infidelity. He succeeded and, in the process, recorded another man's genitalia. Appellant then, consciously, distributed his video to other people. Appellant maintains the man's genitals are not visible in the recording. We disagree and affirm.

A general court-martial composed of officer and enlisted members convicted appellant, contrary to his pleas, of three specifications of attempted larceny, one specification of indecent broadcasting, one specification of larceny, and one specification of wire fraud, in violation of Articles 80, 120c, 121, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 920c, 921, and, 934 [UCMJ]. The

military judge sentenced appellant to a bad-conduct discharge, confinement for twenty-eight months, and reduction to the grade of E-4.

Appellant raises a single assignment of error: whether the evidence is legally and factually sufficient to sustain his conviction for indecent broadcasting. Specifically, appellant contends the video recording he distributed did not sufficiently depict the “private area” of the victim, that he did not knowingly distribute an indecent video, and that the government failed to establish the victim possessed a reasonable expectation of privacy. Finding no merit in appellant’s contentions, we affirm.

### **BACKGROUND**

Appellant and his wife were physically separated and in the process of divorce. The appellant’s wife lived in their off-post home, which appellant was not allowed to access due to a command-issued no-contact order.

During their separation, appellant’s wife had another male stay overnight at her residence. Appellant came to the house the following morning, unlocked the front door, and went inside the home. Appellant’s wife and her paramour were inside the primary bedroom and in a state of undress. The door to the bedroom was closed.

Appellant entered the bedroom with his phone camera already recording. Appellant found another man in the bed with his wife and continued to film the encounter. He directed the man to get out of the bed, which the man did despite being fully nude.

When the man pulled back the sheets and swung his right leg to exit the bed, the video recorded his genitalia. While continuing to film, appellant picked up the man’s wallet, which was on the floor. As appellant pulled out the man’s military identification card, the video captured, for a second time, the man’s genitalia as he exited the bed.

Appellant subsequently distributed the video to several people and asked some of them to share it by posting it on the internet. The government introduced the video at trial as Prosecution Exhibit 1.

Relevant to the assignment of error, the government charged appellant with one specification of indecent recording and one specification of indecent broadcasting pursuant to Article 120c, UCMJ. The panel returned a split verdict. It found appellant not guilty of indecent recording but convicted him of indecent broadcast. The military judge declined to disturb the panel’s verdict.

## LAW AND DISCUSSION

We review legal sufficiency *de novo*. *United States v. Robinson*, 77 M.J. 294, 297 (C.A.A.F. 2018) (citation omitted). “The test for legal sufficiency is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* at 297–98 (quoting *United States v. Rosario*, 76 M.J. 114, 117 (C.A.A.F. 2017)).

For factual sufficiency, we weigh the evidence and determine controverted questions of fact *de novo*, provided the appellant has identified a specific deficiency in proof. UCMJ art. 66(d)(1)(B) (Sup. II 2020); *United States v. Harvey*, 85 M.J. 127, 130 (C.A.A.F. 2024). In conducting this review, we give appropriate deference to the trial court’s opportunity to see and hear witnesses and other evidence. UCMJ art. 66(d)(1)(B)(ii)(I).

To obtain a conviction for indecent broadcasting under Article 120c(a)(3), UCMJ, the government must prove beyond a reasonable doubt: (1) “[t]hat the accused knowingly broadcast a certain recording of another person’s private area;” (2) “[t]hat said recording was made without the other person’s consent;” (3) “[t]hat the accused knew or reasonably should have known the recording was made without consent;” (4) “[t]hat the recording was made under circumstances in which the other person had a reasonable expectation of privacy; and” (5) “[t]hat the accused knew or reasonably should have known that said recording was made under circumstances in which the other person had a reasonable expectation of privacy.” *Manual for Courts-Martial, United States* (2019 ed.) [MCM], pt. IV, ¶ 63.b(3).

The statute defines “private area” as “the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.” UCMJ art. 120c(d)(2).

### A. The Video Depicts a Private Area

Appellant disputes that Prosecution Exhibit 1 depicts the victim’s “private area” and argues the recording failed to “depict [the victim’s] naked or underwear-clad genitalia, anus, or buttocks.” In support of his argument, appellant highlights testimony from those to whom he sent the video that they did not see the victim’s genitalia.

Having independently and carefully reviewed Prosecution Exhibit 1, we are satisfied that the victim’s genitalia is recorded twice in the video. The first time, when the victim pulled back the sheets and swung his right leg to exit the bed. It is visible a second time as appellant rifles through the victim’s wallet as the victim gets off the bed.

Although the recording broadcast in this case is dark and of generally poor quality, the sufficiency of a conviction for indecent broadcasting does not turn on the clarity and resolution of the recording broadcast; instead, the appropriate inquiry is whether a statutory private area was recorded and, in this case, subsequently broadcast. *United States v. Perez*, ARMY 20240076, 2025 CCA LEXIS 516, at \*2 (Army Ct. Crim. App. 16 Oct. 2025) (sum. disp.), pet. denied, \_\_ M.J. \_\_, 2026 CAAF LEXIS 82 (C.A.A.F. 23 Jan. 2026). Although nonbinding, we find the rationale of *Perez* to be persuasive. Appellant broadcast a video that included the victim getting out of bed while fully nude. Unsurprisingly, the video twice recorded the victim's genitalia. Consequentially, the victim's "private area" was recorded and later broadcast by appellant, regardless of the clarity of the image captured. While trial witnesses and even the military judge remarked upon the low quality of the video and their own difficulty in discerning anatomical details, such testimony is not dispositive. The panel found, and our independent viewing of the recording confirms, the victim's "private area" was broadcast by appellant.<sup>1</sup> Accordingly, we find the evidence factually and legally sufficient to support the panel's finding on this element.

*B. Possible Inconsistency Does Not Have Preclusive Effect*

Appellant argues his conviction for indecent broadcasting<sup>2</sup> is inconsistent with the panel finding him not guilty of indecent recording. As an initial matter, the panel's conclusions are not necessarily inconsistent. It is conceivable the panel found the government's evidence that appellant *knowingly recorded* "the private area of the victim" wanting but nevertheless found sufficient evidence appellant *knowingly broadcast*<sup>3</sup> "a certain recording" of the private area of the victim. Simply put, the two findings are not mutually exclusive and therefore not inconsistent.

---

<sup>1</sup> Although we disagree with appellant that the panel should be afforded no deference on this matter, because we are able to discern the victim's private area, we need not address his contention here. *See Harvey*, 85 M.J. at 130 ("the degree of deference [owed to the factfinder] will depend on the nature of the evidence at issue.").

<sup>2</sup> Corrected

<sup>3</sup> Appellant does not dispute he knowingly distributed the video, nor could he. The government introduced substantial evidence that appellant sent the video to multiple people and that he asked them to distribute it even further. Appellant observes "the statute does not explicitly require knowledge of indecency," but then argues the government failed to prove he knew the video was indecent. Neither the statutory text nor presidentially proscribed elements require knowledge of the recording's subject matter, only the circumstances of its production. *See UCMJ art.*

(continued . . .)

Even if the findings were inconsistent, courts have long held criminal defendants may not leverage inconsistent verdicts to challenge a finding of guilt. “When a [panel] returns irreconcilably inconsistent verdicts . . . one can glean no more than that ‘either in the acquittal or the conviction the [panel] did not speak their real conclusions.’” *Bravo-Fernandez v. United States*, 580 U.S. 5, 13 (2016) (quoting *United States v. Powell*, 469 U.S. 57, 64 (1984)). Thus, it is “just as likely that ‘the [panel], convinced of guilt, properly reached its conclusion on [one specification], and then through mistake, compromise, or lenity, arrived at an inconsistent conclusion on the [other].’” *Id.* (quoting *Powell*, 469 U.S. at 65). And, the government’s inability to appeal an acquittal, “strongly militates against giving an acquittal [issue] preclusive effect.” *Id.* at 10–11 (alteration in original) (quoting *Standefer v. United States*, 447 U.S. 10, 23 (1980)). Accordingly, “it is ‘imprudent and unworkable’ to allow an accused to challenge inconsistent verdicts on the ground that in their case the verdict was not the product of lenity, but of some error that worked against them.” *United States v. Emmons*, 31 M.J. 108, 112 (C.M.A. 1990) (quoting *Powell*, 469 U.S. at 66).

### *C. Reasonable Expectation of Privacy*

Irrespective of whether the video depicts the victim’s private area, appellant argues his conviction is insufficient because the victim did not have a reasonable expectation of privacy. In support of his argument, appellant asserts his ownership of the bedroom. We find this argument unpersuasive. A person has a reasonable expectation of privacy if he believes he could “disrobe in privacy” without concern that his “private area . . . was being captured,” and when he reasonably believes his private area “would not be visible to the public.” UCMJ art. 120c(d)(3)(A)–(B). Under these facts, appellant and his wife were pending divorce. Appellant was not authorized to be in the home because of a no-contact order. Additionally, appellant’s wife, an authorized tenant, invited the victim into the home. The victim slept in a bed behind two closed doors, one of which was locked. Under these circumstances, a reasonable person would believe, as an authorized guest, he could disrobe privately, outside the gaze of the public, and without fear someone would barge in and film the encounter. Simply put, the panel could find the victim here had a reasonable expectation of privacy.

---

( . . .continued)

120c(a)(3); *MCM*, pt. IV, ¶ 63.b(3) (noting an accused must broadcast a recording that he knew or reasonably should have known was made without a person’s consent and where that person had a reasonable expectation of privacy). Regardless, the panel could find, beyond a reasonable doubt, appellant knew of the indecent nature of the recording as appellant informed one recipient of the video that he intended to post the video to a pornographic website.

**CONCLUSION**

The findings of guilty and the sentence are AFFIRMED.<sup>4</sup>

Senior Judge COOPER and Judge SCHLACK concur.

FOR THE COURT:

  
JAMES W. HERRING, JR. *JWH*  
Clerk of Court

---

<sup>4</sup> The Judgment of the Court is corrected to reflect that the incorporated Statement of Trial Results is dated 4 February 2025.