

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
COOPER, WILLIAMS, and SCHLACK
Appellate Military Judges

UNITED STATES, Appellee
v.
Private First Class ADAM R. SPANGLER, JR.
United States Army, Appellant

ARMY 20240531

Headquarters, Fort Campbell
Daniel L. Mazzone, Military Judge
Colonel Catherine L. Brantley, Special Trial Counsel

For Appellant: Lieutenant Colonel Kyle C. Sprague, JA; Major Peter M. Ellis, JA; Captain Emily R. Ittner, JA (on brief); Colonel Frank E. Kostik, Jr., JA; Lieutenant Colonel Kyle C. Sprague, JA; Major Peter M. Ellis, JA; Captain Emily R. Ittner, JA (on reply brief).

For Appellee: Colonel Richard E. Gorini, JA; Major Isaac J. Dickson, JA; Captain Clare E. Murphy, JA (on brief).

27 August 2026

SUMMARY DISPOSITION

This opinion is issued as an unpublished opinion and, as such, does not serve as precedent

COOPER, Senior Judge:

Before a court can analyze the admissibility of a “false allegation” of sexual assault under Military Rule of Evidence [Mil. R. Evid.] 412, there is an inescapable prerequisite: there must be an allegation.

Appellant asserts the military judge abused his discretion by denying the defense’s motion to admit evidence of the victim’s prior false allegation of sexual assault against another. Having presented insufficient evidence to demonstrate the

victim made a prior allegation of sexual assault, appellant failed to satisfy his evidentiary burden. Therefore, we find no abuse of discretion by the military judge.¹

BACKGROUND

A military judge, sitting as a general court-martial, convicted appellant, contrary to his pleas, of one specification of sexual assault, in violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920. He sentenced appellant to a dishonorable discharge, fourteen months of confinement, total forfeiture of all pay and allowances, and reduction to the grade of E-1.

In a pretrial motion, appellant sought to introduce evidence that the victim made a false allegation of sexual assault against a different soldier two days prior to the charged incident. In accordance with Mil. R. Evid. 412(c)(2), the military judge held an Article 39(a) hearing to litigate the admissibility of this evidence.

During the closed Article 39(a) hearing, defense called the soldier whom the victim had allegedly accused of sexual assault. The soldier testified he had consensual vaginal sex with the victim days before the charged offenses.² When asked about his knowledge of the victim's allegation of sexual assault against him, the soldier could not articulate the substance or nature of the allegation. Instead, his testimony revealed a "game of telephone": the soldier had heard the accusation was made from his friend, who had heard it from the victim's friend, who purportedly had heard it from the victim. The soldier said the rumor disappeared within an hour of his first hearing it because "[the victim] retracted her statement and that it wasn't what she was saying and it wasn't like that."

Additionally, the soldier testified the victim came to his house and apologized for having "made some sort of accusation against [him] or was going to and then pulled back on that statement realizing she was wrong." When asked specifically what she apologized for, he vaguely replied, "it was kind of implied several times about accusations and so on." However, the soldier also testified it was his belief the victim's friend "possibly blew th[e] story out of proportion."

During cross-examination, the soldier admitted he never heard an allegation of rape or sexual assault directly from the victim. He speculated, however, that "there wouldn't be anything to apologize for if she didn't say it or believe it at some

¹ We have carefully considered the other assignment of error and the matters personally raised by appellant, submitted pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and determine they merit neither discussion nor relief.

² The military judge granted the defense's Mil. R. Evid. 412 motion to admit evidence of the victim's vaginal intercourse with the soldier as evidence of an alternate source of injury.

point.” Finally, the soldier testified that when law enforcement contacted him a few days later, as part of its investigation into appellant’s misconduct, he learned the victim had reported their sexual encounter was consensual.

Although called to testify, neither the victim nor her friend—who allegedly accompanied the victim to the soldier’s house when she apologized—remembered the soldier or the purported apology.³

The military judge denied the defense’s motion to admit a false allegation of sexual assault. In his written ruling, the military judge found as fact the soldier “heard a rumor that there were allegations” that his “sexual encounter [with the victim] *may not* have been consensual.” (emphasis added). While the victim subsequently “apologized *for the rumor*,” her apology was “very, very, very vague” and lacked “any details” concerning the reason for the apology. (emphasis added). While he acknowledged that defense counsel “highlight[ed] facts which they allege suggest falsity, the evidence [wa]s not persuasive of falsity” and “[a]t best, the information presented to the Court related to the allegation was ‘very, very, very vague.’”

LAW AND DISCUSSION

We review a military judge’s decision to admit or exclude evidence under Mil. R. Evid. 412 for an abuse of discretion. *United States v. Erikson*, 76 M.J. 231, 234 (C.A.A.F. 2017) (citation omitted). The abuse of discretion standard is strict, “calling for more than a mere difference of opinion.” *Id.* (quoting *United States v. McElhaney*, 54 M.J. 120, 130 (C.A.A.F. 2000)). To prevail on appeal, the appellant must demonstrate the military judge’s actions were “arbitrary, fanciful, clearly unreasonable, or clearly erroneous.” *Id.* A military judge commits an abuse of discretion if his “findings of fact are clearly erroneous or [their] conclusions of law are incorrect.” *Id.*

Military Rule of Evidence 412(a) is a rule of exclusion. *United States v. Banker*, 60 M.J. 216, 222 (C.A.A.F. 2004). When evidence falls under this rule, it is presumed inadmissible unless the proponent demonstrates that a specific exception applies. *See id.* (noting that because Mil. R. Evid. 412 is a rule of exclusion, the burden shifts to the proponent to demonstrate admissibility). One exception to this general rule is when exclusion of the evidence would violate the constitutional rights of the accused. Mil. R. Evid. 412(b)(3). Evidence that a victim previously made a false accusation of sexual assault may fit within the parameters of Mil. R. Evid. 412(b)(3), contingent on the proponent being able to show “the prior accusation is . . . false. This is true whether the defense seeks to introduce the evidence as an

³ The military judge found the victim’s Article 39(a) “testimony *with respect to her relationship with [the soldier]* . . . not credible.” (emphasis added).

exception to [Mil. R. Evid.] 412, or to show the alleged victim's modus operandi, motive, or character evidence for lack of truthfulness." *Erikson*, 76 M.J. at 234.

In appellant's case, the military judge's findings of fact were not "clearly erroneous," nor were his "conclusions of law . . . incorrect." *Id.* His findings of fact are well-supported by the record. To admit evidence of a prior false allegation, the defense bears the burden under Mil. R. Evid. 412(b)(3) to present evidence that the prior allegation was, in fact, false. *Id.* The military judge properly exercised his discretion in determining the defense failed to meet this burden, accurately observing that the information presented by the defense was at best "very, very, very, vague." Therefore, we agree with his conclusion—that the evidence offered by appellant was "not persuasive of falsity." However, we depart from the military judge insofar as he seemingly determined that appellant clearly articulated an allegation had been made in the first place that was capable of scrutiny and review.

It is axiomatic a court cannot evaluate an accusation's veracity if there is no accusation. Appellant has failed at the very first step: proving the victim made an allegation. The "accused" soldier testified he never heard an allegation of rape or sexual assault from the victim; the only information he received was from a friend of a friend of the victim.⁴ He was the only witness at the Article 39(a) hearing to testify about this "false allegation," and he had no direct knowledge of the allegation. Moreover, he could not provide the details of the allegation, he only had *implications* that a sexual assault allegation had been made. As appellant could not produce a statement that was verifiable—i.e., a statement that the victim uttered—to test for its truth or falsity, his allegation of a prior false accusation was significantly weaker than the one properly rejected by our superior court in *Erikson*. *Id.* at 236.

Additionally, the soldier's speculative and subjective assumptions during his testimony concerning why the victim apologized were insufficient to prove she had made an allegation against him. The victim's purported statements ("it wasn't what she was saying" and "it wasn't like that") could be reactions to a rumor blown out of proportion by third parties rather than a recantation of a fabricated sexual assault

⁴ Even the alleged Snapchat messages, which appellant now relies on to show evidence of a false accusation, were not sent by the victim and we do not know what, if any, message they conveyed. The Snapchat messages were sent from the victim's friend to appellant's friend. On direct, the soldier testified his friend communicated with the victim's friend "through messages." Later during cross examination, the soldier stated that he "read some of the messages" on his friend's phone, and "[his friend] read them out loud to me," but the soldier never described the content of the messages. The soldier did testify that the messages were from the victim's friend—the same individual he earlier stated "possibly blew this story out of proportion"—rather than an accusation from the victim herself. Importantly, none of these messages were introduced at the Article 39(a) hearing or at trial.

allegation. Indeed, this interpretation is corroborated by the “accused” soldier’s own testimony during the Article 39(a) session, where he acknowledged his belief that the victim’s friend “possibly blew this story out of proportion.” Appellant’s reliance on the victim’s ambiguous apology combined with the “accused” soldier’s speculative testimony regarding the reason for her apology are insufficient to establish the existence of a sexual assault allegation.

Before a court can analyze whether an accusation was false, the proponent of the evidence must establish the baseline fact that a sexual assault allegation was made. Because appellant provided only vague, speculative statements from a friend of a friend of the victim, suggesting the victim *may* have made an accusation or statement of some variety, coupled with an ambiguous apology, there was no clear “statement” for the military judge to assess for truth or falsity. As such, we find the military judge did not abuse his discretion in denying appellant’s motion to admit said evidence under Mil. R. Evid. 412.

CONCLUSION

The findings of guilty and the sentence are AFFIRMED.

Judge WILLIAMS and Judge SCHLACK concur.

FOR THE COURT:



JAMES W. HERRING, JR.
Clerk of Court