

**IN A GENERAL COURT-MARTIAL OF THE UNITED STATES ARMY  
US ARMY TRIAL JUDICIARY, FIRST JUDICIAL CIRCUIT**

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UNITED STATES OF AMERICA

v.

PEEPLES, Christopher M.  
CPT, US Army  
96th Aviation Support Battalion  
101st Combat Aviation Brigade  
101st Airborne Division (Air Assault)  
Fort Campbell, Kentucky 42223

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) **DEFENSE MOTION *IN LIMINE* FOR  
PRELIMINARY RULING ON  
ADMISSIBILITY : IMAGES AND  
VIDEO OF DECEDENT'S REMAINS**  
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22 September 2021

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**RELIEF SOUGHT**

Comes now, Captain (CPT) Christopher Peeples [hereinafter "CPT Peeples"], by and through the undersigned counsel, and respectfully requests that this Honorable Court make a preliminary ruling of inadmissibility regarding images and video taken of PVT [REDACTED] [hereinafter "Decedent"] remains at the Blanchfield Army Community Hospital, Fort Campbell, KY.

The Defense requests oral argument.

**BURDEN OF PERSUASION AND BURDEN OF PROOF**

The defense, as the moving party, bears the burden of persuasion and burden of proof by a preponderance of the evidence. R.C.M. 905(c)(1) and (2)(A). The burden of proof on any factual issue the resolution of which is necessary to decide a motion is by a preponderance of the evidence. R.C.M. 905(c)(1).

**FACTS**

1. On 1 August 2018, the Decedent was shot and killed during a livefire range on Range 31 South, Fort Campbell, KY.

2. The Decedent was quickly medevaced from the range by ground vehicles and transported to Blanchfield Army Community Hospital [hereinafter "Hospital"], Fort Campbell, KY. No videos or photos at the site of the shooting depict the Decedent. The only images of Decedent's body were taken at Hospital after he was pronounced dead and during the subsequent autopsy.

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**WITNESSES AND EVIDENCE**

If the government does not stipulate to the facts contained in the facts section, the defense requests the production of the following witnesses:

1. Dr. [REDACTED], Forensic Pathologist, [REDACTED]
2. Mr. [REDACTED], Emergency Medical Technician, [REDACTED]

For purposes of this motion, the defense requests that the Court consider the following documentary evidence:

Government provided Hospital photos – Approximately 46 images.

**LEGAL AUTHORITY AND ARGUMENT**

**I. Photos and Video Evidence of Decedent's Remains are Not Relevant to a Fact at Issue.**

Military Rule of Evidence (M.R.E.) 401 states:

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

M.R.E. 402(b) states that, "Irrelevant evidence is not admissible." The photos and video of Decedent's body after it had been transported to Hospital and lifesaving measures exhausted does not meet the definition of relevancy. The only fact relevant to this case that the images could demonstrate is that Decedent was dead. This fact is not in dispute, and considerable evidence of this fact will certainly be introduced in many other ways in the government's case, including through the testimony of the Forensic Pathologist that examined the remains. The Decedent was transported from the scene of the shooting and the Hospital photos and video are not relevant to the issues in this case.

**2. If Relevant, the Photos and Video Evidence of Decedent's Remains should be Excluded in Accordance with M.R.E. 403.**

MRE 403 states:

The military judge may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the members, undue delay, wasting time, or needlessly presenting cumulative evidence.

The images of Decedent's remains at Hospital, even if relevant, have such a low probative value, that any such value would be substantially outweighed by a danger of unfair prejudice, misleading the members, wasting time, and needlessly presenting cumulative evidence that they should be

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excluded. The relevant information, that Decedent is deceased, would be needlessly cumulative in this context, as it is necessarily involved throughout the government's case. In addition, the condition of the hospital room and of Decedent's remains would run a high risk of misleading the members as to the actual circumstances of the incident, as they will only hear testimony of his original condition, but the images in the altered state would likely carry more weight by virtue of their visual nature. Lastly, the images clearly unfair prejudicial value far exceeds any probative value their introduction would bring to the trial. Admission of Decedent's Hospital photos and videos would inflame the emotions of the panel members.

**CONCLUSION**

For the forgoing reasons, the undersigned counsel respectfully requests that this Honorable Court grant the defense motion and rule the Decedent's Hospital photos and video evidence be excluded as inadmissible under R.C.M. 401, 402, and 403.

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[REDACTED]  
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