

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

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<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>DEFENSE MOTION <i>IN LIMINE</i> FOR</b>
	)	<b>PRELIMINARY RULING ON</b>
<b>PEEPLES, Christopher M.</b>	)	<b>ADMISSIBILITY : PREVIOUS COURT-</b>
<b>CPT, US Army</b>	)	<b>MARTIAL</b>
<b>96th Aviation Support Battalion</b>	)	
<b>101st Combat Aviation Brigade</b>	)	
<b>101st Airborne Division (Air Assault)</b>	)	
<b>Fort Campbell, Kentucky 42223</b>	)	<b>22 September 2021</b>

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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 evidence or testimony relating to the previous court-martial preferred against CPT Peeples on 07 February 2019.

The defense does not request oral argument unless the government opposes the motion.

**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. Rule for Courts-Martial (RCM) 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 07 February 2019, CPT Peeples was charged with one specification of manslaughter, one specification of negligent homicide, one specification of reckless conduct, two specifications of dereliction of duty, and one specification of false official statement, in violation of Articles 92, 107, 119, and 134, Uniform Code of Military Justice (U.C.M.J.). Encl A.

2. The charges against CPT Peeples were dismissed without prejudice after the government failed to provide the defense with the Safety Investigation after a judicial order compelling the disclosure. Encl. B.

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**WITNESSES AND EVIDENCE**

The defense calls no witnesses for this motion.

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

- a. Charge Sheet, dtd 07 February 2019.
- b. Military Judge's Ruling to Dismiss, dtd 15 July 2020

**LEGAL AUTHORITY AND ARGUMENT**

**I. Previous Court-Martial Proceedings 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 previous preferred and referred court-martial charges for the same underlying alleged offenses are not relevant to the current charges. No fact at issue is made more or less probable by the introduction or mention of the previous charges against CPT Peeples. The fact that the government had previously charged CPT Peeples with the same alleged misconduct is irrelevant under M.R.E. 401 and should be excluded as inadmissible under M.R.E. 402.

**II. If Relevant, the Previous Court-Martial Proceedings should be Excluded in Accordance with M.R.E. 403.**

M.R.E. 403 states:

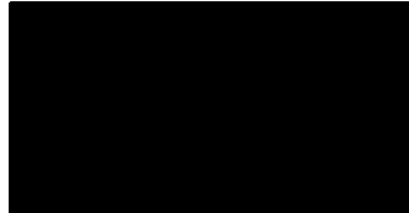
The military judge may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the members, undue delay, wasting time, or needlessly presenting cumulative evidence.

Even if relevant, the probative value in this evidence fails the M.R.E. 403 balancing test. There is a far greater danger of unfair prejudice if members are made aware that CPT Peeples was previously charged with alleged criminal acts involving the death of PVT [REDACTED] [hereinafter "Decedent"]. The fact that CPT Peeples was previously charged creates the very real risk that the members will improperly consider the previous charges as evidence of guilt. Specifically, it will confuse the issue, mislead the members, and unfairly prejudice CPT Peeples by creating the perception that the government must know his guilt is certain if they were willing to charge him with the same crimes multiple times.

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**CONCLUSION**

For the forgoing reasons, the undersigned counsel respectfully requests that this Honorable Court grant the defense motion and rule that mention or evidence of CPT Peoples' previous court-martial be excluded as inadmissible under R.C.M. 401, 402, and 403.



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