

**Tuesday, 8 February 2011**

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***United States v. Vanderwyst***

A military judge sitting as a general court-martial convicted the Appellant, pursuant to his pleas, of one specification of aggravated sexual assault and one specification of adultery in violation of Articles 120 and 134 of the UCMJ. Neither the Appellant nor the complaining witness in the case could specifically remember how the sexual act between the two commenced. However, the Appellant stated during the providency inquiry that he believed that he had committed the charged offenses based upon the evidence produced by the Government. The issues to be argued before the Court are the following:

I. WHETHER THE MILITARY JUDGE ABUSED HIS DISCRETION WHEN HE ACCEPTED APPELLANT'S IMPROVIDENT PLEA TO AGGRAVATED SEXUAL ASSAULT WHEN THE MILITARY JUDGE FAILED TO ELICIT A FACTUAL BASIS FOR SUPPORTING THE PLEA ON THE RECORD.

II. WHETHER THE MILITARY JUDGE ERRED WHEN HE FAILED TO PROPERLY DIRECT APPELLANT TO POSSIBLE AFFIRMATIVE DEFENSES THAT WERE RAISED DURING THE PROCEEDINGS.

III. WHETHER THE MILITARY JUDGE ERRED WHEN HE IMPROPERLY INSTRUCTED APPELLANT AS TO THE ELEMENTS OF THE OFFENSE AND WHEN HE FAILED TO FOCUS APPELLANT ON WHETHER HE BELIEVED THERE WAS CONSENT OR AN HONEST AND REASONABLE MISTAKE OF FACT BEFORE THE ALLEGED VICTIM PASSED OUT.

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**Thursday, 17 February 2011**

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***United v. Hancock***

A military judge sitting as a general court-martial convicted the Appellant, pursuant to his pleas, of various offenses including burglary and indecent acts. Before pleading guilty, the Appellant served 120 days of restriction and 136 days of solitary confinement. While in solitary confinement, the Appellant signed a pretrial agreement. The Appellant admitted during trial that he signed the pretrial agreement voluntarily and was not forced to do so. During a post-trial Article 39(a), UCMJ session, the military judge found an Article 13, UCMJ pretrial punishment violation and awarded confinement credit. The issues to be argued before the Court are:

I. WHETHER THE MILITARY JUDGE ERRED BY NOT DISMISSING THE CHARGES WITH PREJUDICE AFTER FINDING AN ARTICLE 13 VIOLATION.

II. WHETHER THE MILITARY JUDGE ERRED BY FAILING TO INQUIRE IF APPELLANT WOULD HAVE VOLUNTARILY SIGNED THE PRETRIAL AGREEMENT WERE HE NOT IN SOLITARY CONFINEMENT AT THE TIME HE SIGNED THE AGREEMENT.

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Wednesday, 23 February, 2011

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*United States v. Harris*

A contested general court-martial, composed of members, convicted the accused of making a false official statement, conduct unbecoming an officer, and obstruction of justice in violation of Articles 107, 133, and 134, Uniform Code of Military Justice (UCMJ). The convening authority approved the findings and the sentence of a dismissal. The issues to be argued before the court are:

1. WHETHER CHARGE II, CONDUCT UNBECOMING AN OFFICER, AS DRAFTED, FAILED TO STATE AN OFFENSE AND THEREFORE DEPRIVED APPELLANT OF HIS CONSTITUTIONAL AND STATUTORY RIGHT TO NOTICE?
2. WHETHER THE EVIDENCE OFFERED BY THE PROSECUTION IN SUPPORT OF CHARGE I, FALSE OFFICIAL STATEMENT, WAS FACTUALLY AND LEGALLY INSUFFICIENT?