

Tuesday, 06 August 2013

1400

*United States v. Sanantonio*

**Before Panel 2 of the Court**

**For Appellant: Mr. Peter J. Van Hartesveldt  
LT David C. Dziengowski, JAGC, USN**

**For Appellee: MAJ David N. Roberts, USMC**

A panel of officers sitting as general court martial convicted the appellant, contrary to his pleas, of one specification of violating a general order, two specifications of aggravated sexual assault, and one specification of adultery, in violation of Articles 92, 120, 128, and 134, UCMJ, 10 U.S.C. §§ 892, 920, 928, and 934 (2006). The members sentenced the appellant to eighteen months and a dismissal. The Convening Authority approved the sentence as adjudged and, except for the dismissal, ordered it executed.

The issues to be argued before the Court are as follows:

- I.       **WHETHER THE APPELLANT'S FIFTH AND SIXTH AMENDMENT RIGHTS WERE VIOLATED WHEN THE MILITARY JUDGE INITIALLY PROHIBITED EVIDENCE OF A PRIOR SEXUAL ENCOUNTER INVOLVING THE VICTIM, AND THEN ALLOWED THE EVIDENCE CONTINGENT ON THE APPELLANT TAKING THE STAND?**
  
- II.       **WHETHER EVIDENCE RELATED TO CHARGE II, AGGRAVATED SEXUAL ASSAULT, AND CHARGE V, ADULTERY, WAS INSUFFICIENT BECAUSE THERE WAS NO EVIDENCE OF PENILE PENETRATION.**