

Wednesday, 27 February 2013

1000

United States v. West

Panel Three: J.R. Perlak, M.D. Modzelewski, C.K. Joyce
Appellate Military Judges

For Appellant: LCDR Brandon Boutelle, JAGC, USN

For Appellee: LT Philip Reutlinger, JAGC, USN

A military judge, sitting as a special court-martial, convicted the appellant, pursuant to her pleas, of one specification of conspiracy, two specifications of violating a lawful general order, one specification of drunken operation of a vehicle, one specification of wrongful possession of a controlled substance, and two specifications of adultery, in violation of Articles 81, 92, 111, 112a, and 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 881, 892, 911, 912a, and 934. The military judge sentenced the appellant to reduction to pay grade E-1, confinement for six months, forfeiture of two-thirds pay per month for six months, and a bad-conduct discharge. In accordance with a pretrial agreement, all confinement in excess of time served was converted to restriction, and the adjudged forfeitures were suspended for 12 months. The remainder of the sentence was approved.

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

- I. WHETHER THE APPELLANT'S PRETRIAL CONFINEMENT AT A CIVILIAN DETENTION CENTER VIOLATED ARTICLE 13, UCMJ.
- II. WHETHER THE APPELLANT'S PRETRIAL CONFINEMENT IN THE BARRACKS DUTY HUT VIOLATED ARTICLE 13, UCMJ.
- III. DOES THE PROVISION OF THE PRETRIAL AGREEMENT IN WHICH THE GOVERNMENT PROMISES TO REMOVE THE APPELLANT FROM CONFINEMENT AND SUBJECT HER TO "A LESSER FORM OF PRETRIAL RESTRAINT" AFTER SHE TESTIFIES AGAINST A CO-CONSPIRATOR (¶16.A OF APPELLATE EXHIBIT IV) VIOLATE PUBLIC POLICY?
- IV. IF THAT PROVISION VIOLATES PUBLIC POLICY, WHAT IS THE PROPER REMEDY?