

Rule 409. Offers to Pay Medical and Similar Expenses

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

Rule 410. Pleas, Plea Discussions, and Related Statements

(a) *Prohibited Uses.* Evidence of the following is not admissible against the accused who made the plea or participated in the plea discussions:

- (1) a guilty plea that was later withdrawn;
- (2) a nolo contendere plea;
- (3) any statement made in the course of any judicial inquiry regarding either of the foregoing pleas; or
- (4) any statement made during plea discussions with the convening authority, staff judge advocate, trial counsel or other counsel for the government if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) *Exceptions.* The military judge may admit a statement described in subdivision (a)(3) or (a)(4):

- (1) when another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or
- (2) in a proceeding for perjury or false statement, if the accused made the statement under oath, on the record, and with counsel present.

(c) *Request for Administrative Disposition.* A "statement made during plea discussions" includes a statement made by the accused solely for the purpose of requesting disposition under an authorized procedure for administrative action in lieu of trial by court-martial; "on the record" includes the written statement submitted by the accused in furtherance of such request.

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. The military judge may admit this evidence for another purpose, such as proving witness bias or prejudice or proving agency, ownership, or control.

Rule 412. Sex Offense Cases: The Victim's Sexual Behavior or Predisposition

[No change to current version of M.R.E. 412]

Rule 413. Similar Crimes in Sexual Offense Cases

(a) *Permitted Uses.* In a court-martial proceeding for a sexual offense, the military judge may admit evidence that the accused committed any other sexual offense. The evidence may be considered on any matter to which it is relevant.

(b) *Disclosure to the Accused.* If the prosecution intends to offer this evidence, the prosecution must disclose it to the accused, including any witnesses' statements or a summary of the expected testimony. The prosecution must do so at least 5 days prior to entry of pleas or at a later time that the military judge allows for good cause.

(c) *Effect on Other Rules.* This rule does not limit the admission or consideration of evidence under any other rule.

(d) *Definition.* As used in this rule, "sexual offense" means an offense punishable under the Uniform Code of Military Justice, or a crime under federal or state law (as "state" is defined in 18 U.S.C. § 513), involving:

- (1) any conduct prohibited by Article 120;
- (2) any conduct prohibited by 18 U.S.C. chapter 109A;
- (3) contact, without consent, between any part of the accused's body, or an object held or controlled by the accused, and another person's genitals or anus;
- (4) contact, without consent, between the accused's genitals or anus and any part of another person's body;
- (5) contact with the aim of deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person; or
- (6) an attempt or conspiracy to engage in conduct described in subdivisions (d)(1)-(5).

Rule 414. Similar Crimes in Child-Molestation Cases

- (a) *Permitted Uses.* In a court-martial proceeding in which an accused is charged with an act of child molestation, the military judge may admit evidence that the accused committed any other offense of child molestation. The evidence may be considered on any matter to which it is relevant.
- (b) *Disclosure to the Accused.* If the prosecution intends to offer this evidence, the prosecution must disclose it to the accused, including witnesses' statements or a summary of the expected testimony. The prosecution must do so at least 5 days prior to entry of pleas or at a later time that the military judge allows for good cause.
- (c) *Effect on Other Rules.* This rule does not limit the admission or consideration of evidence under any other rule.
- (d) *Definitions.* As used in this rule:
- (1) "Child" means a person below the age of 16; and
 - (2) "Child molestation" means an offense punishable under the Uniform Code of Military Justice, or a crime under federal law or under state law (as "state" is defined in 18 U.S.C. § 513), that involves:
 - (A) any conduct prohibited by Article 120 and committed with a child;
 - (B) any conduct prohibited by 18 U.S.C. chapter 109A and committed with a child;
 - (C) any conduct prohibited by 18 U.S.C. chapter 110;
 - (D) contact between any part of the accused's body, or an object held or controlled by the accused, and a child's genitals or anus;
 - (E) contact between the accused's genitals or anus and any part of a child's body;
 - (F) contact with the aim of deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on a child; or
 - (G) an attempt or conspiracy to engage in conduct described in subdivisions (d)(2)(A)-(F).

Rule 501. Privilege in General

- (a) A person may not claim a privilege with respect to any matter except as required by or provided for in:
- (1) the United States Constitution as applied to members of the armed forces;
 - (2) a federal statute applicable to trials by courts-martial;
 - (3) these rules;
 - (4) this Manual; or
 - (4) the principles of common law generally recognized in the trial of criminal cases in the United States district courts under rule 501 of the Federal Rules of Evidence, insofar as the application of such principles in trials by courts-martial is practicable and not contrary to or inconsistent with the Uniform Code of Military Justice, these rules, or this Manual.
- (b) A claim of privilege includes, but is not limited to, the assertion by any person of a privilege to:
- (1) refuse to be a witness;
 - (2) refuse to disclose any matter;
 - (3) refuse to produce any object or writing; or
 - (4) prevent another from being a witness or disclosing any matter or producing any object or writing.
- (c) The term "person" includes an appropriate representative of the Federal Government, a State, or political subdivision thereof, or any other entity claiming to be the holder of a privilege.
- (d) Notwithstanding any other provision of these rules, information not otherwise privileged does not become privileged on the basis that it was acquired by a medical officer or civilian physician in a professional capacity.

Rule 502. Lawyer-Client Privilege

- (a) *General Rule.* A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:
- (1) between the client or the client's representative and the lawyer or the lawyer's representative;
 - (2) between the lawyer and the lawyer's representative;
 - (3) by the client or the client's lawyer to a lawyer representing another in a matter of common interest;
 - (4) between representatives of the client or between the client and a representative of the client; or
 - (5) between lawyers representing the client.
- (b) *Definitions.* As used in this rule: