

Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) Mil. R. Evid. 404(a)(2)(A) is amended to read as follows:

“(A) The accused may offer evidence of the accused’s pertinent trait and, if the evidence is admitted, the prosecution may offer evidence to rebut it. General military character is not a pertinent trait for the purposes of showing the probability of innocence of the accused for the following offenses under the UCMJ:

(i) Articles 120–123a;

(ii) Articles 125–127;

(iii) Articles 129–132;

(iv) Any other offense in which evidence of general military character of the accused is not relevant to any element of an offense for which the accused has been charged; or

(v) An attempt or conspiracy to commit one of the above offenses.”

(b) Mil. R. Evid. 412(c)(2) is amended to read as follows:

“(2) Before admitting evidence under this rule, the military judge must conduct a hearing, which shall be closed. At this hearing, the parties may call witnesses, including the alleged victim, and offer relevant evidence. The alleged victim must be afforded a reasonable opportunity to attend and be heard. However, the hearing may not be unduly delayed for this purpose. The right to be heard under this rule includes the right to be heard through counsel, including Special Victims’ Counsel under section 1044e of title 10, United States Code. In a case before a court-martial composed of a military judge and members, the military judge shall conduct the hearing outside the presence of the members pursuant to Article 39(a). The motion, related papers, and the record of the hearing must be sealed in accordance with R.C.M. 1103A and remain under seal unless the military judge or an appellate court orders otherwise.”

(c) Mil. R. Evid. 513(b)(2) is amended to read as follows:

“(2) “Psychotherapist” means a psychiatrist, clinical psychologist, clinical social worker, or other mental health professional who is licensed in any State, territory, possession, the District of Columbia, or Puerto Rico to perform professional services as such, or who holds credentials to provide such services as such, or who holds credentials to provide such services from any military health care facility, or is a person reasonably believed by the patient to have such license or credentials.”

(d) Mil. R. Evid. 513(d)(8) is deleted.

(e) Mil. R. Evid. 513(e)(2) is amended to read as follows:

“(2) Before ordering the production or admission of evidence of a patient’s records or communication, the military judge must conduct a hearing, which shall be closed. At the hearing, the parties may call witnesses, including the patient, and offer other relevant evidence. The patient must be afforded a reasonable opportunity to attend the hearing and be heard. However, the hearing may not be unduly delayed for this purpose. The right to be heard under this rule includes the right to be heard through counsel, including Special Victims’ Counsel under section 1044e of title 10, United States Code. In a case before a court-martial composed of a military judge and members, the military judge must conduct the hearing outside the presence of the members.”

(f) Mil. R. Evid. 513(e)(3) is amended to read as follows:

“(3) The military judge may examine the evidence or a proffer thereof in camera, if such examination is necessary to rule on the production or admissibility of protected records or communications. Prior to conducting an in camera review, the military judge must find by a preponderance of the evidence that the moving party showed: