

## **Yongsan staff sergeant found not guilty of rape charge**

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By: T.D. Flack

YONGSAN GARRISON, SOUTH KOREA — Staff Sgt. Nathaniel W. Pailen hugged his father Wednesday after being found not guilty of a charge he raped a female soldier in his dorm room about a year ago.

But the court-martial jury found him guilty of two specifications of violating a lawful general regulation for his relationship with the soldier, a private first class, and with another private first class.

Sentencing deliberations were to begin Thursday. The staff sergeant faces a maximum sentence of forfeiture of all pay and allowances, reduction to the rank of E-1, four years confinement and a dishonorable discharge.

Pailen testified Tuesday he had consensual sex with the private just days after she arrived at the command. He said he and the woman were having intercourse until she pulled away, saying she couldn't have sex with him because she had a boyfriend.

The private said she didn't tell anyone for months because she was embarrassed. She said when she heard Pailen was in trouble with the command, she decided to come forward.

Pailen was facing nonjudicial punishment because officials had found the other private in his room during an inspection.

He opted for court-martial, claiming regulations on soldier relationships were too vague.

Defense attorneys argued the woman who accused Pailen of rape did so because she feared her relationship with the accused would come to light during the court-martial and she would get in trouble.

During closing arguments, prosecuting attorney Capt. Rochelle Howard, co-counsel with Capt. J.P. Leary, asked the jury if they really believed the victim lied about being raped because she was afraid she would face punishment.

“Who has the greater motivation to lie?” she asked.

“His story is so scripted,” she said of the accused. “He’s still lying to you today.”

Capt. C. Jack Marks, who with Capt. James Culp defended Pailen, argued the woman — who had heard junior soldiers were getting in trouble in similar cases — fabricated the rape to protect her career.

“The best defense is a good offense,” Marks said of the rape allegation made eight months after the night in question.

He also accused the victim of lying to the court about her then-boyfriend, the amount of alcohol she drank that night, and how she learned the staff sergeant was in trouble because of his relationship with the other private first class.

“She’s trying to minimize the actions she took,” Marks said.

“You know what happened?” he asked. “She had consensual sex with him and ... regretted it.”

Marks also blasted the prosecution’s case, repeatedly asking about the lack of evidence.

He projected a slide listing the evidence he claimed wasn’t presented, including a lack of medical or scientific data and lack of testimony from investigators or officials that would corroborate her story.

The prosecution “forgot a crucial part ... the evidence,” he said.

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