

## **Court-martial of staff sergeant accused of rape begins at Yongsan Garrison**

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YONGSAN GARRISON, South Korea — A nine-member jury heard a day of "he-said, she-said" testimony during the rape court-martial of Staff Sgt. Nathaniel W. Pailen, which began Tuesday.

Pailen, who also faces two specifications of violating a general lawful order, is accused of raping a private first class five days after she arrived in South Korea in August 2004. He helped her process into the unit — her first assignment after her military schooling.

In the afternoon, Pailen testified he was innocent, that he and the private had consensual sex after both had consumed alcohol.

He stressed he stopped as soon as the woman told him she couldn't have sex with him because she had a boyfriend. "I respected that," he said.

He also testified she came unsolicited to his door to talk to him. The woman said she felt she had to tell him her weekend plans.

She testified that while she voluntarily kissed Pailen, she told him "no" twice when he tried to remove her clothing and touch her. She said she became scared when in "one motion" he began having sex with her.

"I just froze and didn't do anything," she said. Because she'd already told him "no" twice, she said, she didn't think saying "no" during sex would matter. She said she waited about two minutes before sliding out from under him and walking out the door.

The victim said she didn't tell anyone when she reported to her company at a different camp. "I didn't want to think about it," she said. At the new camp, "no one had to know about this."

Months later, a surprise early morning inspection disclosed another private first class in Pailen's barracks room. He faced nonjudicial punishment but requested a court-martial.

The woman testifying Tuesday said when she heard of that court-martial, she thought it was

for a sexual assault and told her command the staff sergeant had raped her in August.

She testified she felt guilty that her inaction had caused someone else to be harmed.

The specifications of violating a general lawful order are in connection with Pailen hosting the enlisted women in his room. He stated he didn't think that violated any regulations because they weren't in his chain of command.

During her opening argument, prosecutor Capt. Rochelle Howard explained that "you have her word against his" to use when judging the case.

"The law says one single 'no' means 'no,'" she said.

Defense attorney Capt. James Culp compared the case to an onion that looks good but when you "start pulling away layers, it stinks."

He questioned the woman about inconsistencies among Tuesday's testimony, her official written statements and her testimony in an earlier hearing.

He also asked if it occurred to her to tell Pailen to stop having sex with her as soon as he began.

"No," she replied.

Howard questioned Pailen about whether he believed kissing and having sex with the woman was proper behavior for a noncommissioned officer supposed to be helping the woman check into the unit.

"Looking back on it, it was a mistake," he said. "I wasn't thinking. She was an attractive female."

The court-martial was to continue Wednesday.

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