

**DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCE TRIAL JUDICIARY**

UNITED STATES OF AMERICA

v.

CAPTAIN JACOB R. WULFSON
[REDACTED]
[REDACTED]

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**RULING: COMPEL CRIMINAL
INJURIES COMPENSATION
SCHEME DOCUMENTATION**

13 April 2026

RELIEF SOUGHT

On 1 April 2026, the Defense filed a Defense Motion to Compel Discovery – Criminal Injuries Compensation Scheme.¹ On 7 April 2026, the Government responded in writing, opposing the motion.² The parties requested an Article 39(a) session to argue the motion, which the Court held on 13 April 2026..

Having reviewed the documentary evidence submitted by the parties, the appellate exhibits submitted by counsel, the testimony of a witness, and the arguments of counsel, this Court finds and concludes as follows:

FINDINGS OF FACT

1. Accused faces the following charges and specifications:

a. Charge I includes one specification of violating a lawful order for contacting the alleged victim, [REDACTED] in violation of Article 92, Uniform Code of Military Justice (UCMJ).

b. A Charge (II) with two specifications for sexual assault in violation of Article 120, UCMJ:

Charge II, Spec 1: A sexual act against [REDACTED] charged as “without consent”

Charge II, Spec 2: A sexual act against [REDACTED] charged as while [REDACTED] was incapable of consenting because she was impaired by a drug (Etizolam)³

c. Charge III includes one specification of domestic violence in violation of Article 128b, UCMJ, for strangling [REDACTED] during the same charged sexual assault of Charge II and the Additional Charge.

¹ Appellate Exhibit (AE) XXI, XXII.

² AE XXIII, XXIV.

³ Again these two specifications relate to the same incident and the Government brought those Specifications “in the alternative” for exigencies of proof.

2. During the Fall of 2023, Accused and [REDACTED], connected on Tinder, communicated on that platform, and then moved their conversations to WhatsApp. That conversation became sexual in nature and the two essentially planned to get together and have sex. Immediately before that get together, however, [REDACTED] advised Accused of certain "ground rules" she had: "No means no when said. No hands on my throat. Ever. Condoms please. And if you know you have hsv2 please god tell me, I have an immune condition. ..."

3. On 1 December 2023, [REDACTED] drove to Accused's home, arriving at 2336 hours. During an interview with agents from the local Office of Special Investigations (OSI), [REDACTED] reported that in Accused's home the two drank some alcohol (with Accused having already started drinking before she arrived) and headed into Accused's bedroom. There they engaged in consensual intimacy (*i.e.*, kissing and fondling), and began to have sex with Accused on top of [REDACTED]. At some point [REDACTED] realized Accused was not wearing a condom and she attempted to confront him. As she did, Accused place a hand around her throat and squeezed, rendering her unable to speak or breath. Though she attempted to fight Accused off, he had pinned her arm down on the bed. [REDACTED] lost consciousness.

4. According to her report to OSI, [REDACTED] first memory after regaining consciousness was of laying in a fetal position in Accused's shower/bathtub and feeling pain in her foot and later discovering she had suffered substantial bruising.⁴ At 1605 hours on 2 December 2023, Accused drove [REDACTED] back to her home. CCTV video of [REDACTED] and Accused leaving Accused's residence showed [REDACTED] walking with a noticeable limp. When home, [REDACTED] spoke with friends and her ex-partner (a retired [REDACTED] doctor) and told them that Accused sexually assault her (*e.g.*, he had non-consensually choked her during sex, strangled her to unconsciousness).

5. Shortly after Accused had dropped [REDACTED] at her home, he texted her: "Again I am so sorry. I'm horrified with myself. I need to spend some time thinking about who I am and if I should be drinking at all I think" and "I'm so anxious." When it appeared that [REDACTED] did not intend to report him for an alleged sexual assault, Accused texted her: "Thank you for keeping me safe and not ruining my life. I will never make a mistake like that again. I have been in my house shaking I feel so badly about what has happened. I will need to reconsider a lot of who I am now and what I want and need as well." During that text conversation, Accused claimed lack of memory of details of the previous night due to his level of intoxication.

6. [REDACTED] sought medical treatment later on 2 December, after the text conversation with Accused as well as conversations with her friends. She underwent a sexual assault forensic examination (SAFE) during which she reported the lack of condom use and strangulation to unconsciousness.

7. As part of those examinations, [REDACTED] provided a sample, which later testing in the Armed Forces Medical Examiner System (AFMES) disclosed the presence of Acetone, Etizolam, Codeine and

⁴ Medical examination on 2 December 2023 revealed left eye lid bruising, left eyebrow hematoma, three linear abrasions towards hairline, right forearm 8mm bruises, anterior chest bruises, 5-10mm bruises above left breast, bilateral knee bruises, normal knee range of motion, bruised left third toe with tenderness on palpation, as well as findings consistent with strangulation.

Dihydrocodeine, Norcodeine, Hydrocodone, Norhydrocodone, and Morphine. [REDACTED] medical history accounted for the presence of all these substances, except Etizolam. An OSI search of Accused's home on 4 December 2023 did not uncover any Etizolam and a review of Accused's medical records did not disclose a prescription for that medication, which is generally used to treat insomnia and anxiety.

8. Accused was brought into OSI for an interview at some time on 4 December and invoked his Article 31 rights.

9. Some time on 4 December, [REDACTED] met Accused at his request in a public place. He continued to plead for [REDACTED] not to report him for his actions and disclaimed memory of events due to his level of intoxication. [REDACTED] met Accused again on 5 December, again in a public place, during which he told her that he had been out drinking with friends before she came to his house on 1 December and again that he did not remember what had happened. He also implored her to drop her allegations and not participate in any case, to include not allowing her SAFE kit to be provided to OSI as he told her the case could not go forward without it. Accused also promised to go to alcohol classes (ADAPT) and asked her to speak to his lawyer. When [REDACTED] agreed to speak to his lawyer, Accused handed her his phone and she spoke to Accused's area defense counsel, who provided her the contact information for Victims Counsel services.

10. Accused also contacted [REDACTED] on 3 January 2024, told her he was going to ADAPT and continued to ask her to drop her allegations or not participate in any case. Accused continued to contact her in January and February, apparently only stopping when [REDACTED] confronted him with the fact his commander had issued him a military protective order on 6 December 2023 prohibiting Accused from contacting or meeting with her.

11. On 2 March 2026, the Government provide the Defense notice (garnered through [REDACTED] Victims Counsel) that [REDACTED] had "applied for compensation under the [REDACTED] Crime Victim Compensation Act." That notice did not disclose when [REDACTED] had filed such an application. Subsequently, after the Defense moved to compel it, the Government provided an email from [REDACTED] that confirmed that her application for that program had been filed on 19 November 2025, through a [REDACTED] representative.

12. [REDACTED] did not fill out the application for compensation herself; her [REDACTED] representative advised her that the timeline to submit an application was approaching and asked her if she wanted to submit. Through the application- [REDACTED] was required to provide the case numbers for the two investigations in this matter ([REDACTED] and OSI), as well as give consent to the Compensation Act program to access her medical records. As of the date of trial she has not received any compensation or had any additional correspondence with the Compensation Act program.

13. The Crime Victim Compensation Act provides compensation for victims of violent crimes, to include sexual and physical abuse, in [REDACTED], through the Crime Injuries Compensation Scheme. For example, for a "[n]on-consensual penile penetration of one or more of vagina, anus or mouth," the amount of compensation could be as much as £11,000. The Scheme requires the applicant to "co-operate as far as is reasonably practicable in bringing the assailant to justice. We

will consider all the circumstances of your claim when determining whether you have done so.” Use of illegal drugs as part of the event causing the injury or loss for which an individual seeks compensation could be disqualifying.

14. The Defense sought discovery/production of “All documentation submitted by [REDACTED] and or her representative to the [REDACTED] Crime Victim Compensation Act (CVCA), or any other authority charged with awarding similar compensation under Criminal Injuries Compensation Scheme. Specifically, the Defense is requesting all documents, including applications and supporting exhibits, substance by [REDACTED] or on behalf of [REDACTED] for the purpose of obtaining compensation under the subject compensation act. This include documentation for any injuries claimed regarding *U.S. v. Wulfson*, but is not limited to claims regarding only *U.S. v. Wulfson*.”

15. In late March 2026, the Government rejected this request, citing the “relevant and necessary” standard of R.C.M. 703.

CONCLUSIONS OF LAW

16. Burden: As the moving party, the Defense bears the burden of persuasion.⁵ R.C.M. 905(c)(1) establishes that the burden of proof as to any factual issue necessary to resolve this motion is a preponderance of the evidence.

17. The Court has reviewed the legal authorities cited by the parties in their arguments on the motion.

18. Article 46, UCMJ provides that parties to a court-martial are entitled to an “equal opportunity to obtain witnesses and other evidence[.]” Article 46 and R.C.M. 703(g) provide that “[a] subpoena or other process may be issued to compel the production of evidence for a court-martial, military commission, or court of inquiry”⁶

19. R.C.M. 701(a)(2)(i) applies to evidence “within the possession, custody, or control of military authorities and ... the item is relevant to defense preparation” An accused’s right to discovery “includes materials that would assist the defense in formulating a strategy.”⁷ “A request for information under R.C.M. 701(a)(2) must be specific enough that the trial counsel, through the exercise of due diligence, knows where to look (or where to provide the defense access).”⁸ Essentially, the moving party is required as a threshold matter to show that any requested material actually exists.

⁵ R.C.M. 905(c)(2)(A); *United States v. Rodriguez*, 60 M.J. 239, 246 (C.A.A.F. 2004).

⁶ Article 46(d)(1)(A), UCMJ; R.C.M. 703(g).

⁷ *United States v. Luke*, 69 M.J. 309, 320 (C.A.A.F. 2011) (citing *United States v. Webb*, 66 M.J. 89, 92 (C.A.A.F. 2008)).

⁸ *United States v. Shorts*, 76 M.J. 523, 535 (A.F.C.C.A. 2017); see also *United States v. Hogans*, 2025 CCA Lexis 19 (A.F.C.C.A. January 22, 2025).

20. Under M.R.E. 401, “[e]vidence is relevant if it has any tendency to make a fact of consequence in determining the action more or less probable than it would be without the evidence.” Relevance must be underpinned by evidence, not mere speculation.⁹

21. R.C.M. 703 provides a procedure for the Government to obtain evidence not within its control from other entities via subpoena or other legal process. Under R.C.M. 703(e)(1): “Each party is entitled to the production of evidence which is relevant and necessary.” Relevant evidence is “necessary” when it is not cumulative and when it would contribute to a party’s presentation of the case in some positive way on a matter in issue.¹⁰

22. Pursuant to R.C.M. 703(f), for evidence not within the possession, custody, or control of military authorities, “any defense request for the production of evidence shall list the items of evidence to be produced and shall include a description of each item sufficient to show its relevance and necessity, a statement where it can be obtained, and, if known, the name, address, and telephone number of the custodian of the evidence.”

23. M.R.E. 608(c) provides that “[b]ias, prejudice, or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.”

ANALYSIS

24. Whether the named Victim has a financial interest in the outcome of this court-martial, and when such potential financial interest arose, is classic “motive to misrepresent” evidence contemplated under M.R.E. 608. But there is evidence before the Court and available to Defense, provided by ■ directed and through her Victims Counsel, that on 19 November 2025 her representative applied for compensation through the Crime Victim Compensation Act. Given that, ■ is in no position to deny the submission or the date thereof during cross-examination.

25. The Defense also through publicly available information as to the Crime Victim Compensation Act’s implementing program (the Crime Injuries Compensation Scheme) has evidence from which it can cross-examine ■ as to a financial interest that it believes raises a motive to fabricate, including the amounts of potential compensation, her obligations to continue participating in this case, the impact of illegal drug use at the time of offense, and the likely benefit to her of being compensated by a guilty verdict based on her in-court testimony. All of this is “relevant and necessary” evidence as to ■ credibility generally and motive to misrepresent more specifically.

26. The Defense has failed its burden, however, to the extent its request is for additional information other than that which has now been provided. The alleged offense in this case

⁹ See, e.g., *United States v. Douglas*, 2009 CCA LEXIS 41 (A.F.C.C.A. January 28, 2009) (“While the defense speculated during argument that [the] records may contain other relevant information, such as contradictory statements made during counseling or therapy sessions, speculation alone is not sufficient.”), *rev’d on other grounds*, 68 M.J. 349 (C.A.A.F. 2010); *United States v. McClure*, 2021 CCA Lexis 454 (A.C.C.A. September 2, 2021) (“[Counsel’s] request for production was nothing more than a fishing expedition based on an assumption.”)

¹⁰ R.C.M. 703(e)(1); *Rodriguez*, 60 M.J. at 246.

occurred on 1-2 December 2023. Immediately after the alleged offense, [REDACTED] made statements to friends and her ex-partner about what had happened. [REDACTED] underwent a SAFE on 2 December during which she again disclosed what allegedly had occurred between her and Accused. She gave a statement to OSI and also engaged in a text exchange with Accused about the events. She has consented to access to her medical records related to this case. There is no evidence that [REDACTED] made any statement in the application process at all, certainly not different than statements she has made previously in this matter (in fact, the application was filed by a third-party, not [REDACTED]). Thus, there is nothing before the Court to suggest that the Scheme application would contain her statements or statements that are inconsistent with evidence currently in the Defense's possess. There is no reasonable inference that that is true, only baseless speculation which is insufficient to establish either the relevance or necessity prong of R.C.M. 703.

RULING

WHEREFORE, Defense's Motion to Compel Discovery – Criminal Injuries Compensation Scheme is **DENIED**.

SO ORDERED this 13th day of April 2026.

[REDACTED]

BRIAN M. THOMPSON, Colonel, USAF
Chief District Military Judge, [REDACTED]