

## Ask the Lawyer: 'Conduct Unbecoming' Aims to Preserve Integrity

By Mathew B. Tully

Q.

What exactly qualifies as “conduct unbecoming of an officer and a gentleman”?

A.

Conduct unbecoming of an officer and a gentleman in violation of Article 133 of the Uniform Code of Military Justice could be viewed as a catchall offense for commissioned officers, cadets and midshipmen.

As the Manual for Courts-Martial notes, any other offense in the UCMJ could count as a violation of Article 133 so long as the conduct involved was “unbecoming” of not only an “officer” but also a “gentleman” (as dated as that sounds today, when women make up about 15 percent of the officer corps).

Over the years, cases involving this charge have defined “unbecoming” as conduct that is “inappropriate or unsuitable, as being opposed to good taste or propriety or not consonant with usage, but morally unbecoming and unworthy.”

“Gentleman” has been defined as “a man of honor” with a “high sense of justice, of an elevated standard of morals and manners, and of a corresponding general deportment.”

Ultimately, Article 133 aims to preserve the integrity of the military officer ranks. As the Navy-Marine Corps Court of Criminal Appeals explained in a decision last year in *U.S. v. Harris*, “Integrity is stressed as one of the most important leadership traits ... and officers in particular are traditionally expected to hold to a higher standard.”

That’s why the court upheld the Article 133 conviction of a married chief warrant officer who lied about his marital status to a woman with whom he had a romantic relationship.

The court found that the warrant officer’s lie to the woman so she would enter a romantic relationship with him undermined this integrity.

While lying can result in a charge of false statements in violation of Article 107, that wasn’t the case here. The court ruled that the warrant officer’s lie to the woman “did not require citation to ... regulation prohibiting such conduct.”

He simply acted in a manner that was unbecoming of an officer and engaged in deceptive conduct that was “ungentlemanly,” the court said.

Officers facing an Article 133 charge should consult a military law attorney. Depending on the circumstances, a lawyer could challenge evidence regarding the underlying offense or attempt

to show that the conduct was not dishonorable.

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. The information in this column is not intended as legal advice.

&#8220;He took on this case with vigor and ZERO FEAR of the government!&#8221;

"LITERALLY THE BEST MONEY I EVER SPENT!!!! The USAF charged my son with Article 92, Violate General Order and Article 128, Simple Assault. I spoke to many attorneys who said to me, "Your son will be convicted of the Simple Assault because putting lotion on someone's face is considered an assault as it is an unwanted touch." They all wanted me to work on a plea deal with the government that ended with my son being discharged, spending time in the brig and having a federal conviction for the rest of his life. Knowing that this just didn't warrant a federal conviction, bad conduct discharge and time in the brig, I was on a search to find an attorney who would look at this case for what it was: a couple of 19-21 year-old immature young men horse playing. I was looking for someone who would say something different; someone who would be able to look at the case from more than one view. When I spoke to Mr. Rinckey, I thought I was going to get the same ole speech, but to my surprise, I IMMEDIATELY felt at ease and I knew right then that he was going to be my attorney (not sure if he knew it at this time). He took on this case with vigor and ZERO FEAR of the government! He wanted them to know that this was NOT going to go away with any plea deal! And he went to work! Then, LITERALLY 2 DAYS BEFORE trail the government added an additional charge, which was Article 134, Unlawful Entry. Mr. Rinckey stayed focused, developed a plan, and off to trail we went. He was so prepared, calm and at ease. I remember him saying to me, "I am ready to try this case." And yesterday – 14 APR 2016 – my son was found NOT GUILTY on ALL CHARGES AND SPECIFICATIONS!!! Yesss!!! You know, it's always hard to find money for an attorney, but I learned one thing with this case. Although I thought we couldn't afford an attorney, the truth of the matter was that we couldn't afford NOT TO HAVE an attorney. I only wish I had found Mr. Rinckey sooner, but that's okay. I have found my ATTORNEY for life," Y.W. on Founding Partner on Greg Rinckey, Esq.

Prior results do not guarantee similar outcomes.

"Well Informed Legal Advice" – G.C.

Received sound and well informed legal advice. Responses were timely and extremely relevant. – G.C. on client relations attorney Derrick T. Hogan

&#8220;Great Service&#8221; &#8211; E.S.

I want to thank you all for the great service rendered [to] myself and family. - E.S. on Client Relations Attorney Derrick Hogan

"High Regard" – R.E.M.

"Your firm held my best interests with high regard... I thank you for your efforts." - R.E.M.

&#8220;Prompt and Efficient&#8221; – K.B.

"Prompt and efficient in processing claim, all correspondence handled in prompt and efficient manner." – K.B.

&#8220;Impressed&#8221; – W.W.

"As a retired heavy user of attorneys, I'm impressed with your concerns and your efforts to stay in touch with your clients. Its damned good management aligned with top notch expertise." – W.W.

"Excellent Service" – J.R.

"Excellent service, very professional, and understanding and considerate of clients needs. Attorney was very approachable and there was a very good comfort level." – J.R.

"Full Service" – K.M.

"I like the fact the office is close enough to where I work and live and that it is a full service practice, not just estate planning." – K.M.

"Professional and Informative" – J.H.

"Professional and informative... I was pleased with the handling of the case. I was treated as a person, and kept abreast of all aspects of the case. Thank you all." – J.H.

"Thanks So Much" – J.D.

"Without your firm, I would not have known of my claim. Thanks so much!" – J.D.

"Gets Results" – F.P.

"Most certainly – The firm gets results!" – F.P.

"Outstanding" – M.P.

"Results are outstanding." – M.P.

“Quite Satisfied” – R.W.

“I am quite satisfied with the services your office has provided.” – R.W.

“Exceptional Legal Services” – A.S.

“Your firm, Tully Rinckey, has provided and continues to provide me with prompt, keen, exceptional legal services. After the initial consult, I felt relieved that I had the representation from Tully Rinckey... I have found a new found hope with Tully Rinckey...” – A.S.

“Absolute Best” – R.H.

“My attorney was the absolute best I could ever have hoped for. A pure professional in every sense of the word. She was very mindful of my financial expenditure and still was able to represent me very well in my court case.” – R.H.

“Outstanding Service” – A.R.

“Outstanding service, true professional.” – A.R.

“Top Notch” – V.W.

“My attorney was top notch. Very pleasant and helpful.” – V.W.

“Very Thankful” – C.P.

“Very thankful for the help and guidance I received from your law firm. Because of your law firm I was able to return to work with all my back benefits.” – C.P.

“Ideal Choice” – D.H.

“My attorney knew exactly the approach to take and was the ideal choice. She was extremely responsive. She was clear, balanced, and open to our views and feelings. She made it clear she was there for us and ready to answer questions.” – D.H.

“Very Satisfied” – D.D.

“I was very satisfied with the services provided which were completed in a very timely and

professional manner.” – D.D.

“Excellent” – B.M.

“Your firm provides excellent & free service to federal workers and NG/USAR members.” – B.M.