

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

By Mathew B. Tully

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

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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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