



TULLY RINCKEY PLLC
YOUR LAWYERS FOR LIFE - 1888LAW4LIFE.COM

Can commander humiliate me for smoking pot?

By, Mathew B. Tully Q. Since I got caught smoking pot, my commander has been having a field day publicly humiliating me. Can he do that? A. Article 13 of the Uniform Code of Military Justice shields service members from pretrial punishment. It states the arrest or confinement imposed upon a service member should not be any more rigorous than the circumstances required to insure his presence. "Although no chains or hard labor are involved, a commander's attempts to humiliate a service member who is under arrest or facing UCMJ action could qualify as a form of pretrial punishment. "When commanders and superiors publicly denounce, degrade, or humiliate an accused prior to trial, these words may constitute unlawful pretrial punishment warranting confinement credit," the Army Court of Criminal Appeals ruled in U.S. v. Charles E. Singleton (2003). One example cited by the court involved a supervising officer's public posting of an incident report detailing a junior enlisted soldier's alleged drug use, his name and a letter of reprimand he received. Another example involved a company commander who made remarks to an accused charged with larceny, such as, "Don't go out stealing car stereos this weekend"- remarks made during details, in front of company-sized formations and at the accused's work stations. Courts can grant service members various forms of relief if they are subjected to pretrial punishment in the form of degradation, public denouncement or humiliation. In Singleton, for example, the court said a confined sergeant whose guards or other persons in authority referred to him as a "private" instead of a "detainee," would be eligible for five days of confinement credit. The case of U.S. v. Lawrence F. Latta, III (1992), involved an Army private who had been called to the front of a unit formation and described by his first sergeant as "my favorite AWOL case." After being convicted at general court-martial of two specifications of being AWOL, he was sentenced to a bad conduct discharge, six months confinement, forfeitures of \$500 per month for six months, and reduction to the lowest enlisted grade. After finding the soldier's Article 13 rights were violated, the U.S. Court of Military Review eliminated the forfeiture component of his sentence. Mathew B. Tully is a veteran of the wars in Iraq and Afghanistan and the founding partner of Tully Rinckey PLLC. Email questions to askthelawyer@militarytimes.com

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