

Outrage Over Perceived Light Sentence for Convicted Colonel

Servicemembers and legal experts around the world reacted with outrage and scorn Friday to what many regarded as an exceptionally light sentence for an Army colonel convicted of fraud, adultery, bigamy and conduct unbecoming an officer and a gentleman.

Col. James H. Johnson III, the former commander of the 173rd Airborne Brigade Combat Team, was sentenced to a reprimand and a \$300,000 fine by a jury of fellow colonels in Kaiserslautern, Germany, on Thursday. He pleaded guilty to 13 charges and was convicted of two others, all relating to an illicit affair he had with an Iraqi woman and his efforts to steer government funds to the woman's father during a 2005 deployment.

Johnson gave the family a government cellphone that racked up \$80,000 in charges, filed false travel vouchers and improperly used government vehicles, hired the father as a "cultural advisor" for Afghanistan even though he was unqualified, and committed other crimes because he was in love with the man's daughter, Haveen Al-Atar. He later married Haveen Al-Atar, though he was still married to his first wife, Kris Johnson.

Greg Rinckey, a former Army judge advocate general attorney who specializes in military law, called the verdict stunning.

"It's a great job by the defense attorneys," he said. "I was expecting his dismissal. That sounds like a very light sentence to me.

"This guy's military career is already over [because of the scandal], so the reprimand is meaningless. And he still gets his retirement? I'm shocked."

Rinckey said jurors may have been swayed by stories about Johnson's wife and the retirement payouts she stood to lose if her cheating husband went to jail. But regardless the reason, the verdict is likely to infuriate many lower-ranking soldiers.

"Once again, it appears there are two different standards for officers and enlisted in the Army," he said. "If this had been an enlisted soldier, you have to believe there would have been a reduction in rank and jail time. And that perception of different rules does become a problem."

Defense Secretary Leon Panetta has called on servicemembers to take personal responsibility for their behavior and has stressed accountability.

However, Panetta does not take positions on individual judicial cases and has "complete trust and confidence that the military judicial system works, works well," Pentagon spokesman Capt. John Kirby said.

The Army "respects the decision of the jury," said George Wright, an Army spokesman at the Pentagon.

An article about the sentencing posted on Stars and Stripes' website had more than 100 comments at press time — most of them complaining the verdict was not harsh enough and questioning whether an enlisted soldier would have seen similar results.

For now, Johnson will keep his rank, said U.S. Army Europe spokeswoman Hilde Patton.

"He is still a full colonel in the United States Army," she said. "Whether or not he is going to get an assignment, that is for someone else to decide."

But Johnson could be threatened with separation, effectively forcing his retirement, said Eugene Fidell, military law expert who teaches at Yale University. The Army can then reduce his rank in retirement, Fidell said.

"It's an administrative determination made by the service, and it's based on whether the service considers his work — what is the highest grade he satisfactorily served," Fidell said. "So they could reduce him to lieutenant colonel if they decided his service as colonel was unsatisfactory, which I would assume would happen."

Johnson earns \$10,351 a month in base pay, before housing, health insurance and other benefits are factored in, Patton said. Johnson's attorney said during the court proceedings that his retirement was worth \$1.5 million.

The convening authority for the court martial, Maj. Gen. David Hogg of U.S. Army Africa, still must approve the sentence, she added. Yet Hogg can only decrease the sentence, not increase it, Patton said.

Stars and Stripes attempted to talk to 60 members of Johnson's former unit in Vicenza, Italy, on Friday. Nearly all of them declined to comment.

Spc. Jason Schad of Headquarters and Headquarters Company was an exception.

Schad called Johnson's actions "pathetic and disgraceful. His actions reflect on all of us [in the brigade]. It's too bad if that's what people think of now when they think of the 173rd. It's hard to believe that kind of conduct coming from an officer in this unit."

About half of those surveyed said they were new to the 173rd and had not heard of the case.

"I didn't even know about it," said Spc. Joshua Coffman, a member of the 2nd Battalion, 503rd Infantry Regiment. "I didn't know he was even here. But I've only been here for a year."

Johnson was stripped of command of the unit in March 2011. Col. Kyle Lear served as acting commander until Col. Andrew Rohling assumed command in June 2011. Rohling will lead the unit on a nine-month deployment to Afghanistan in the coming weeks.

Soldiers from the 173rd started a four-day weekend Friday, and all those interviewed were dressed in civilian clothing in front of the post exchange.

Specialists Cody Tracy and Thomas Loehmann of 1st Battalion, 503rd Infantry Regiment, said they'd heard some about the case, but not enough to comment. About a dozen others smiled in recognition when shown the headline atop Thursday's edition. All said variations of "no comment" or "I have nothing to say."

One other soldier in the unit did have something to say, but declined to give his name.

"I think it's bull crap," he said of the sentencing. "They throw soldiers out for lesser stuff all the time."

Johnson's previously sterling reputation might have bought him some leniency and helped him avoid immediate jail time, Fidell said. "I think he probably had a lot of money in the bank [with the Army] because of his previous performance and duty."

But Fidell said the verdict appeared mainly to be an attempt to protect the family that Johnson

left behind.

“Obviously they wanted to preserve his pension so that his wife — one of his wives, anyway, the legal wife — could get the benefit,” Fidell said.

In some cases, the court-martial panel feels the need to send a loud and clear message, but this likely wasn’t one of them, Fidell said.

“It’s a freakish case,” he said. “I don’t think they’re going to have to worry about an upsurge in bigamy as a result of this.”

Johnson’s next step is unclear. He has the right to appeal, Patton said, but it’s not clear if he will do so. And although the sentence calls for him to be imprisoned if he fails to pay the \$300,000, a deadline for the repayment was not given in the sentence, she said.

Johnson was assigned to USAREUR headquarters in Heidelberg during the trial.