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Sexual Misconduct Case Ends With No Jail Time for General



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Brig. Gen. Jeffrey A. Sinclair, with his lawyers after his sentencing, was reprimanded and ordered to forfeit \$20,000 in pay.

By RICHARD A. OPPEL Jr.

FORT BRAGG, N.C.

Bringing an end to a closely watched military sexual misconduct trial, a judge on Thursday reprimanded Brig. Gen. Jeffrey A. Sinclair for, among other offenses, mistreating an Army captain who was his mistress, but did not sentence him to jail time and allowed him to remain in the military.

General Sinclair was also ordered to forfeit \$5,000 a month in pay for four months, but will be allowed to keep his pension and other benefits.

The decision by the judge, Col. James L. Pohl, was a sweeping victory for the de-

fense: A plea agreement reached by General Sinclair's lawyers and military prosecutors this week called for capping prison time at 18 months and did not ensure that he could keep his pension.

It was also a stinging defeat for the Army, whose case started coming apart after prosecutors concluded that the captain might have lied at a January pretrial hearing. The case then collapsed last week when Colonel Pohl found that political considerations might have improperly influenced the prosecution.

As a result of that finding, defense lawyers and prosecutors reached an agreement this week in which General Sinclair pleaded guilty to lesser offenses in ex-

change for dismissal of much more serious sexual assault charges, which could have carried a life sentence if proved. In addition to admitting to mistreating the captain, General Sinclair pleaded guilty to adultery, soliciting explicit pictures from female officers, disobeying a commander, possessing pornography in a combat zone and misusing his government credit card.

General Sinclair, 51, hugged his lawyers after the sentencing. Though clearly elated, he said little as he left the courthouse, describing the last two years as "a very difficult time for me and my family."

"The system worked," he said, adding that he was going to go "hug my kids and see my wife." His wife, who has defended

him throughout the case, did not attend his court-martial.

Jamie Barnett, a lawyer for the captain, condemned the sentence as “a travesty” and likened it to “getting sent to the principal’s office for a stern talking-to.”

“Now the Army has to face the reality that this is likely to happen again, and victims will be less likely to come forward,” he said.

The sentence, indeed the case, set off a sharp debate, including in the military, over whether the Pentagon needs to revamp the way it prosecutes sexual assault and other serious crimes, as many lawmakers contend. “This is another sorry example of how truly broken the military justice system is,” Representative Jackie Speier, Democrat of California, said in a statement.

Two weeks ago, the Senate rejected a bipartisan bill to remove military commanders from decisions over the prosecution of sexual assault cases in the armed forces.

Others raised questions about whether a lower-ranking service member might have received a tougher sentence for the same crimes. (General Sinclair’s lawyers, who seemed surprised by the sentence, asserted that the only reason he was charged with serious crimes to begin with was because he was a general.)

“Enlisted personnel will argue that this is another case of disparate treatment between senior officers and everyone else,” said Eugene R. Fidell, who teaches military justice at Yale Law School. “And they will have a point. This will ratchet up concern that there is first-class justice for some and steerage for the rest.”

Though the judge allowed General Sinclair to remain in the military and denied prosecutors’ request to dismiss him from the service — an action that would have stripped him of his military pension — his chief defense lawyer, Richard L. Scheff, said after the sentencing that the general “will be putting in his retirement papers.” He is likely to retire as a lieutenant colonel, the last rank he held before the misconduct covered in his guilty pleas took place.

Initially, the case seemed an example of how far the military, focused for a decade on two wars, had fallen behind other institutions in accepting women as equals in the workplace, providing ammunition to critics who believed that a “Mad Men”-era ethos still pervaded the services, with some male officers unable to view female counterparts as anything other than sexual objects.

Evidence, for instance, showed that for all his skill as a leader — he was a favorite of his senior officers — General Sinclair had a tendency to make inappropriate



CHRIS KEANE/REUTERS

Brig. Gen. Jeffrey A. Sinclair was allowed to remain in the military, but he is likely to retire.

comments about women and to make advances toward them. He sought explicit pictures from female subordinates, and asked a young lieutenant, a former college athlete half his age, on a horseback-riding date.

The atmosphere in his unit was such that at a farewell party when he left brigade command four years ago, soldiers in his unit put on a skit in which one,

***A case that set off
intense debate about
military prosecutions.***

dressed in a wig and clothes in an apparent portrayal of the captain, acted out a scene in which that person asked another soldier, seated in a chair and portraying then-Colonel Sinclair, whether he wanted oral sex.

But as the case evolved, evidence also suggested that the most serious charges against him — that he had forced the captain to perform oral sex on him twice and threatened her and her family if she revealed their affair — were far from clear-cut.

At a hearing in late 2012 known as an Article 32, roughly akin to a preliminary hearing in civilian criminal courts, it became clear that the captain had been sleeping with him regularly. By her own testimony, his threat to kill her and her family came immediately after they finished having sex, when she had told him that she was looking forward to meeting his wife.

The captain also testified that when she

confided the affair to a friend, she told him that the general never raped her. “It was consensual,” she said. She also acknowledged writing a journal entry about the general in which she stated that “my biggest fear is that there is something still in his marriage.”

In January, forensic analysis indicated she had testified untruthfully at a hearing about finding an old iPhone that contained evidence of the affair. That alarmed the chief prosecutor, Lt. Col. William Helixon, so much that he began pushing his superiors to dismiss the sexual assault charges, which were based solely on her accusations, because he no longer believed he could win a conviction. He quit the case after they did not.

As the court-martial began at Fort Bragg this month, Army officials, responding to reports about Colonel Helixon’s resignation, sought to portray his misgivings about the captain as being influenced by other stresses in his life, even describing him at one point as being suicidal. People who know Colonel Helixon called the assertion ridiculous.

Two weeks ago, after the trial had begun, the prosecution belatedly turned over emails to the defense showing that, in fact, Colonel Helixon was not the only military lawyer concerned about the captain’s credibility. The messages showed that after the January hearing, Colonel Helixon’s boss had immediately alerted the commander overseeing the case, Lt. Gen. Joseph Anderson, that the woman might have testified untruthfully. But Colonel Helixon appeared to be the only official who took serious steps to modify the charges against General Sinclair.