



Your Military

How a TikTok video got one military officer court-martialed

By **Geoff Ziezulewicz**

📅 Thursday, Aug 8, 2024



See the Tik Tok video that got a Navy officer court-martialed



In retrospect, Navy Lt. Cmdr. James Dickerson admits he shouldn't have posted the TikTok video of him in uniform, lip-synching a profanity-laced parody of Frozen's "Let it Go" and giving middle fingers to the camera, his blouse's gold oak leaf rank insignia square in the frame with a caption that read, "Working the day before leave be like."

The 54-year-old prior-enlisted supply officer would later say he only expected family and friends to see the joke video he made on July 14, 2023.

Ad

He likely never intended for his command, the Navy Expeditionary Warfighting Development Center, to catch wind of it.

But they did, and in June, Dickerson was court-martialed for the video, charged with a violation of Article 133 of the Uniform Code of Military Justice, conduct unbecoming an officer and a gentleman.

Dickerson's charge sheet alleged that he "wrongfully and dishonorably" posted the video "showing himself acting in a contemptuous manner towards the Navy while in uniform."

Ad

Watch the video below.

See the TikTok video that got a Navy officer court-martialed

A Navy officer was found not guilty at a court-martial this summer over a TikTok video he posted last year. See the parody that landed him in hot water.

A Navy officer was court-martialed over a TikTok video he posted last year. See the parody that landed him in hot water.

And while Dickerson was found not guilty at a judge-alone trial on June 13, the saga of the officer and his TikTok content has outside attorneys wondering why he was ever charged in the first place for such an infraction.

The case also offers a glimpse into the murky legality involved in court-martialing service members for social media posts, and how no single charge in the UCMJ governs such infractions, leaving commanders across the services to apply the law as they and their legal staffs see fit.

Questions also remain about command decisions before the trial began.

Ad

For reasons the Navy has not explained, the unit's commander, Capt. Charles Eckhart, withdrew the charge in late 2023 and then re-referred it the same day, stripping Dickerson of his right to choose a trial by jury in the process.

Charging Dickerson for the video was "a misuse and abuse of criminal justice," according to Rachel VanLandingham, a retired Air Force attorney, law professor and National Institute of Military Justice president.

“This is nothing that warrants a federal criminal conviction,” she told Navy Times after reviewing the case.

While Dickerson filming the video in his officer’s uniform was “stupid,” he could have been administratively disciplined or read the riot act by his command instead, VanLandingham said.

Ad

“I found it flabbergasting,” she said. “Shame on the lawyers that advised the commander to bring this charge.”

An argument could be made that the video constituted conduct unbecoming an officer, but such conduct doesn’t warrant a court-martial, according to Brian Ferguson, a civilian defense attorney who has represented service members in social media-related proceedings.

“Was that a good decision for him to do that? Probably not,” said Marshall Griffin, a retired Coast Guard attorney now in private practice. “Could it have been addressed with a counseling and telling him to take it down? Yes.”

“I think it’s heavy-handed, for sure,” he added.

Ad

Social media posts have landed troops in hot water in recent years, or brought attention to issues that service members felt were not being addressed by their commands.

But Patrick McLain, a retired Marine Corps judge now in private practice, said he had not seen a social media-related case focused “on the foolishness or vulgarity of the content of the social media” before.

Instead, such cases have generally focused on posts that contained racist, extremist or violent content, he said.

Dickerson’s case raises questions about the First Amendment rights of expression for service members as well.

It remains unclear how many troops have been taken to trial over social media posts in recent years.

The Army, Navy, Air Force and Marine Corps all said the services do not track social media-related courts-martial, and outside legal experts note that such crimes can be charged under a variety of UCMJ articles.

Given the general lack of public transparency in the military justice system, such cases become even harder to track from the outside, VanLandingham said.

The Navy declined to comment on Dickerson's case.

Dickerson declined comment for this report.

His civilian defense attorney, Rob Canoy, said in a statement that "the right decision was ultimately reached in court on the merits."

"Despite the Navy's criminal prosecution for this conduct, we do not hold any ill will towards the command or the Navy for doing what they thought they needed to do to maintain good order and discipline," he said.

RELATED



Navy says 'liking' or sharing extremists' posts on social media can get you in trouble

Here's how the Navy will conduct its stand-down addressing extremism in the ranks.

By [Diana Stancy](#)

The case offers another example of how troops need to think about what they put online, Ferguson said.

"Posting on social media in uniform is like drinking heavily at the unit Christmas party," he said. "It's not going to end well."

'But it's funny, right?!'

Court records indicate that Dickerson's command became aware of the video within a few weeks of him posting it.

An email from one staff member on July 31, 2023, states that it was brought to the command's attention by another supply corps officer.

"Definitely beneath a field grade military officer behavior, but not sure it's more than that," one staffer wrote to colleagues.

A screenshot included in court filings suggests that at least one of Dickerson's subordinates saw the video, and commented "SIRRRRR" alongside two laughing emojis.

"But it's funny, right?!" Dickerson replied.

Command members scrambled to preserve the video, with some unsure how TikTok worked or how they could save the video if Dickerson deleted it.

Under the subject line, “Inappropriate TikTok?” one Navy commander asked how to capture it “before we tell him to take it down.”

“Worst case maybe if someone in your office has ticktock (sic) we could use a second phone to record the first?” the officer wondered. “And screen shot the comments?”

Two days after the video, the unit’s commanding officer, Eckhart, issued a social media policy for his unit, reminding sailors of best social media practices and how they are always representing the Navy.

“The internet doesn’t forget and online habits leave digital footprints,” Eckhart wrote. “It is imperative that we set ourselves up for success through deliberate, valuable and healthy social media use.”

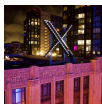
He also reminded his sailors that such behavior is subject to the UCMJ.

A few weeks after he posted the video, Dickerson emailed his superiors on Aug. 2, 2023, to explain himself and apologize, court records show.

“I would like to express how ashamed and embarrassed that I am (sic) that I created that video,” Dickerson wrote. “I failed to live up to the high standards and expectations of our officer corp (sic).”

Dickerson wrote that he had a physical therapy appointment that morning and had seen a parody of the “Let It Go” song before his appointment.

RELATED



Navigating the Pentagon’s social media rules amid the Israel-Hamas war

While OPSEC remains a priority, the lines about what service members can and cannot post have become more blurred.

By [Sarah Sicard](#)

After the appointment, he went home to shower and dress for work.

“At some point during this, I came up with the idea for the video based on my wife (sic) years of comments, ‘Why do you take leave, you end up working through it anyways,’” he wrote. “I made and posted the video for her and my friends, expecting them to see me being goofy and expecting that this vacation would be the same as any other working vacation.”

The video was meant to be self-deprecating and for an audience who would know him and recognize that he was just “acting silly,” Dickerson wrote.

"I understand that nothing on the internet is private, but I've felt that I could hide under the anonymity of large numbers," he continued. "I never felt I was anyone's choice for viewing a video I made."

The TikTok received at least 81 likes, eight comments and was shared by four users and saved by 18 users, according to court records.

Dickerson noted the video wasn't directed toward the military or any person or command.

He wrote how he was "blessed to get a second chance at service," and how he regretted letting sailors down "with this stupid mistake."

"I understand the tough position this places you, the XO and CO in," Dickerson added. "I hope that you weigh this isolated misstep against whatever value that you place on my past service."

An Aug. 22, 2023, memo included in court records summarized the executive officer's inquiry into Dickerson's video.

Dickerson enlisted in the Navy in 1988, the memo states, and had been an officer for more than 13 years, serving as the second-in-command of Navy Cargo Handling Battalion 1 from February 2022 to February 2023.

The Florida native's enlisted service ended in 1996, and he came back into the fleet as an officer in 2009, according to service records.

His awards and decorations include surface warfare supply corps officer, SSBN deterrent patrol insignia and enlisted submarine warfare specialist.

"If I knew it would come to this, I would not have made the video," Dickerson told his XO, according to the memo.

"I ordered a break for LCDR Dickerson to regain his composure," the XO wrote in the memo.

A few months later, on Nov. 30, 2023, Eckhart referred the charge against Dickerson for violating Article 133 of the UCMJ.

That original referral to a special court-martial contained no special instructions, meaning Dickerson had the legal right to opt for a jury trial, his civilian attorney, Canoy, argued in a court filing earlier this year.

After that, the original charge "lingered without action" and was never submitted to the court or put on the trial docket, Canoy wrote.

Then, for reasons the Navy has not explained, the original charge was withdrawn and dismissed without prejudice on Dec. 27, 2023, nearly a month after it was originally filed, Canoy wrote.

Eckhart signed a memorandum noting the withdrawal, but it "contained no reason for the withdrawal," the attorney wrote.

That same day, the same charge was filed against Dickerson again, but with one caveat: The trial would be a judge-only proceeding, and Dickerson would not be able to opt for a jury trial.

Canoy alleged in filings that the original charge was withdrawn, and the new charge filed the same day, solely to deny Dickerson a jury trial.

Eckhart declined to explain this series of events when queried by Navy Times.

“The convening authority, Capt. Eckhart, has declined to provide a comment,” Lt. Cmdr. Kara Handley, a spokesperson for Navy Expeditionary Combat Command, said in an email to Navy Times. “We don’t have anything additional to add at this time.”

The judge-alone special court-martial option for commanders is a relatively new legal option that went into effect in 2019.

Known among attorneys as a “short-martial,” it is a commander’s option for cases where the maximum punishment is limited to six months of confinement or pay forfeitures.

It also is rarely used. Four out of 165 tried court-martials in 2023 were conducted in that forum, according to Navy records.

Convening authorities have the right to withdraw a charge and then refer it again, and opting for such a judge-alone forum means the accused faces less severe punishment, according to the private attorney McLain.

“The accused is now deprived of the right to trial by members, but concurrently the punishment is much less,” McLain told Navy Times in an email.

RELATED



Army investigating social media post showing Nazi symbol

The Army opened an investigation after a National Guard unit posted a photo online that contained a symbol worn by Nazi SS troops.

By [Davis Winkie](#) and [Nikki Wentling](#)

Canoy argued in a motion to dismiss the case that the change reflected an “attempt to interfere in the accused’s ability to have a trial before (a jury).”

VanLandingham agreed, and said the withdrawal and re-referral of the charge was done “in a very abusive and manipulative manner.”

“They were afraid this wasn’t a strong enough charge,” she said. “And it wasn’t.”

Commanders risk undermining themselves when they take such cases to trial and an acquittal ensues, civilian attorney Ferguson said.

“For a commander to have a case like this go to trial and lose, he probably is thinking he should have gone nonjudicial punishment,” Ferguson said. “Clearly this has backfired.”

‘Profanity is as common in the average naval workspace as coffee’

Court records show Canoy filed several unsuccessful motions to dismiss the charge earlier in 2024 before Navy Judge Cmdr. Mishonda Mosley found Dickerson not guilty in June.

In one, Canoy argued that the conduct unbecoming an officer charge does not apply to Dickerson’s conduct in the video.

He argued that the command’s social media guidance released after Dickerson’s video “contains no prohibitions regarding the use of profanity or gestures which express profanity.”

While the command’s guidance noted that online conduct should be no different from offline conduct, Canoy wrote that “profanity is commonly used throughout every Navy workspace around the country.”

“Profanity is as common in the average naval workspace as coffee,” he wrote. “Similarly, profanity seems to accompany the execution of nearly every military mission — even more so in combat and high stress environments.”

RELATED



Marine who demanded ‘accountability’ on social media to be released from the brig

Lt. Col. Stuart Scheller was released from the brig Tuesday after striking a deal with the commanding general overseeing his case.

By **Philip Athey**

While vulgarity has been a “mainstay of military parlance since 1775,” the smartphone age means that such language is out in the online world for all to see, instead of confined to a military unit’s workspace, McLain said.

“Like pornography, the internet and smartphones have released stupid behavior out of a veritable Pandora’s box, never to be retrieved,” he said.

Canoy also argued in court that conduct unbecoming an officer offenses laid out under law include being drunk, “moral turpitude” crimes and false official statements, not the type of behavior in Dickerson’s TikTok.

“An officer posting a meme of himself lip synching a parody song is — at worst — a misplaced attempt at humor, nothing more,” he wrote. “It certainly does not state an offense as a federal crime.”

Canoy also contended that Dickerson’s conduct had no effect on his unit’s military mission, and that he’s not the only military member to post such content.

“The internet is literally filled with hundreds upon hundreds of videos of military members in uniform saying outlandish things,” he wrote. “These military members are either venting, depicting actual military events, or simply making videos in an effort for comedy.”

Free speech in the military is inherently a gray area, Ferguson told Navy Times.

“That’s why it’s essential in these cases to have a jury of unbiased officers, so that one person can’t set a standard after the fact,” he said.

‘All this stink, and an acquittal’

VanLandingham, the retired Air Force attorney, said Dickerson’s case should be a call to move more prosecutorial decisions out of the hands of military commanders, even as those commanders retain their disciplinary authority.

“Any time there’s a charge, you’re going to take away someone’s liberty and give them a federal conviction that would follow them the rest of their lives,” she said. “The commander could have avoided all this stink, and an acquittal.”

Some prosecutorial authority has been removed from commanders in recent years, and military entities outside the accused’s chain of command now decide whether serious cases like sexual assault should be prosecuted.

“Commanders still need disciplinary authority, but they have not shown they can handle criminal prosecutorial authority in a responsible manner,” VanLandingham said. “This case is Exhibit A.”

While some guidance exists, the military needs to do some “soul-searching” about how they handle social media in general, she said.

“This case was complete overkill,” VanLandingham said.

About [Geoff Ziezulewicz](#)

Geoff is the managing editor of Military Times, but he still loves writing stories. He covered Iraq and Afghanistan extensively and was a reporter at the Chicago Tribune. He welcomes any and all kinds of tips at geoffz@militarytimes.com.

Share:      

In Other News >

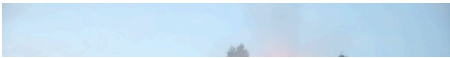
Walz faces Republican criticism over timing of military retirement

The final months of Walz's service came under scrutiny when Republican vice presidential candidate JD Vance accused him of dodging a deployment to Iraq.



How the military plans to reduce blast-related injuries in troops

New Pentagon guidance reveals which military jobs in each service have the most potential to cause brain damage.



Senators urge Pentagon to ease deadline of Wounded Knee medals review

Native American tribes, families of victims, historians and academic institutions should be allowed the time to provide input, they argued.



Kamala Harris taps Tim Walz, National Guard veteran, as running mate

Harris' running mate served in the National Guard for 24 years and championed veterans' issues in Congress for six terms.

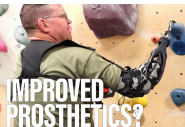


Load More

Featured Video

What military jobs have the highest risk of suicide? | Defense News Weekly Full Episode 8.10.24

What military jobs have the highest risk of suicide? | Defense News Weekly Full Episode 8.10.24



Prosthetics made from running shoes? Meet “Stumpworx”



Missile defense capabilities on display

Ad

Trending Now

Trump made up injury to dodge Vietnam service, his former lawyer testifies

What troops need to know about military retirement pay in 2024

NATO states should abandon treaty banning the use of cluster munitions

JD Vance represents veterans on ballot, but some ask, 'At what cost?'

Giants of Kandahar: outlandish tales of the US military in Afghanistan

Pilot errors, safety culture blamed in fatal Marine Corps Osprey crash



Military Times © 2024

Terms of Use

- Privacy Policy
- Terms of Service

Get Us

- Subscribe
- Newsletters
- RSS Feeds

Contact Us

- Advertise
- General Contacts, Subscription Services
- Editorial Staff

About Us

- About Us
- Careers
- Jobs for Veterans

