

Adjudicating Victim Privacy Interests under Military Rules of Evidence 412 & 513

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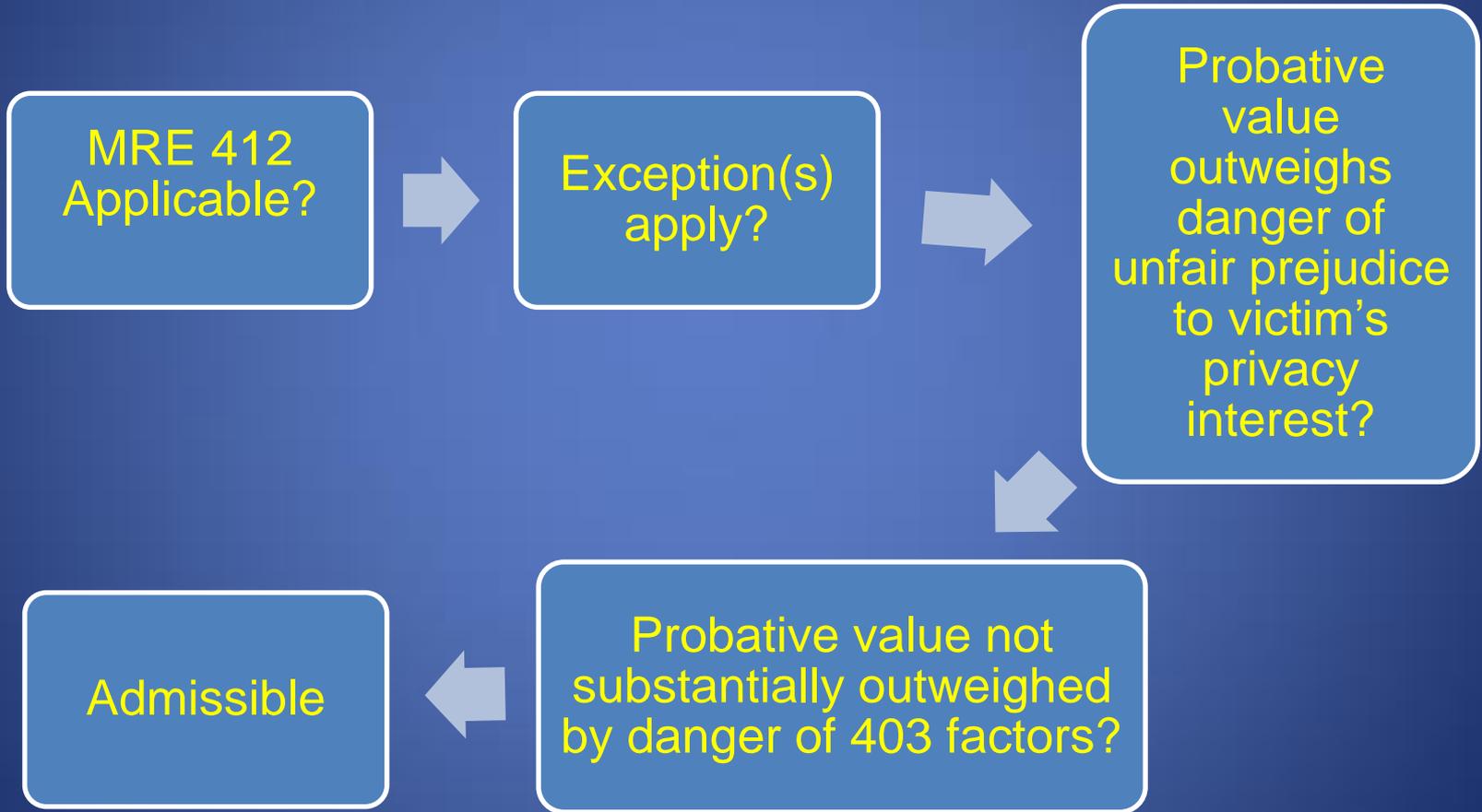
Military Rule of Evidence 412

- Excludes as irrelevant:
 - Evidence offered to prove that any *alleged victim engaged in other sexual behavior*
 - Evidence offered to prove any *alleged victim's sexual predisposition*
- Exceptions, if otherwise admissible:
 - Other Source;
 - Previous Consent to Accused; or
 - Constitutionally Required.

Procedural Requirements to Admit Evidence under MRE 412 Exceptions

- Written motion to admit
 - Filed at least five days before entry of pleas
 - Specifically describing evidence to be admitted and purpose for which offered
 - Served on opposing counsel, military judge, victim or guardian/counsel
- Closed hearing w/o members
- Sealed Record
- Judicial Order – permissible evidence, if any

Judicial Decision Making Under MRE 412



Psychotherapist Privilege Under MRE 513

- Limited privilege for communications to psychotherapists and counselors.
- Applies to actions arising under the UCMJ and it is not a broader doctor-patient privilege.
- Eight exceptions
- In camera review by military judge

Observations and Conclusion