



Ohio Revised Code

Section 5924.64 Review of cases in which no appeal taken.

Effective: September 28, 2012

Legislation: House Bill 490 - 129th General Assembly

(A) A judge advocate shall review pursuant to regulations prescribed by the adjutant general each case in which there has been a finding of guilty and in which no appeal is taken. A judge advocate may not review a case under this section if the judge advocate has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. For each case reviewed under this section, the judge advocate shall issue written findings and recommendations that contain all of the following:

- (1) Conclusions as to whether the court had jurisdiction over the accused and the offense;
- (2) Conclusions as to whether the charge and specification stated an offense;
- (3) Conclusions as to whether the sentence was within the limits prescribed by law;
- (4) A response to each allegation of error made in writing by the accused;
- (5) If the case is sent for action under division (B) of this section, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

(B) The record of trial and related documents in each case reviewed under division (A) of this section shall be sent for further action under division (C) of this section to the person exercising general court-martial jurisdiction over the accused at the time the court was convened or that person's successor in command if any of the following applies:

- (1) The judge advocate who reviewed the case recommends corrective action.
- (2) The sentence approved under division (C) of section 5924.60 of the Revised Code includes dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months.



(3) Regulations prescribed by the adjutant general require further review.

(C) The person to whom the record of trial and related documents are sent under division (B) of this section may do any of the following:

(1) Approve or disapprove the findings or sentence in whole or in part;

(2) Remit, commute, or suspend the sentence in whole or in part;

(3) Order a rehearing on the findings, the sentence, or both;

(4) Dismiss the charges.

(D) If a rehearing is ordered but the convening authority finds that a rehearing is impracticable, the convening authority shall dismiss the charges.

(E) If the opinion of the judge advocate who reviews a case under division (A) of this section finds that corrective action is required as a matter of law and the person required to take action under division (B) of this section does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the convening authority shall transmit the record of trial and action on that record to the state judge advocate for review.

(F) The judge advocate who under this section reviews a case conducted by a general court-martial shall be the state judge advocate.