



## Ohio Revised Code

### Section 5924.60 Report of findings to convening authority; submission of matters by accused; actions by convening authority; revision or rehearing.

Effective: September 28, 2012

Legislation: House Bill 490 - 129th General Assembly

---

(A) A court-martial shall report its findings and sentence to the convening authority after announcing the sentence.

(B)(1) The accused may submit to the convening authority matters relating to the findings and sentence to the convening authority for its consideration. A submission shall be in writing. A submission shall be made within ten days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under division (D) of this section or, in a summary court-martial case, within seven days after the sentence is announced.

(2) The convening authority or other person taking action under this section, for good cause shown by the accused, may extend the period for submission of matters under division (B)(1) of this section for not more than twenty days.

(3) In a summary court-martial case, the summary court officer shall promptly provide the accused with a copy of the record of trial for use in preparing a submission authorized by division (B)(1) of this section.

(4) The accused may waive the right to make a submission under division (B)(1) of this section. A waiver shall be made in writing and may not be revoked. The time within which the accused may make a submission under this subsection expires upon the submission of a waiver to the convening authority.

(C)(1) The authority under this section to act on the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. Pursuant to regulations prescribed by the adjutant general, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act



under this section in place of the convening authority.

(2) The convening authority or another person authorized to act under this section may act on the sentence of a court-martial pursuant to division (B)(3) of this section. Subject to regulations prescribed by the adjutant general, the convening authority or other authorized person may act only after the accused submits matters under division (B) of this section or the time for submitting matters expires, whichever is earlier. If the accused makes a submission, the convening authority or other authorized person shall take the submission into consideration before acting.

(3) The convening authority or other authorized person, in the convening authority's or other authorized person's sole discretion, may approve, disapprove, commute, or suspend the sentence of a court-martial in whole or in part. The convening authority or other authorized person acting on a sentence may but is not required to take action on the findings of the court-martial. A convening authority or other authorized person that chooses to act on the findings may dismiss any charge or specification by setting aside a finding of guilt with regard to that charge or specification or may change a finding of guilty with regard to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(D) Before acting under this section on any general court-martial case or on any special court-martial case that includes a bad-conduct discharge, the convening authority or other authorized person shall obtain and consider the written recommendation of the convening authority's or other authorized person's staff judge advocate or legal officer. The convening authority or other authorized person shall refer the record of trial to the staff judge advocate or legal officer. The staff judge advocate or legal officer shall use the record in the preparation of a recommendation. The recommendation shall include any matters that the adjutant general may require by regulation and shall be served on the accused. The accused may submit any matter in response under division (B) of this section. If in the accused's response, the accused does not object to one or more matters contained in the recommendation, the accused waives the right to object to those matters.

(E)(1) The convening authority or other authorized person, in the convening authority's or other authorized person's sole discretion, may order a proceeding in revision or a rehearing.

(2) The convening authority or other authorized person may order a proceeding in revision if there is



an apparent error or omission in the record of a court-martial or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In a proceeding in revision, the convening authority or other authorized person may not do any of the following:

- (a) Reconsider a finding of not guilty of any specification or a ruling that amounts to a finding of not guilty;
- (b) Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge that sufficiently alleges a violation of any provision of this chapter;
- (c) Increase the severity of the sentence.

(3) The convening authority or other authorized person may order a rehearing if the convening authority or other authorized person disapproves the findings or sentence and states the reasons for disapproval of the findings or sentence. If the convening authority or other authorized person disapproves the findings or sentence and does not order a rehearing, the convening authority or other authorized person shall dismiss the charges. A convening authority or other authorized person may not order a rehearing as to the findings if the record does not contain sufficient evidence to support the findings. A convening authority or other authorized person may order a rehearing as to the sentence if the convening authority or other authorized person disapproves the sentence.