



Ohio Revised Code

Section 5924.61 Appeal by accused.

Effective: September 28, 2012

Legislation: House Bill 490 - 129th General Assembly

(A) An accused may appeal a finding of guilty or the sentence of a court-martial to the court of military appeals. The court shall hear an appeal if the convening authority or other authorized person approved a sentence of dismissal of a commissioned officer, dishonorable or bad conduct discharge, or confinement for one year or more and if the appeal was timely filed. The court may hear any other appeals that the court, in its sole discretion, allows.

(B) An accused who is found guilty may appeal under this section by filing a notice of appeal with the convening authority that ordered the court-martial within thirty calendar days after the convening authority serves a copy of the approved findings and sentence on the trial attorney of record for the accused or, if the accused waived the right to counsel, on the accused in accordance with regulations prescribed by the adjutant general. The notice of appeal shall state the name of the party taking the appeal, the findings, sentence, or parts of the findings or sentence appealed from, and the grounds for the appeal. Failure to file a notice of appeal in a timely manner constitutes a waiver of the right to appeal.

(C) Upon receiving a notice of appeal, the convening authority shall serve a copy of the notice on the trial counsel and on the trial attorney of record for any codefendant or, if a codefendant waived the right to counsel, on the codefendant in accordance with regulations prescribed by the adjutant general. The convening authority shall note on each copy served the date on which the notice of appeal was filed. Failure of the convening authority to serve a copy of the notice of appeal does not affect the validity of the appeal. Service in accordance with division (C) of this section is sufficient notwithstanding the death of a party or a party's counsel. The convening authority shall note on its docket the names of the parties served, the dates on which they were served, and the method of service.

(D) An accused may waive appellate review by filing with the convening authority, within ten days after the action under section 5924.60 of the Revised Code is served on the accused or on defense counsel, a written waiver signed by the accused and by defense counsel. The convening authority or



other person taking such action, for good cause, may extend the period for filing by not more than thirty days.

(E) An accused may voluntarily withdraw an appeal at any time by filing a notice of withdrawal with the convening authority.

(F) A waiver of the right to appellate review or the withdrawal of an appeal bars any further review under this section or section 5924.69 of the Revised Code.