



Ohio Revised Code

Section 5924.62 Appeal by state.

Effective: September 28, 2012

Legislation: House Bill 490 - 129th General Assembly

(A) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the state may appeal any of the following, except an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification:

(1) An order or ruling that terminates the proceedings with respect to a charge or specification;

(2) An order or ruling that excludes evidence that is of substantial consequence to the determination of the material issues in the proceeding;

(3) An order or ruling that directs the disclosure of classified information;

(4) An order or ruling that imposes sanctions for nondisclosure of classified information;

(5) A refusal by the military judge to issue a protective order sought by the state to prevent the disclosure of classified information;

(6) A refusal by the military judge to enforce a protective order that has previously been issued by appropriate authority to prevent the disclosure of classified information.

(B) The state may not appeal an order or ruling unless within seventy-two hours after the military judge serves the order or ruling the trial counsel files with the military judge a written notice of appeal from the order or ruling. The notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one that excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(C) Appellate government counsel shall diligently prosecute an appeal under this section to the court of military appeals created by section 5924.66 of the Revised Code.



(D) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.