

Sec.	Art.	
860b.	60b.	Post-trial actions in summary courts-martial and certain general and special courts-martial.
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861.	61.	Waiver of right to appeal; withdrawal of appeal.
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870.	70.	Appellate counsel.
[871.	71.	Repealed.]
872.	72.	Vacation of suspension.
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876.	76.	Finality of proceedings, findings, and sentences.
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876b.	76b.	Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment.

#### Editorial Notes

##### AMENDMENTS

2017—Pub. L. 115–91, div. A, title X, § 1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, § 5541(6)(A) to (C). See 2016 Amendment notes below.

2016—Pub. L. 114–328, div. E, title LXIII, § 5541(6)(D), Dec. 23, 2016, 130 Stat. 2967, struck out item 871 “Art. 71. Execution of sentence; suspension of sentence”.

Pub. L. 114–328, div. E, title LXIII, § 5541(6)(B), (C), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115–91, div. A, title X, § 1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted “Judge advocate review of finding of guilty in summary court-martial” for “Review by a judge advocate” in item 864, “Transmittal and review of records” for “Disposition of records” in item 865, “Courts of Criminal Appeals” for “Review by Court of Criminal Appeals” in item 866, and “Review by Judge Advocate General” for “Review in the office of the Judge Advocate General” in item 869.

Pub. L. 114–328, div. E, title LXIII, § 5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, § 1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added items 860a to 860c and substituted “Post-trial processing in general and special courts-martial” for “Action by the convening authority” in item 860.

Pub. L. 114–328, div. E, title LXIII, § 5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, § 1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, which directed amendment of analysis by striking out item “61” and inserting item 861, was amended by striking out item 861 “Waiver or withdrawal of appeal” and adding new item 861 to reflect the probable intent of Congress.

1996—Pub. L. 104–106, div. A, title XI, § 1133(a)(2), Feb. 10, 1996, 110 Stat. 466, added item 876b.

1994—Pub. L. 103–337, div. A, title IX, § 924(c)(4)(C), Oct. 5, 1994, 108 Stat. 2832, substituted “Court of Criminal Appeals” for “Court of Military Review” in item 866 and “Court of Appeals for the Armed Forces” for “Court of Military Appeals” in item 867.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(i)(1), Nov. 5, 1990, 104 Stat. 1718, added item 867a.

1983—Pub. L. 98–209, §§ 5(a)(2), (b)(2), (c)(2), (h)(2), 6(d)(2), 7(a)(2), Dec. 6, 1983, 97 Stat. 1397, 1398, 1400–1402,

substituted “Post-trial Procedure and Review of Courts-Martial” for “Review of Courts-Martial” as subchapter heading, “Action by the convening authority” for “Initial action on the record” in item 860, “Waiver or withdrawal of appeal” for “Same—General court-martial records” in item 861, “Appeal by the United States” for “Reconsideration and revision” in item 862, “Review by a judge advocate” for “Approval by the convening authority” in item 864, and “Disposition of records” for “Disposition of records after review by the convening authority” in item 865.

1981—Pub. L. 97–81, § 2(c)(2), Nov. 20, 1981, 95 Stat. 1087, added item 876a.

1968—Pub. L. 90–632, § 2(25), Oct. 24, 1968, 82 Stat. 1341, substituted “Court of Military Review” for “board of review” in item 866 (article 66).

#### § 859. Art. 59. Error of law; lesser included offense

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
859(a) .....	50:646(a).	May 5, 1950, ch. 169, § 1
859(b) .....	50:646(b).	(Art. 59), 64 Stat. 127.

The word “may” is substituted for the word “shall”.

#### § 860. Art. 60. Post-trial processing in general and special courts-martial

(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled “Statement of Trial Results”, which shall set forth—

(A) each plea and finding;

(B) the sentence, if any; and

(C) such other information as the President may prescribe by regulation.

(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

(1) may affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any post-trial action by the convening authority; and

(2) are subject to resolution by the military judge before entry of judgment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 98–209, § 5(a)(1), Dec. 6, 1983, 97 Stat. 1395; Pub. L. 99–661, div. A, title VIII, § 806(a)–(c), Nov. 14, 1986, 100 Stat. 3908, 3909; Pub. L. 104–106, div. A, title XI, § 1132, Feb. 10, 1996, 110 Stat. 464; Pub. L. 113–66, div. A, title XVII, §§ 1702(b), (c)(1), 1706, Dec. 26, 2013, 127 Stat. 955–957, 960; Pub. L. 113–291, div. A, title V, § 531(a)(1)–(3), (5), Dec. 19,