

President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of an offense. Such rules shall include—

- (A) procedures for notice of the opportunity to make such submissions;
- (B) the deadlines for such submissions; and
- (C) procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

(2) The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

(f) DECISION OF CONVENING AUTHORITY.—(1) The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

(2) If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

(3) If, under subsection (d)(2), the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the chief trial judge for appropriate modification of the entry of judgment, which shall be transmitted to the Judge Advocate General for appropriate action.

(Added Pub. L. 114-328, div. E, title LIX, §5322, Dec. 23, 2016, 130 Stat. 2924.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

§ 860b. Art. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial

(a) IN GENERAL.—(1) In a court-martial not specified in section 860a(a)(2) of this title (article 60a(a)(2)), the convening authority may—

- (A) dismiss any charge or specification by setting aside the finding of guilty;
- (B) change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense;
- (C) disapprove the findings and the sentence and dismiss the charges and specifications;
- (D) disapprove the findings and the sentence and order a rehearing as to the findings and the sentence;
- (E) disapprove, commute, or suspend the sentence, in whole or in part; or
- (F) disapprove the sentence and order a rehearing as to the sentence.

(2) In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph (1).

(3) Except as provided in paragraph (4), the convening authority may act under this section only before entry of judgment.

(4) The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under section 860a(d)(2) of this title (article 60a(d)(2)). Such action shall be forwarded to the chief trial judge, who shall ensure appropriate modification to the entry of judgment and shall transmit the entry of judgment to the Judge Advocate General for appropriate action.

(5) Under regulations prescribed by the Secretary concerned, 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.

(b) LIMITATIONS ON REHEARINGS.—The convening authority may not order a rehearing under this section—

- (1) as to the findings, if there is insufficient evidence in the record to support the findings;
- (2) to reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or
- (3) to reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter.

(c) SUBMISSIONS BY ACCUSED AND VICTIM.—In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by section 860a(e) of this title (article 60a(e)).

(d) DECISION OF CONVENING AUTHORITY.—(1) In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

(2) If the convening authority acts on the findings or the sentence under subsection (a)(1), the decision of the convening authority shall include a written explanation of the reasons for such action.

(Added Pub. L. 114-328, div. E, title LIX, §5323, Dec. 23, 2016, 130 Stat. 2926.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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§ 860c. Art. 60c. Entry of judgment

(a) ENTRY OF JUDGMENT OF GENERAL OR SPECIAL COURT-MARTIAL.—(1) In accordance with rules prescribed by the President, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following: