

Army Regulation 27-13
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NAVSO P 2319
CGM 5800.5B

Military Justice

COURTS OF MILITARY REVIEW—RULES OF PRACTICE AND PROCEDURE

Headquarters
Departments of the Army, The Air Force,
The Navy, and The United States Coast
Guard
Washington, DC
29 May 86

UNCLASSIFIED

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BY ORDER OF THE SECRETARIES OF THE ARMY, THE AIR FORCE, THE NAVY,
AND THE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION

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incorporates Change 1, which remains in effect.

Summary. This regulation publishes the rules of practice and procedure for courts of military review, pursuant to the Uniform Code of Military Justice, Article 66(f) (10 U.S.C. 866). When the title “The Judge Advocate General” is used in a rule, it includes the General Counsel of the Department of Transportation when the Coast Guard is not operating as a service in the Navy. The effective date of these rules is 1 March 1985.

Applicability. This regulation applies to The Judge Advocates General of the Department of the Air Force, the Army, and the Navy and the General Counsel of the Department of Transportation. The effective date of these rules is 1 March 1985.

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1. Rule 1. NAME AND SEAL.

a. The titles of the Courts of Military Review of the respective services are:

- (1) "United States Army Court of Military Review."
- (2) "United States Navy–Marine Corps Court of Military Review."
- (3) "United States Air Force Court of Military Review"
- (4) "United States Coast Guard Court of Military Review."

b. Each Court is authorized a seal in the discretion of the Judge Advocate General concerned. The design of such seal shall include the title of the Court.

2. Rule 2. JURISDICTION.

a. The jurisdiction of the Court is as follows:

(1) Review under Article 66. All cases of trial by court-martial in which the sentence as approved extends to:

(a) death; or

(b) dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad conduct discharge, or confinement for 1 year or longer; and the accused has not waived or withdrawn appellate review.

(2) Review upon Direction of the Judge Advocate General Under Article 69. All cases of trial by general court-martial in which there have been a finding of guilty and a sentence:

(a) for which article 66 does not otherwise provide appellate review, and

(b) which the Judge Advocate General forwards to the Court for review, and

(c) in which the accused has not waived or withdrawn appellate review.

(3) Review under Article 62. All cases of trial by court-martial in which a punitive discharge may be adjudged and a military judge presides, and in which the Government appeals an order or ruling of the military judge that terminates the proceedings with respect to a charge or specification or excludes evidence that is substantial proof of a fact material to the proceedings.

(4) Review under Article 73. All petitions for a new trial in cases of trial by court-martial which are referred to the Court by the Judge Advocate General.

b. Extraordinary Writs. The Court may, in its discretion, entertain petitions for extraordinary relief including, but not limited to, writs of mandamus, writs of prohibition, writs of habeas corpus, and writs of error coram nobis.

c. Effect of Rules on Jurisdiction. Nothing in these rules shall be construed to extend or limit the jurisdiction of the Courts of Military Review as established by law.

3. Rule 3. SCOPE OF REVIEW.

In cases referred to it for review pursuant to Article 66, the Court may also act only with respect to the findings and sentence as approved by the convening authority. In determining an appeal under Article 62, the Court may act only with respect to matters of law. The Court may, in addition, review such other matters and take such other action as it determines to be proper under substantive law.

4. Rule 4. QUORUM.

a. *In Panel.* When sitting in panel, a majority of the judges assigned to that panel constitutes a quorum for the purpose of hearing or determining any matter referred to the panel. The determination of any matter referred to the panel shall be according to the opinion of a majority of the judges participating in the decision. However, any judge present for duty may issue all necessary orders concerning any proceedings pending on panel and any judge present for duty, or a Clerk of Court of Commissioner to whom the Court has delegated authority, may act on uncontested motions, provided such action does not finally dispose of a petition, appeal, or case before the Court.

b. *En banc.* When sitting as a whole, a majority of the judges of the Court constitutes a quorum for the purpose of hearing and determining any matter before the Court. The determination of any matter before the Court shall be according to the opinion of a majority of the judges participating in the decision. In the absence of a quorum, any judge present for duty may issue all necessary orders concerning any proceedings pending in the Court preparatory to hearing or decision thereof.

5. Rule 5. PLACE FOR FILING PAPERS.

When the filing of a notice of appearance, brief, or other paper in the office of a Judge Advocate General is required by these rules, such papers shall be filed in the office of the Judge Advocate General of the appropriate armed force. If transmitted by mail or other means, they are not filed until received in such office.

6. Rule 6. SIGNING OF PAPERS.

All formal papers shall be signed and shall show, typewritten or printed, the signer's name, address, military grade (if any), and the capacity in which the paper is signed. Such signature constitutes a certification that the statements made