

# POST-TRIAL ACTION

## SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI)		2. PAYGRADE/RANK	3. DoD ID NUMBER
<input type="text"/>		<input type="text"/>	<input type="text"/>
4. UNIT OR ORGANIZATION		5. CURRENT ENLISTMENT	6. TERM
<input type="text"/>		<input type="text"/>	<input type="text"/>
7. CONVENING AUTHORITY (UNIT/ORGANIZATION)	8. COURT-MARTIAL TYPE	9. COMPOSITION	10. DATE SENTENCE ADJUDGED
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

### Post-Trial Matters to Consider

11. Has the accused made a request for deferment of reduction in grade?	<input type="radio"/> Yes	<input type="radio"/> No
12. Has the accused made a request for deferment of confinement?	<input type="radio"/> Yes	<input type="radio"/> No
13. Has the accused made a request for deferment of adjudged forfeitures?	<input type="radio"/> Yes	<input type="radio"/> No
14. Has the accused made a request for deferment of automatic forfeitures?	<input type="radio"/> Yes	<input type="radio"/> No
15. Has the accused made a request for waiver of automatic forfeitures?	<input type="radio"/> Yes	<input type="radio"/> No
16. Has the accused submitted necessary information for transferring forfeitures for benefit of dependents?	<input type="radio"/> Yes	<input type="radio"/> No
17. Has the accused submitted matters for convening authority's review?	<input type="radio"/> Yes	<input type="radio"/> No
18. Has the victim(s) submitted matters for convening authority's review?	<input type="radio"/> Yes	<input type="radio"/> No
19. Has the accused submitted any rebuttal matters?	<input type="radio"/> Yes	<input type="radio"/> No
20. Has the military judge made a suspension or clemency recommendation?	<input type="radio"/> Yes	<input type="radio"/> No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	<input type="radio"/> Yes	<input type="radio"/> No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	<input type="radio"/> Yes	<input type="radio"/> No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

24. Convening Authority Name/Title	25. SJA Name
<input type="text"/>	<input type="text"/>
26. SJA signature	27. Date
<input type="text"/>	<input type="text"/>

**SECTION B - CONVENING AUTHORITY ACTION**

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

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29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

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30. Convening Authority's signature

31. Date

32. Date convening authority action was forwarded to PTPD or Review Shop.	
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**SECTION C - ENTRY OF JUDGMENT**

**\*\*MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt\*\***

**33. Findings of each charge and specification referred to trial.** [1) The UCMJ Article for each charge; 2) for each specification, any applicable subsection of the Article; 3) a summary of each specification (include at a minimum the nature and gravamen of the offense); 4) the date of the offense; 5) the plea of the accused; 6) the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

34. **Sentence to be Entered.** Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

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35. **Deferment and Waiver.** Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

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36. Action convening authority took on any suspension recommendation from the military judge:

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37. Judge's signature:

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38. Date judgment entered:

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39. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

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40. Judge's signature:

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41. Date judgment entered:

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42. Return completed copy of the judgment to the Post-Trial Department/Review Shop for distribution to the defense counsel and/or accused as well as the victim and/or victims' legal counsel.

## Instructions for Staff Judge Advocates when Describing Convening Authority Clemency Powers

\*\* Clemency Authority corresponds to the date of the earliest offense for which the accused was found guilty. \*\*

### **Based on the earliest finding of guilty for an offense committed prior to 24 June 2014 (RCM 1107, MCM 2012):**

**a. Action on the findings.** The convening authority may, in the convening authority's sole discretion:

- (1) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification; or
- (2) Set aside any finding of guilty and—
  - (a) Dismiss the specification and, if appropriate, the charge, or
  - (b) Direct a rehearing.

**b. Action on the sentence.** The convening authority may for any or no reason disapprove a legal sentence in whole or in part, mitigate the sentence, and change a punishment to one of a different nature as long as the severity of the punishment is not increased. The convening or higher authority may not increase the punishment imposed by a court-martial. The convening authority shall provide a written explanation of the reasons for any such action taken on the sentence in Block 28 of the form below.

**Staff Judge Advocate Recommendation:** If the case was referred to a court-martial on or after 1 January 2019, no Staff Judge Advocate Recommendation (SJAR) is required. However, recommend advising the CA of the clemency authority and documenting that in Block 23 below.

### **Based on the earliest finding of guilty for an offense committed on or after 24 June 2014 but prior to 1 January 2019 (RCM 1107, MCM 2016):**

**a. Action on findings.** The convening authority may not set aside, disapprove, or take any other action on the findings of the court-martial when —

- (1) The court-martial found the accused guilty of—
  - (a) An offense for which the maximum authorized sentence to confinement is more than two years, without considering the jurisdictional maximum of the court;
  - (b) A violation of Article 120(a) or (b);
  - (c) A violation of Article 120b; or
  - (d) A violation of such other offense as the Secretary of Defense has specified by regulation; or
- (2) The sentence of the court-martial includes—
  - (a) A bad-conduct discharge, dishonorable discharge, or dismissal;
  - (b) A term of confinement, or terms of confinement running consecutively, more than six months; or
  - (c) Death.
- (3) For any court-martial not described above, action on findings is not required; however, the convening authority may—
  - (a) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification; or
  - (b) Set aside any finding of guilty and—
    - (1) Dismiss the specification and, if appropriate, the charge; or
    - (2) Order a rehearing in accordance with the procedures set forth in RCM 810.
- (4) If the convening authority acts to dismiss or change any charge or specification for an offense, the convening authority shall provide a written explanation of the reasons for such action in Block 28 of the form below.

## Instructions for Staff Judge Advocates when Describing Convening Authority Clemency Powers

**b. Action on the sentence.** Except as provided below, the convening authority may disapprove, commute, or suspend, in whole or in part, any portion of an adjudged sentence not explicitly prohibited by RCM 1107, MCM 2016, to include reduction in pay grade, forfeitures of pay and allowances, fines, reprimands, restrictions, and hard labor without confinement.

(1) The convening authority may not disapprove, commute, or suspend, in whole or in part, that portion of an adjudged sentence that includes: (a) confinement for more than six months; or (b) dismissal, dishonorable discharge, or bad-conduct discharge.

(2) Exceptions.

(a) Trial counsel recommendation. Upon the recommendation of the trial counsel, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this rule shall have the authority to disapprove, commute, or suspend the adjudged sentence, in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

(b) Pretrial agreement. If a pretrial agreement has been entered into by the convening authority and the accused, as authorized by RCM 705, the convening authority or another person authorized to act under this rule shall have the authority to approve, disapprove, commute, or suspend a sentence, in whole or in part, pursuant to the terms of the pretrial agreement. However, if a mandatory minimum sentence of a dishonorable discharge applies to an offense for which an accused has been convicted, the convening authority or another person authorized to act under this rule may commute the dishonorable discharge to a bad-conduct discharge pursuant to the terms of the pretrial agreement.

(c) Suspension authority. The convening authority may suspend a sentence of a dishonorable discharge, bad-conduct discharge, or dismissal, or confinement for more than six months if: (1) the Statement of Trial Results (STR) includes a recommendation by the military judge that the convening authority suspend the sentence, in whole or in part; and (2) the military judge includes a statement explaining the basis for the suspension recommendation. However, the convening authority may not suspend a mandatory minimum sentence based on the suspension recommendation of a military judge. (See Art. 60a(c), MCM 2019 and E.O. 13825)

(3) If the convening authority suspends a sentence, the portion of the sentence that is to be suspended may not exceed the portion of the sentence that the military judge recommended be suspended; the duration of the suspension may not be less than that recommended by the military judge; and the suspended portion of the sentence may be terminated by remission only as provided in RCM 1107(e) (MCM 2019).

**Staff Judge Advocate Recommendation:** If the case was referred to a court-martial on or after 1 January 2019, no Staff Judge Advocate Recommendation (SJAR) is required. However, recommend advising the CA of the clemency authority and documenting that in Block 23 below.

### **Based on the earliest finding of guilty for an offense committed on or after 1 January 2019 (MCM 2019):**

**a. Action on findings.** The convening authority may not set aside, disapprove, or take any other action on the findings of the court-martial when —

(1) The court-martial found the accused guilty of—

(a) An offense for which the maximum authorized sentence to confinement is more than two years, without considering the jurisdictional maximum of the court;

## Instructions for Staff Judge Advocates when Describing Convening Authority Clemency Powers

- (b) A violation of Article 120(a) or (b);
  - (c) A violation of Article 120b; or
  - (d) A violation of such other offense as the Secretary of Defense has specified by regulation; or
- (2) The sentence of the court-martial includes—
- (a) A bad-conduct discharge, dishonorable discharge, or dismissal;
  - (b) A term of confinement, or terms of confinement running consecutively, more than six months; or
  - (c) Death.
- (3) For any court-martial not described above, action on findings is not required; however, the convening authority may—
- (a) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification; or
  - (b) Set aside any finding of guilty and—
    - 1. Dismiss the specification and, if appropriate, the charge; or
    - 2. Order a rehearing in accordance with the procedures set forth in R.C.M. 810.
- (4) If the convening authority acts to dismiss or change any charge or specification for an offense, the convening authority shall provide a written explanation of the reasons for such action in Block 28 of the form below.

**b. Action on the sentence.** For any court-martial described under subsection a(1) and (2), above, the convening authority may:

- (1) Modify a bad-conduct discharge, dishonorable discharge, or dismissal only as provided in RCM 1109(e) (MCM 2019) (Reduction of sentence for substantial assistance by accused) and RCM 1109(f) (MCM 2019) (Suspension);
- (2) Modify a term of confinement of more than six months, or terms of confinement that running consecutively are more than six months, only as provided in RCM 1109 (e) or (f) (MCM 2019);
- (3) Reduce or commute a punishment of death only as provided in RCM 1109(e) (MCM 2019);
- (4) Reduce, commute, or suspend, in whole or in part, any punishment adjudged for an offense tried under the law of war other than the punishments specified in paragraphs (1), (2), and (3);
- (5) Reduce, commute, or suspend, in whole or in part, the following punishments:
  - (a) The confinement portion of a sentence if the confinement portion of the sentence is six months or less, to include terms of confinement that running consecutively total six months or less;
  - (b) A reprimand;
  - (c) Forfeiture of pay or allowances;
  - (d) A fine;
  - (e) Reduction in pay grade;
  - (f) Restriction to specified limits; and
  - (g) Hard labor without confinement.

**Staff Judge Advocate Recommendation:** No Staff Judge Advocate Recommendation (SJAR) is required. However, recommend advising the CA of the clemency authority and documenting that in Block 23 below.