

(B) *Procedure.* The accused's absence will be conditional upon the accused being able to view the witness' testimony from a remote location. Normally, transmission of the testimony will include a system that will transmit the accused's image and voice into the courtroom from a remote location as well as transmission of the child's testimony from the courtroom to the accused's location. A one-way transmission may be used if deemed necessary by the military judge. The accused will also be provided private, contemporaneous communication with his counsel. The procedures described herein shall be employed unless the accused has made a knowing and affirmative waiver of these procedures.

(C) *Effect on accused's rights generally.* An election by the accused to be absent pursuant to R.C.M. 804(a)(4)(A) shall not otherwise affect the accused's right to be present at the remainder of the trial in accordance with this rule.

(b) *Military judge.*

(1) No court-martial proceeding, except the deliberations of the members, may take place in the absence of the military judge. The military judge may attend Article 39(a) sessions via remote means through the use of audiovisual technology.

(2) When a new military judge is detailed under R.C.M. 505(e)(2) after the presentation of evidence on the merits has begun in a trial before a military judge alone, trial may not proceed unless the accused requests, and the new military judge approves, trial by military judge alone, and a verbatim record of the testimony and evidence or a stipulation thereof is read to or played for the new military judge in the presence of the accused and counsel for both sides, or the trial proceeds as if no evidence had been presented.

(c) *Members.*

(1) Unless the accused is tried or sentenced by military judge alone, no court-martial proceeding may take place in the absence of any detailed member except: Article 39(a) sessions under R.C.M. 803; temporary excusal under R.C.M. 911(b); examination of members under R.C.M. 912(d); when the member has been excused under R.C.M. 505, 912(f), or 912A; as otherwise provided in R.C.M. 1104(d)(1); or as otherwise provided in this Manual.

(2) When after presentation of evidence on the merits has begun, a new member is impaneled under R.C.M. 912A, trial may not proceed unless the testimony and evidence previously admitted on the merits, if recorded verbatim, is read to or played for the new member in the presence of the military judge, the accused, and counsel for both sides, or, if not recorded verbatim, and in the absence of a stipulation as to such testimony and evidence, the trial proceeds as if no evidence has been presented.

(d) *Counsel.* As long as at least one qualified counsel for each party is present, other counsel for each party may be absent from a court-martial session. In the case of a court-martial requiring the detailing of a special trial counsel, the presence of a special trial counsel is required unless a special trial counsel determines otherwise and another trial counsel, who is qualified according to Article 27(b), is also present. An assistant counsel who lacks the qualifications necessary to serve as counsel for a party may not act at a session in the absence of such qualified counsel. For purposes of Article 39(a) sessions and subject to R.C.M. 804(a)(3), the presence of counsel may be satisfied via remote means through the use of audiovisual technology.

(e) *Victim and Victim's Counsel.* Subject to R.C.M. 914B, at the discretion of the military judge and for good cause, the victim and victim's counsel may be present through the use of audiovisual technology.”

(qqq) R.C.M. 805 is amended to read as follows: