

(D) not guilty.”

(jjj) R.C.M. 911 is amended to read as follows:

“Rule 911. Randomization and assembly of the court-martial panel

(a) Prior to assembly of the court-martial, at an open session of the court-martial, the military judge, or a designee thereof, shall randomly assign numbers to the members detailed by the convening authority.

(b) The military judge shall determine, after accounting for any excusals by the convening authority or designee, how many members detailed by the convening authority must be present at the initial session for which members are required. The required number of members shall be present, according to the randomly assigned order determined pursuant to R.C.M. 911(a). The military judge may temporarily excuse any member who has been detailed but is not required to be present.

(c) At the initial session for which members are required, the military judge shall cause the members who are present to be sworn, account on the record for any members who are temporarily excused, and then announce assembly of the court-martial.

(d) The military judge shall ensure any additional member is sworn at the first court session at which the member is present.”

(kkkk) R.C.M. 912(f)(5) is deleted.

(lll) R.C.M. 912(g) is amended to read as follows:

“(g) *Peremptory challenges.*

(1) *Procedure.* Each party may challenge one member peremptorily. Any member so challenged shall be excused. No party may be required to exercise a peremptory challenge before the examination of members and determination of any challenges for cause have been completed.

Ordinarily, trial counsel shall enter any peremptory challenge before the defense. No member may be impaneled without being subject to peremptory challenge.

(2) *Additional Members.* If members not previously subject to peremptory challenge are required, the procedures in R.C.M. 912(g)(1) shall be followed with respect to such members.

(3) *Waiver.* Failure to exercise a peremptory challenge when properly called upon to do so shall waive the right to make such a challenge. The military judge may, for good cause shown, grant relief from the waiver, but a peremptory challenge may not be made after the presentation of evidence before the members has begun. However, nothing in this subsection shall bar the exercise of a peremptory challenge against a member newly detailed under R.C.M. 505(c)(2)(B), even if presentation of evidence on the merits has begun.”

(mmmm) R.C.M. 912A is amended to read as follows:

“Rule 912A. Impaneling members and alternate members

(a) *In general.* After challenges for cause and peremptory challenges are exercised, the military judge of a general or special court-martial with members shall impanel the members based on the order assigned in R.C.M. 911(a), and, if authorized by the convening authority, alternate members, in accordance with the following numerical requirements:

(1) *Capital cases.* In a general court-martial in which the charges were referred with a special instruction that the case be tried as a capital case, the number of members impaneled, subject to R.C.M. 912A(a)(4), shall be twelve.

(2) *General courts-martial.* In a general court-martial other than as described in R.C.M. 912A(a)(1), the number of members impaneled, subject to R.C.M. 912A(a)(4), shall be eight.

(3) *Special courts-martial.* In a special court-martial, the number of members impaneled, subject to R.C.M. 912A(a)(4), shall be four.