

to the Court of Appeals for the Armed Forces for review with respect to any matter of law. In such a case, the Judge Advocate General shall cause a copy of the decision of the Court of Criminal Appeals and the order forwarding the case to be served on the accused and on appellate defense counsel. While a review of a forwarded case is pending, the Secretary concerned may defer further service of a sentence to confinement that has been ordered executed in such a case.

(2) *Action when findings are set aside.* In a case reviewed by the Court of Criminal Appeals under this rule in which it has set aside the findings and which is not forwarded to the Court of Appeals for the Armed Forces under R.C.M. 1203(e)(1), the Judge Advocate General shall instruct an appropriate authority to take action in accordance with the decision of the Court of Criminal Appeals. If the Court of Criminal Appeals has authorized a rehearing on findings, the record shall be sent to an appropriate referral authority.

(A) If the Court has authorized a rehearing, but the convening authority to whom the record is transmitted finds a rehearing impracticable, the convening authority shall dismiss the charges.

(B) If the Court has authorized a rehearing, but the special trial counsel to whom the record is transmitted finds a rehearing impracticable, special trial counsel shall dismiss the charges.

(3) *Action when sentence is set aside.* In a case reviewed by the Court of Criminal Appeals under this rule in which it has set aside the sentence and which is not forwarded to the Court of Appeals for the Armed Forces under R.C.M. 1203(e)(1), the Judge Advocate General shall instruct an appropriate authority to modify the judgment in accordance with the decision of the Court of Criminal Appeals. If the Court of Criminal Appeals has authorized a rehearing on sentence, the record shall be sent to an appropriate referral authority.

(A) If the convening authority finds a rehearing impracticable, the applicable convening authority shall order either that a sentence of no punishment be imposed or that the applicable charges be dismissed.

(B) If special trial counsel finds a rehearing impracticable, special trial counsel may dismiss the applicable charges. If special trial counsel makes a determination not to dismiss the applicable charges, the convening authority shall order that a sentence of no punishment be imposed.

(4) *Action when sentence is affirmed in whole or part.*

(A) *Sentence including death.* If the Court of Criminal Appeals affirms any sentence which includes death, the Judge Advocate General shall transmit the record of trial and the decision of the Court of Criminal Appeals directly to the Court of Appeals for the Armed Forces when any period for reconsideration provided by the rules of the Courts of Criminal Appeals has expired.

(B) *Other cases.* If the Court of Criminal Appeals affirms any sentence other than one which includes death, the Judge Advocate General shall cause a copy of the decision of the Court of Criminal Appeals to be served on the accused in accordance with R.C.M. 1203(f).

(5) *Remission or suspension.* If the Judge Advocate General believes that a sentence as affirmed by the Court of Criminal Appeals, other than one which includes death, should be remitted or suspended in whole or part, the Judge Advocate General may, before taking action under R.C.M. 1203(e)(1) or (4), transmit the record of trial and the decision of the Court of Criminal Appeals to the Secretary concerned with a recommendation for action under Article 74 or may take such action as may be authorized by the Secretary concerned under Article 74(a).