

“Rule 1002. Sentencing determination

(a) *Generally.* Subject to limitations in this Manual, the sentence to be adjudged is a matter within the discretion of the court-martial. A court-martial may adjudge any punishment authorized in this Manual in order to achieve the purposes of sentencing under R.C.M. 1002(c), including the maximum punishment or any lesser punishment, or may adjudge a sentence of no punishment except as outlined below.

(1) *Mandatory minimum.* Unless otherwise authorized, when a mandatory minimum sentence is prescribed by the UCMJ, the sentence for an offense shall include any punishment that is made mandatory by law for that offense. The sentence for an offense may not be greater than the maximum sentence established by law or by the President for that offense.

(2) *Parameters and criteria.*

(A) When an offense is subject to sentencing criteria, the military judge shall consider the applicable sentencing criteria in determining the sentence for that offense.

(B) When an offense is subject to sentencing parameters, the military judge shall sentence the accused for that offense within the applicable parameter, unless the military judge finds specific facts that warrant a sentence outside the applicable parameter. If the military judge imposes a sentence outside a sentencing parameter, the military judge shall include in the record a written statement of the factual basis for the sentence.

(3) If the military judge accepts a plea agreement with a sentence limitation, the court-martial shall sentence the accused in accordance with the limits established by the plea agreement. Subject to Article 53a(c), the military judge shall accept a plea agreement submitted by the parties, except that—

(A) in the case of an offense with a sentencing parameter, the military judge may

reject a plea agreement that proposes a sentence that is outside the sentencing parameter if the military judge determines that the proposed sentence is plainly unreasonable; and

(B) in the case of an offense for which there is no sentencing parameter, the military judge may reject a plea agreement that proposes a sentence if the military judge determines that the proposed sentence is plainly unreasonable.

(b) *Noncapital cases.* The military judge shall determine the sentence of a general or special court-martial in accordance with this subsection in all noncapital cases.

(1) *Segmented sentencing for confinement and fines.* The military judge at a general or special court-martial shall determine an appropriate term of confinement and fine, if applicable, for each specification for which the accused was found guilty. Subject to R.C.M. 1002(a), such a determination may include a term of no confinement or no fine when appropriate for the offense.

(2) *Special court-martial.* The military judge shall, in a special court-martial, to the extent necessary, reduce the total confinement to the maximum confinement authorized under R.C.M. 201(f)(2).

(3) *Unitary sentencing for other forms of punishment.* All punishments other than confinement or a fine available under R.C.M. 1003, if any, shall be determined as a single, unitary component of the sentence, covering all of the guilty findings in their entirety. The military judge shall not segment those punishments among the guilty findings.

(c) *Imposition of sentence.* In sentencing an accused under this rule, the court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the United States Armed Forces, taking into consideration—

(1) the nature and circumstances of the offense and the history and characteristics of the