

months. Confinement and restriction may be adjudged in the same case, but they may not together exceed the maximum authorized period of confinement.”

(o) R.C.M. 1003(c)(1)(A)(i) is amended to read as follows:

“(i) *Maximum punishment.* The maximum limits for the authorized punishments of confinement, forfeitures, and punitive discharge (if any) are set forth for each offense listed in Part IV of this Manual. These limitations are for each separate offense, not for each charge, and apply notwithstanding any applicable sentencing parameter. When a dishonorable discharge is authorized, a bad-conduct discharge is also authorized.”

(p) R.C.M. 1003(c)(1)(B) is amended to read as follows:

“(B) *Offenses not listed in Part IV.*

(i) *Included or closely related offenses.* For an offense not listed in Part IV of this Manual that is included in or closely related to an offense listed therein, the maximum punishment and the sentencing parameter or criteria shall be that or those of the offense listed; however, if an offense not listed is included in a listed offense, and is closely related to another or is equally closely related to two or more listed offenses, the maximum punishment and the sentencing parameter or criteria shall be the same as that or those of the least severe of the listed offenses.

(ii) *Not included or closely related offenses.* An offense not listed in Part IV and not included in or closely related to an offense listed therein is punishable as authorized by the United States Code or as authorized by the custom of the applicable service. When the United States Code provides for confinement for a specified period or not more than a specified period, the maximum punishment by court-martial shall include confinement for that period. If the period is 1 year or longer, the maximum punishment by court-martial also includes a

dishonorable discharge and forfeiture of all pay and allowances; if the period is 6 months or more but less than 1 year, the maximum punishment by court-martial also includes a bad-conduct discharge and forfeiture of all pay and allowances; if the period is less than 6 months, the maximum punishment by court-martial also includes forfeiture of two-thirds pay per month for the authorized period of confinement.”

(q) R.C.M. 1004 is revised to read as follows:

“Rule 1004. Capital cases

(a) *In general.* In addition to the provisions in R.C.M. 1001, the provisions in this rule shall apply in capital cases. Death may be adjudged only when—

(1) Death is expressly authorized under Part IV of this Manual for an offense of which the accused has been found guilty or is authorized under the law of war for an offense of which the accused has been found guilty under the law of war;

(2) The accused was properly notified that the case would be tried as a capital case and was properly notified of the aggravating factors the Government intended to prove;

(3) The accused was convicted of such an offense by either—

(A) the unanimous vote of all twelve members of the court-martial; or

(B) the military judge pursuant to the accused’s plea of guilty to such an offense;

(4) The members unanimously find that at least one of the aggravating factors under R.C.M. 1004(c) existed beyond a reasonable doubt for that offense and notice of such factor was provided in accordance with R.C.M. 1004(b);

(5) The members unanimously find that the extenuating and mitigating circumstances are substantially outweighed by any aggravating circumstances, including any relevant aggravating factor(s); and