

the president shall inform the military judge that the members have reached a determination. The military judge may, in the presence of the parties, examine any writing used by the president to state the determination and may assist the members in putting the determination in proper form. If the members voted unanimously for a determination of death, the writing shall indicate which aggravating factor or factors under R.C.M. 1004(c) the members unanimously found to exist beyond a reasonable doubt. Neither that writing nor any oral or written clarification or discussion concerning it shall constitute announcement of the determination.

(i) *Reconsideration.* Subject to this rule, a sentence may be reconsidered at any time before it is announced in open session of the court.

(1) *Clarification of determination.* A sentence determination may be clarified at any time before entry of judgment. When a determination by the members in a capital case is ambiguous, the military judge shall bring the matter to the attention of the members if the matter is discovered before the court-martial is adjourned. If the matter is discovered after adjournment, the military judge may call a session for clarification by the members as soon as practicable after the ambiguity is discovered, or the military judge may resolve the ambiguity.

(2) *Action by the convening authority.*

(A) Prior to entry of judgment, if a convening authority becomes aware that the sentence of the court-martial is ambiguous, the convening authority shall return the matter to the court-martial for clarification. When the sentence of the court-martial appears to be illegal, the convening authority shall return the matter to the court-martial for correction.

(B) Prior to entry of judgment in a case in which a special trial counsel has exercised authority—

(i) if the special trial counsel becomes aware that the sentence of a court-martial is ambiguous, the special trial counsel shall make a binding determination that the convening authority return the matter to the court-martial for clarification; or

(ii) if the sentence of the court-martial appears to be illegal, the special trial counsel shall make a binding determination that the convening authority shall return the matter to the court-martial for correction.

(3) *Reconsideration procedure.* Any member of the court-martial may propose that a determination of the members in a capital case be reconsidered.

(A) *Instructions.* When reconsideration has been requested, the military judge shall instruct the members on the procedure for reconsideration.

(B) *Voting.* The members shall vote by secret written ballot in closed session whether to reconsider a determination.

(C) *Number of votes required for aggravating factors in capital cases.* Members may reconsider a unanimous vote under R.C.M. 1004(g)(4)(A) (i) that an aggravating factor was proven beyond a reasonable doubt if at least one member votes to reconsider. Members may reconsider a unanimous vote under R.C.M. 1004(g)(4)(A)(ii) that any extenuating and mitigating circumstances are substantially outweighed by any aggravating circumstances admissible under R.C.M. 1001(b)(4), including the factors under R.C.M. 1004(c), if at least one member votes to reconsider. In all other circumstances, a vote under R.C.M. 1004(g)(4)(A)(i) or (ii) may be reconsidered only if at least a majority of the members vote for reconsideration.

(D) *Number of votes required for determinations.*

(i) *With a view toward increasing.* Members may reconsider a determination with a view toward increasing the severity of the determination only if at least a