

majority votes for reconsideration. However, members may not reconsider a non-unanimous vote for a determination of death.

(ii) *With a view toward decreasing.* Members may reconsider a determination with a view toward decreasing the severity of the determination only if—

(I) In the case of a death determination, at least one member votes to reconsider; or

(II) In the case of a determination of life in prison without eligibility for parole, more than one-fourth of the members vote to reconsider.

(E) *Successful vote.* If a vote to reconsider succeeds, the members will revote in accordance with R.C.M. 1001(g)(3) and (4).

(j) *Sentencing by military judge.*

(1) The military judge shall sentence the accused in accordance with the binding determination of the members under R.C.M. 1004(g). The military judge may include in any sentence to death or life in prison without eligibility for parole any other authorized lesser punishment. When the military judge's sentence includes confinement or fines, the military judge shall determine an appropriate term of confinement and fine for each specification for which the accused was found guilty.

(2) Where there is a finding of guilty for a specification for which death may be adjudged and a finding of guilty for a specification for which death may not be adjudged—

(A) The members shall make a determination for each specification for which death may be adjudged in accordance with subsection (g);

(B) The military judge shall determine the sentence for any specification returned by the members for sentencing of a lesser punishment than death or life in prison without eligibility for parole; and

(C) The military judge shall determine the sentence for all charges and specifications for which death may not be adjudged. If the sentence includes more than one term of confinement, the military judge shall determine whether the terms of confinement will run concurrently or consecutively.

(k) *Other penalties.* When death is an authorized punishment for an offense, all other punishments authorized under R.C.M. 1003 are also authorized for that offense, including confinement for life, with or without eligibility for parole, and may be adjudged in lieu of death, subject to limitations specifically prescribed in this Manual. A sentence of death includes a dishonorable discharge or dismissal as appropriate. Confinement is a necessary incident of a sentence of death, but not a part of it.

(l) *Impeachment of determination.* A determination that is proper on its face may be impeached only when extraneous prejudicial information was improperly brought to the attention of any member, outside influence was improperly brought to bear upon any member, or unlawful command influence was brought to bear upon any member.”

(r) R.C.M. 1005 is amended to read as follows:

“Rule 1005. Reconsideration of sentence in noncapital cases

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

(b) *Exceptions.*