

(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.*

(1) If the sentence announced in open session was less than the mandatory minimum prescribed for an offense of which the accused has been found guilty, the court that announced the sentence may reconsider such sentence.

(2) If the sentence announced in open session exceeds the maximum permissible punishment for the offense or the jurisdictional limitation of the court-martial, the court that announced the sentence may reconsider such sentence.

(3) If the sentence announced in open session is not in accordance with a sentence limitation in the plea agreement, if any, the court that announced the sentence may reconsider such sentence.

(c) *Clarification of sentence.* A sentence may be clarified at any time before entry of judgment. When a sentence determined by the military judge is ambiguous, the military judge shall call a session for clarification as soon as practicable after the ambiguity is discovered.

(d) *Action by the convening authority or special trial counsel.*

(1) 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.

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

(A) 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.