
SENTENCING CRITERIA

The military judge shall consider the sentencing criteria established for the following offenses:

Article 82. Solicitation to desert (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 83. Malingering (*in time of war or in hostile fire pay zone*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 85. Desertion (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense was committed while the accused was under charges, investigation, or adverse action;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in a way or under circumstances such that the location from which the accused absented himself or remained absent was a territory in which