

If the Supreme Court grants a writ of certiorari, the Judge Advocate General shall take action under R.C.M. 1205(b).

Rule 1205. Review by the Supreme Court

(a) *Cases subject to review by the Supreme Court.* Under 28 U.S.C. § 1259 and Article 67(h), decisions of the Court of Appeals for the Armed Forces may be reviewed by the Supreme Court by writ of certiorari in the following cases:

(1) Cases reviewed by the Court of Appeals for the Armed Forces under Article 67(b)(1);

(2) Cases certified to the Court of Appeals for the Armed Forces by the Judge Advocate General under Article 67(b)(2);

(3) Cases in which the Court of Appeals for the Armed Forces granted a petition for review under Article 67(b)(3); and

(4) Cases other than those described in subsections (a)(1), (2), and (3) of this rule in which the Court of Appeals for the Armed Forces granted relief.

The Supreme Court may not review by writ of certiorari any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review.

(b) *Action by the Supreme Court.* After the Supreme Court has taken action, other than denial of a petition for writ of certiorari, in any case, the Judge Advocate General shall, unless the case is returned to the Court of Appeals for the Armed Forces for further proceedings, forward the case to the President or the Secretary concerned in accordance with R.C.M. 1204(c)(2) or (3) when appropriate, or instruct the convening authority to take action in accordance with the decision.

Rule 1206. Powers and responsibilities of the Secretary

(a) *Sentences requiring approval by the Secretary.* No part of a sentence extending to dismissal of a commissioned officer, cadet, or midshipman may be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary.

Discussion

See Article 71(b).

(b) *Remission and suspension.*

(1) *In general.* The Secretary concerned and, when designated by the Secretary concerned, any Under Secretary, Assistant Secretary, Judge Advocate General, or commander may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures, other than a sentence approved by the President.

(2) *Substitution of discharge.* The Secretary concerned may, for good cause, substitute an administrative discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

(3) *Sentence commuted by the President.* When the President has commuted a death sentence to a lesser punishment, the Secretary concerned may remit or suspend any remaining part or amount of the unexecuted portion of the sentence of a person convicted by a military tribunal under the Secretary's jurisdiction.

Rule 1207. Sentences requiring approval by the President

No part of a court-martial sentence extending to death may be executed until approved by the President.

Discussion

See Article 71(a). See also R.C.M. 1203 and 1204 concerning review by the Court of Criminal Appeals and Court of Appeals for the Armed Forces in capital cases.

Rule 1208. Restoration

(a) *New trial.* All rights, privileges, and property affected by an executed portion of a court-martial sentence—except an executed dismissal or discharge—which has not again been adjudged upon a new trial or which, after the new trial, has not been sustained upon the action of any reviewing authority, shall be restored. So much of the findings and so much of the sentence adjudged at the earlier trial shall be set aside as may be required by the findings and sentence at the new trial. Ordinarily, action