APPELLATE RIGHTS NOTICE

Post-Trial and Appellate Rights

Direct Appeal

(General or Special Court-Martial with no punitive discharge and more than 6 months but less than 2 years confinement adjudged)

Per Rule for Courts-Martial (RCM) 1106, you have the right to submit any matters that you wish to the convening authority for (her) (him) to consider before (s)he takes action on your case. These matters must be submitted to the convening authority within 10 days after the sentence is announced. The convening authority may extend this period for good cause but for not more than 20 additional days. Where a crime victim submits matters for the convening authority to consider under RCM 1106A, you have 5 days from receipt of those matters to submit any matters in rebuttal.

After entry of judgment, unless you waive appellate review, you may appeal your case to the Coast Guard Court of Criminal Appeals. You have 90 days from the date that notice of your right to appeal is provided from the Office of Military Justice (CG-LMJ) to appeal. You are entitled to be represented by counsel before that court. Military counsel will be appointed to represent you at no cost to you and, if you so choose, you may be represented by civilian counsel at no expense to the United States. The Court of Criminal Appeals will review your case for any legal error, for factual sufficiency, and for appropriateness of sentence. If you fail to appeal your case within 90 days of being notified by CG-LMJ, your case will be reviewed by a judge advocate in that office under RCM 1201.

After the Court of Criminal Appeals completes its review, your case could be reviewed, on your request or otherwise, by the Court of Appeals for the Armed Forces and, if it were reviewed by the Court of Appeals for the Armed Forces, it might be further reviewed by the Supreme Court of the United States. You would have the same rights to counsel before those courts as you have before the Court of Criminal Appeals. If you waive appellate review, you give up the rights I have just described. See Article 61, UCMJ.

*[Note: An accused may not waive or withdraw appellate review in a general court-martial in which the approved sentence includes death. See RCM 1110.]*

If you do not waive appellate review, you may withdraw your case from appellate review at a later time, before that review is completed.

If you do waive or later withdraw your case from appellate review, you cannot change your mind later. Once you file a waiver or withdrawal, your decision is final and appellate review is barred.

If you waive or withdraw from appellate review or failed to file a timely appeal, your case will be reviewed by a judge advocate. The record of trial will be examined and the reviewing judge advocate will provide written conclusions as to: (1) whether the court has jurisdiction over the accused and the offense; (2) whether each charge and specification stated an offense; and (3) whether the sentence was within the limits prescribed. If the reviewing judge advocate believes corrective action is appropriate, the record of trial will be sent to The Judge Advocate General of the Coast Guard who may modify or set aside the findings and sentence, in whole or in part, order a rehearing, or dismiss the charges. See RCM 1201.

App. Ex. (1 of 2)

Not later than one year after receiving a copy of the final results of the review described above, you may submit an application to The Judge Advocate General of the Coast Guard. The Judge Advocate General of the Coast Guard may for good cause shown extend the period of submission not to exceed two additional years. The Judge Advocate General of the Coast Guard review is limited to the issue of whether the accused’s waiver, withdrawal, or failure to file was invalid under the law. See RCM 1201(h)(4)(B).

**CERTIFICATION OF ADVISEMENT.**

I certify that I have been advised of the foregoing post-trial and appellate rights by my defense counsel, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in accordance with Rule for Courts-Martial 1010. I have read and fully understand these rights. My defense counsel has gone over these rights with me and has answered all of my questions satisfactorily.

Accused

I certify that I have carefully explained the foregoing rights to the accused.

Defense Counsel

App. Ex. (2 of 2)