



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
200 STOVALL STREET
ALEXANDRIA, VA 22332-2400

IN REPLY REFER TO
JAGINST 5810.2A
20
{ 17, SEP 1993 }

JAG INSTRUCTION 5810.2A

From: Judge Advocate General

Subj: MILITARY JUSTICE REGULATIONS

Ref: (a) Manual for Courts-Martial, United States, 1984 (MCM)
(b) JAGINST 5800.7C, Manual of the Judge Advocate General
(c) NMCTJINST 5810.5A, Navy-Marine Corps Trial Judiciary
Uniform Rules of Practice

Encl: (1) Rules for Government Appeals under Article 62, UCMJ,
and for filing Petitions for Extraordinary Relief
(2) Rules for filing Applications for Substitution of
Discharge under Article 74(b), UCMJ
(3) Sample Appellate Rights Statement
(4) Sample Special Power of Attorney

1. Purpose

a. To reissue the procedural regulations for court-martial trials and appellate practice in the Navy and Marine Corps.

b. To provide guidance to court-martial and appellate practitioners in filing interlocutory appeals and applications for substitution of discharge under the Uniform Code of Military Justice (UCMJ). Enclosures (1) and (2).

c. This is a major revision and should be reviewed in its entirety.

2. Cancellation. JAG Instruction 5810.2.

3. Applicability. This instruction supplements the regulations promulgated in references (a) through (c). It applies to all general and special courts-martial in which the accused is a member of the naval services.

4. Rules of Practice Before Courts-Martial. All naval service court-martial participants, including court reporters, interpreters, clerks of court, and bailiffs, detailed to courts-martial in which the accused is a member of the naval service and all individual defense counsel, military or civilian, will be governed in their courtroom conduct and in their relationships with each other and with the military judge by reference (c), the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial.

5. Maintenance of Records of Oaths of Court Reporters. Under section 0130d(3) of reference (b), any court reporter, military or civilian, may be given a one-time oath. The oath will be administered upon successful completion of the Court Reporter Course administered by the Naval Justice School. Once such oath is taken, the court reporter need not be resworn at any trial or other proceeding to which assigned. In addition, a notation of the fact that a military court reporter has taken a one-time oath and has successfully completed the Court Reporter Course shall be placed in the member's service record for future reference with instructions that such notation be retained in the service record upon reenlistment. When the court reporter is not sworn during the trial, the fact that he has been previously sworn will be noted by the trial counsel and recorded in the transcript or record of trial.

6. Post-trial Representation of a Convicted Accused.

a. Submission of Matters under R.C.M. 1105. When substitute service of the record of trial is made on the defense counsel pursuant to Rule for Courts-Martial (R.C.M.) 1106(f), the submission of additional matters under R.C.M. 1105, need not be signed by the accused, but may be signed by the defense counsel.

b. Appellate Rights

(1) A convicted accused is entitled to post-trial representation by a defense counsel qualified in accordance with Article 27(b), UCMJ, until completion of appellate review in his case. Article 70(c), UCMJ, prescribes the detailing of counsel to represent the accused before the Navy-Marine Corps Court of Military Review (NMCMR), the United States Court of Military Appeals (CMA), or the U.S. Supreme Court. Appellate defense counsel shall be detailed in the Office of the Judge Advocate General. Appellate defense counsel shall represent the accused before NMCMR, CMA, or the U.S. Supreme Court under Articles 62, 66, 67, 67a, or 73, UCMJ, or for petitions for extraordinary relief when requested by the accused, if the United States is represented by counsel, or if the Judge Advocate General certifies a case to CMA or certifies a case originally under his cognizance pursuant to Article 69, UCMJ. An accused may be represented by civilian counsel of his choice provided at no expense to the Government. Upon request of an appellant, and in the discretion of the Director, Appellate Defense Division, appellate defense counsel may be appointed to assist appellants before the Naval Clemency and Parole Board.

(2) Article 38, UCMJ, prescribes counsel rights for the representation of accused before general or special courts-martial or investigations under Article 32, UCMJ. While Article 38, UCMJ, provides that an accused may be represented by military counsel of his own selection if that counsel is reasonably available, no such provision for the selection of individual appellate counsel appears in Articles 38 or 70, UCMJ. Accordingly, the Appellate Defense Division (Code 45), Navy-Marine Corps Appellate Review Activity of the Office of the Judge Advocate General will provide all appellate representation of accused in proceedings before NMCMR, CMA, or the U.S. Supreme Court, with the exception of civilian counsel provided by the accused.

(3) R.C.M. 502(d)(6), requires that defense counsel, immediately after a trial which results in a conviction, advise the accused in detail concerning his appellate rights. Included in this explanation shall be advice with regard to the accused's right to post-trial representation, to request clemency, and to request deferment of any sentence to confinement pursuant to Article 57(d), UCMJ. Defense counsel shall inform the accused of the responsibilities and powers of the convening authority, and as applicable, the possibility of review pursuant to Articles 64 or 69, UCMJ, or review at NMCMR, CMA, or U.S. Supreme Court.

(4) In order to comply with R.C.M. 502(d)(6), the following procedures apply in cases in which death, a punitive discharge, or confinement for one year or more is adjudged:

(a) The accused in a court-martial in which a punitive discharge or confinement for one year or more is adjudged shall, after being advised of his appellate rights, acknowledge advisement of his appellate rights and provide necessary information for forwarding to his appellate defense counsel by completing enclosure (3). This requirement is separate and distinct from applicable forms executed at the end of trial by court-martial in compliance with R.C.M. 1010.

(b) The original, signed appellate rights statement will be attached to the original record of trial.

(c) A duplicate original appellate rights statement shall be provided to the accused and duplicate originals or certified copies shall be attached to each copy of the record of trial. The accused shall also be advised of his authority to designate, by special power of attorney, an attorney-in-fact as his agent to accept service of the NMCMR decision in his case and to petition CMA for review on his behalf. Defense counsel should advise the accused of the advantages of granting an attorney-in-

fact this authority and encourage the accused to execute one. A sample special power of attorney is provided in enclosure (4). If the accused executes such a power of attorney, the original shall be attached to the original appellate rights statement in the original record of trial and copies attached to the appellate rights statement in each copy of the record of trial. A special power of attorney shall be deemed to be revoked if the accused waives appellate review.

c. Relief of Defense Counsel. Relief from duties as defense counsel will ordinarily be predicated upon the assertion by the defense counsel that he will be unable to continue representation of the accused, or that appellate representation has been provided or waived. In accordance with the requirements of United States v. Palenius, 2 M.J. 86 (C.M.A. 1977), the defense counsel should request to be relieved of such duties by the authority before whom the case is pending upon review, i.e., the convening authority, the officer conducting the Article 64, UCMJ, review, the Judge Advocate General conducting a review under Article 69, UCMJ, or NCMCMR or CMA, as appropriate. The authority effecting such relief shall ensure the uninterrupted representation of the accused. Relief will be accomplished by means of an order issued by the cognizant authority; in any event, defense counsel shall be deemed to be relieved upon assignment of appellate defense counsel. The original correspondence and orders relating to the relief of counsel and the appointment of a successor counsel shall be placed in the original record of trial. Copies of all correspondence and orders relating to the relief of counsel and the appointment of successor counsel shall be placed in each record of trial, provided to the defense counsel concerned, and to the accused. There is no requirement for defense counsel or his successor in a special court-martial not involving a bad-conduct discharge to request relief from defense counsel duties after review has been completed pursuant to Article 64, UCMJ.

d. Waiver or Withdrawal of Appellate Review. An accused who wishes either to waive appellate review by NCMCMR or the Judge Advocate General or to withdraw an appeal has the right to consult with counsel prior to such waiver or withdrawal. The request for waiver or withdrawal of appellate review must be in writing and forwarded for enclosure in the original record of trial. In accordance with United States v. Hernandez, 33 M.J. 145 (C.M.A. 1991), an accused can not effectively waive appellate review until after service of the convening authority's action. See Appendices 19 and 20, MCM, 1984, for sample forms.

JAGINST 5810.2A
17 Sep 1993

7. Substitution of Discharge under Article 74(b), UCMJ.
Applications for substitution of discharge under Article 74(b),
UCMJ, shall be submitted in accordance with enclosure (2).


W. L. SCHACHTE, JR.
Acting

Distribution:
JAG Special List 40 (one copy each)

Rules for Government Appeals under Article 62, UCMJ,
and for filing Petitions for Extraordinary Relief

1. Government Appeal under Article 62, UCMJ. The trial counsel may file a notice of appeal under Rule for Courts-Martial (R.C.M.) 908. Coordination with the Director, Appellate Government Division (Code 46), Navy-Marine Corps Appellate Review Activity, is required before such a notice of appeal is filed. Initial telephone contact for coordination should be made at (202) 433-4160/2230 or DSN 288-4160. The certificate of service of the notice of appeal must reflect the date and time of the military judge's ruling or order from which the appeal is taken, and the date and time of service upon the military judge. The notice of appeal shall be promptly and expeditiously forwarded to the Director, Appellate Government Division within 20 days of service of the notice. The Director, Appellate Government Division, as the designated representative of the Government under R.C.M. 908, shall decide whether the appeal shall be filed. See also Uniform Rules for the Courts of Military Review, 22 M.J. CXXVII, and United States v. Pearson, 33 M.J. 777 (N.M.C.M.R. 1991). The notice of appeal shall be forwarded with the following matters:

a. Letter of Justification. The appeal package must contain a letter from the trial counsel to the Director, Appellate Government Division, including a statement of the issues appealed, why the appeal is being taken, and describing the anticipated relevant consequences should the military judge's ruling be permitted to stand. For example, circumstances not apparent in the record of trial including pendency of other cases affected or by the unique import of the case to discipline, morale, or the integrity of military justice, should be set forth in the letter.

b. Record of Trial. Except in extraordinary circumstances, an authenticated record of trial and three copies, including the military judge's essential findings, will be submitted as part of the appeal package. Only that portion of the record of trial dealing with the alleged errors need be transcribed, authenticated, and forwarded. If undue delay awaiting authentication is anticipated, the trial counsel will forward four copies of an unauthenticated record of trial as soon as it is available, to be followed by the authenticated record.

2. Mail the Government appeal package to the Director, Appellate Government Division (Code 46), Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Washington Navy Yard, Building 111, Washington, D.C. 20374-1111. Prominently mark the envelope: GOVERNMENT APPEAL--NOTIFY DIRECTOR, APPELLATE

JAGINST 5810.2A
17 Sep 1993

GOVERNMENT DIVISION IMMEDIATELY. DO NOT OPEN IN MAIL ROOM.

3. Petition for Extraordinary Relief. Defense counsel have a duty to assist an accused in matters ancillary to the actual trial. In appropriate cases, these duties may involve assistance in preparing petitions for extraordinary relief in accordance with the rules of NMCMR and CMA. Give careful attention to the rules of court concerning style, copies, and service. Coordination with the Director, Appellate Defense Division, Navy-Marine Corps Appellate Review Activity, is required before such a petition for extraordinary relief on behalf of an accused is filed. Initial telephone contact for coordination should be made at (202) 433-4161 or DSN 288-4161. Petitions for extraordinary relief which are filed by defense counsel shall be forwarded to the appropriate court, with a copy forwarded to the Director, Appellate Government Division (Code 46), Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Washington Navy Yard, Building 111, Washington, D.C. 20374-1111. The Director, Appellate Defense Division, as designated by the Judge Advocate General under Article 70, UCMJ, may appoint appellate defense counsel to represent the accused in connection with the petition for extraordinary relief. See paragraph 6 of the basic instruction concerning counsel rights for representation before NMCMR and CMA.

4. Government Petitions for Extraordinary Relief. The Director, Appellate Government Division, shall decide whether the Government will petition the NMCMR or CMA for extraordinary relief. Coordination with the Director, Appellate Government Division, is required before notice of intent to seek extraordinary relief is given to a trial judge.

Rules for Filing Applications for
Substitution of Discharge under Article 74(b), UCMJ

1. Statutory Provision. Article 74(b), UCMJ, provides that the "Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial."

2. Submission Procedures. Applications for substitution of discharge under Article 74(b), UCMJ, will be submitted to the Secretary using the following address:

Secretary of the Navy (Judge Advocate General, Code 40)
Navy-Marine Corps Appellate Review Activity
Washington Navy Yard, Building 111
Washington, D.C. 20374-1111

Except in unusual circumstances, applications for substitution of discharge will not normally be considered if received within five years of the execution of the punitive discharge or dismissal, or within five years of the disapproval of a prior request under Article 74(b), UCMJ.

3. Contents of the Application. All applications for substitution of discharge shall contain:

- a. Applicant's full name, social security number, service number (if different), age and date of birth;
- b. Applicant's branch of service;
- c. Date and place of trial, and type of court-martial which resulted in the punitive discharge or dismissal;
- d. Command title of the court-martial convening authority;
- e. Offense(s) of which the applicant was convicted and the sentence approved by the court-martial convening authority;
- f. Date the punitive discharge or dismissal was executed;
- g. Applicant's current marital status and number and ages of dependents, if any;
- h. Applicant's civilian criminal record (arrest(s) with disposition and conviction(s)), if any, both prior and subsequent to the court-martial that resulted in the punitive discharge or dismissal;

JAGINST 5810.2A
17 Sep 1993

i. Applicant's entire court-martial record and record of nonjudicial punishment(s), if any;

j. Any military administrative discharge proceedings (circumstances and disposition) initiated against the applicant;

k. Applicant's full employment record since the punitive discharge or dismissal was executed;

l. The specific type and character of administrative discharge requested under Article 74(b), UCMJ (a more favorable administrative discharge than that requested will not be approved);

m. At least three, but no more than six, character affidavits (the character affidavits must be notarized, indicate the relationship of the affiant as well as specific reasons why the affiant believes the applicant to be of good character). The affidavits should discuss the applicant's character primarily as reflected in the civilian community since the applicant's punitive discharge or dismissal;

n. Any matters, other than character affidavits, supporting the considerations described in paragraph (m);

o. A statement by the applicant, setting forth the specific considerations which the applicant believes constitute "good cause" sufficient to warrant the substitution of an administrative form of discharge for the punitive discharge or dismissal previously executed. Article 74(b), UCMJ, does not provide an extraordinary procedure for the review of a court-martial. Questions of guilt or innocence, or legal issues attendant to the court-martial which resulted in the punitive discharge or dismissal, are neither relevant nor appropriate for consideration under Article 74(b), UCMJ. As used in the statute, "good cause" was envisioned by Congress to encompass a Secretarial exercise of clemency and ultimate control of sentence uniformity. Accordingly, in determining what constitutes "good cause" under Article 74(b), UCMJ, the primary concern will be with the applicant's record in the civilian community subsequent to his punitive separation from the naval service.

4. Signature on Application. Unless incapable of applying himself, the applicant shall personally sign the application, under oath, before a notary or other official authorized to administer oaths. If the applicant is incapable of executing the application, the application may be signed under oath and submitted by the applicant's spouse, next-of-kin, executor,

guardian, or other person recognized as a personal representative by the law of the applicant's domicile. One is considered incapable of executing an application for purposes of this paragraph only when the applicant is unable to sign the application under oath due to physical or mental incapacity. When an application is signed by a person other than the applicant, the circumstances rendering the applicant incapable of executing the application, with appropriate documentation, shall be set forth in the application.

5. Privacy Act Statement.

a. Authority. The authority for requesting information under Article 74(b), UCMJ, is 5 U.S.C. § 301.

b. Principal Purposes. The information requested is used to review, make recommendations, and act on the application for substitution of discharge.

c. Routine Uses. The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation in the Federal Register apply.

d. Mandatory or Voluntary Disclosure and Effect on Individual Not Providing Information. Providing the requested information is voluntary; however, failure to accurately provide the information may result in the denial of the application due to inadequate documentation to establish sufficient grounds for relief.

APPELLATE RIGHTS STATEMENT

From: _____
To: Judge Advocate General
Subj: APPELLATE RIGHTS STATEMENT

1. I was convicted and sentenced by a _____ court-martial on _____ at _____ Pursuant to Article 70, UCMJ, and R.C.M. 502(d)(6), R.C.M. 1010, R.C.M. 1105, R.C.M. 1110, MCM, 1984, my trial defense counsel, _____, has advised me of my appellate rights and the review process of the record of my court-martial as follows:

a. The convening authority will take action on the sentence and may, in his discretion, take action on the findings. The action to be taken on the findings and sentence is within the sole discretion of the convening authority and a matter of command prerogative. The convening authority is not required to review the case for legal errors or factual sufficiency. In taking action on the sentence, the convening authority may approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority is not empowered to reverse a finding of not guilty; however, the convening authority may change a finding of guilty to a charge or specification to a finding of guilty to a lesser offense included within that charge or specification, may disapprove a finding of guilty and order a rehearing, or may set aside and dismiss any charge or specification. Under no circumstances may the convening authority increase the severity of the sentence adjudged. I have been advised by my defense counsel that it is counsel's responsibility to represent me during the convening authority's post-trial action stage of my court-martial conviction. In this regard, my defense counsel has advised me of my right to request deferment of any sentence to confinement, and of counsel's obligation to advise and assist me in preparing matters for submission to the convening authority for consideration prior to his taking action in my case. I understand that I have 10 days after a copy of the authenticated record of trial is served in accordance with R.C.M. 1104(b) or the staff judge advocate's or legal officer's recommendation is served in accordance with R.C.M. 1106(f), whichever is later, to submit matters to the convening authority. The convening authority may, for good cause, extend the 10-day period for not more than 20 additional days. Failure to submit matters within the times prescribed waives the right to submit matters later. I also may expressly waive, in writing, my right to submit matters, and such waiver

JAGINST 5810.2A
17 Sep 1993

may not be revoked. My defense counsel has also advised me of his responsibility to examine the record of trial and to note any errors and to examine the post-trial recommendation of the staff judge advocate or legal officer for error or omissions, and to reply within 10 days from the date of service of the recommendation of the staff judge advocate or legal officer under R.C.M. 1106(f). The convening authority may, for good cause, extend this time period for up to an additional 20 days.

b. If, after action by the convening authority, my approved sentence includes death, a punitive discharge or dismissal, or confinement for one year or more, I understand the record of trial will be forwarded to the Judge Advocate General for referral to the Navy-Marine Corps Court of Military Review (NMCMR) for review. I understand that NMCMR is limited to reviewing the findings and sentence as approved by the convening authority and may not reverse a finding of not guilty, approve findings of guilty previously disapproved, or approve a sentence more severe than that previously approved. In this regard, I understand that no findings of guilty approved on review below may be affirmed by NMCMR unless that court is satisfied that each element of the offense(s) of which I was convicted is established beyond a reasonable doubt by evidence of record. I further understand that if NMCMR approves a finding of guilty with regard to one or more offenses, the court is then required to determine the appropriateness of the sentence as approved on review below.

c. If NMCMR affirms the findings and sentence, in whole or in part, I understand that I have the right to seek further review of my court-martial conviction before the U.S. Court of Military Appeals (CMA). I understand that the review process before NMCMR as described in the preceding paragraph is automatic, but that I must request review before CMA by filing a petition for grant of review within 60 days from the earlier of the date of being notified of the NMCMR decision or the date on which my copy of the NMCMR decision, after having been served on my appellate counsel of record, is deposited in the U.S. mail for delivery by first-class certified mail to the address I have provided; or if I fail to provide such an address, to the latest address listed by me in my service record. Furthermore, I understand that a petition for a grant of review before CMA does not have to be granted by that court. I understand that such a petition is granted only on good cause shown and that CMA determines whether good cause is shown to grant the petition. I understand that if CMA should grant my petition for review, its review of my case is limited solely to questions of law, and that its review will also be limited to those questions of law for

which review was granted. I understand that CMA generally must accept the facts as found at trial or during the prior review of my case and that it has no power to amend the sentence as affirmed by NMCMR except in very limited circumstances.

d. If CMA reviews my case, or otherwise grants relief, I understand that I may further petition the U.S. Supreme Court by writ of certiorari for review of the CMA decision. I also understand that the grant or denial of a writ of certiorari is within the sole discretion of the U.S. Supreme Court and that the application for a writ of certiorari must be filled in accordance with, and within the time limits prescribed by, the rules of the U.S. Supreme Court.

e. My defense counsel has further advised me that I may waive appellate review after I have had the opportunity to review the convening authority's action on the record or I may withdraw the appeal of my case from such review. If I do waive the review or withdraw my appeal, then my case will be reviewed by a judge advocate in accordance with R.C.M. 1112. This judge advocate review must be in writing and set forth the conclusions as to whether: (1) the court had jurisdiction over me and the offense(s); (2) the charge(s) and specification(s) stated an offense; and (3) the sentence was legal as a matter of law. If the judge advocate determines that corrective action is required or if the sentence includes a punitive discharge, dismissal, or confinement for more six months, the record of trial will be sent to the officer exercising general court-martial jurisdiction for action. The officer exercising general court-martial jurisdiction may disapprove or approve the finding(s) or sentence, in whole or in part; order a rehearing on the findings or the sentence, or on both; or dismiss the charges. If the approved sentence includes dismissal, the record of trial shall be forwarded to the Secretary of the Navy for action.

f. I further understand that the portion of my sentence providing for a punitive discharge or dismissal may not be ordered executed until the court-martial conviction is final and the sentence, as finally approved, includes the punitive discharge or dismissal. A court-martial conviction is final when review is completed by NMCMR and:

(1) I fail to file a petition for grant of review before CMA within 60 days from the earlier of the date of being notified of the NMCMR decision in my case or the date of certified mailing of my copy of the NMCMR decision to the address that I provided;

JAGINST 5810.2A
17 Sep 1993

(2) My petition for grant of review is denied or otherwise rejected by CMA;

(3) My case is not otherwise under review by CMA; or

(4) Review is completed in accordance with the judgment of CMA and:

(a) A petition for a writ of certiorari is not filed within the time limits prescribed by the U.S. Supreme Court;

(b) A petition for a writ of certiorari is denied or otherwise rejected by the U.S. Supreme Court;

(c) Review is otherwise completed in accordance with the judgment of the U.S. Supreme Court.

If I had waived review of my case by NCMCMR or withdrawn my appeal from that court, my court-martial conviction is final when review by a judge advocate is completed and action is taken by the officer exercising general court-martial jurisdiction approving the findings and sentence. If my sentence includes a dismissal, approval by the Secretary of the Navy or such Under or Assistant Secretary as is designated is further required. If my sentence, as finally approved, includes a punitive discharge or dismissal, it is understood that I will be discharged or dismissed in accordance with the approved punishment.

2. If my court-martial conviction is referred to NCMCMR under Article 66 or Article 69, UCMJ, I have been informed that I am entitled to representation before NCMCMR, CMA, and the U.S. Supreme Court by appellate defense counsel qualified in accordance with Article 27(b), UCMJ, designated by the Judge Advocate General of the Navy, and provided at no expense to me. If I decide to pursue my appellate remedies under Article 66 or 67 but choose not to be represented by counsel, I understand that I must advise the Director, Appellate Defense Division (Code 45), Navy-Marine Corps Appellate Review Activity, of my decision in writing; otherwise, the Director will provide me with counsel. I also understand that, in addition to or in lieu of my designated appellate defense counsel, I may retain a civilian counsel at my own expense and at no expense to the government to represent me before NCMCMR, CMA, and U.S. Supreme Court.

3. I have fully discussed my appellate rights with my defense counsel, and I desire to be represented by appellate defense counsel. By my signature below, I hereby acknowledge that appellate defense counsel in the Office of the Judge Advocate General will be provided to represent me by the Director, Appellate Defense Division during the pendency of my appeal with such substitutions of counsel as the Director from time to time may be required to make in accordance with the availability of counsel within his division. If I later desire to exercise my right to withdraw from appellate review, I will so indicate by separate correspondence to my appellate defense counsel.

4. In addition to, and separate from, my right to review by NCMCR, I have the right to sentence review by the Naval Clemency and Parole Board (NCPB). The NCPB will accept the findings of my court-martial and will not review my case for legal errors. After reviewing my case, NCPB may grant clemency by reducing a part of my sentence. I understand that I may waive review by the NCPB. The decision whether to waive such review is an important one and I understand that I have the right to consult with counsel before making that decision. In the discretion of the Director, Appellate Defense Division, appellate counsel may be appointed to assist me before the Naval Clemency and Parole Board.

5. For administrative purposes, the following information is provided:

a. I did/did not retain a civilian counsel to represent me at trial. I have/have not retained a civilian counsel for appellate review. Civilian counsel's name, address, and telephone number are: [state "T" for trial and "A" for appellate, if necessary.]

Telephone (____) _____

JAGINST 5810.2A
17 Sep 1993

b. I did/did not have an individual defense counsel.
Individual military counsel's address and telephone number are:

Telephone (____) _____

c. Detailed defense counsel's address and telephone number are:

Telephone (____) _____

d. Principal defense counsel in this case was:

e. I understand that in order for my trial defense counsel or any successor counsel to represent me properly, I must keep counsel informed of my current mailing address. I may be contacted at the following permanent address and telephone number:

Telephone (____) _____

f. By my signature below, I agree to forward any change of address or telephone number to:

Director, Appellate Defense Division (Code 45)
Navy-Marine Corps Appellate Review Activity
Office of the Judge Advocate General
Washington Navy Yard, Building 111
Washington, D.C. 20374-1111

6. Privacy Act Statement.

a. Authority. This information is requested by authority of 5 U.S.C. § 301 and JAGMAN § 0164.

b. Principal Purposes. The information requested is used to keep the servicemember informed of the status of his case through appellate review, to ensure that he is fully advised of his appellate rights, and to communicate actions that may be required of the servicemember based upon appellate review.

c. Routine Uses. The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation in the Federal Register apply.

d. Mandatory or Voluntary Disclosure and Effect on Individual Not Providing Information. Failure to provide a current address and phone number may adversely affect the servicemember's ability to properly exercise his rights on appellate review and may adversely affect any benefits or privileges due upon completion of such review. For servicemembers requesting voluntary appellate leave, failure to provide a current address and phone number may result in denial of that request. For servicemembers ordered to involuntary appellate leave or those already on appellate leave, either voluntarily or involuntarily, failure to provide current information may result in disciplinary action.

(Date)
Witnessed by:

(Signature of Accused)

(Signature)

(Name of Counsel)

SPECIAL POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS:

That I, _____,
(Name and Rate/Grade)
_____, _____, having been convicted
(SSN) (Branch of Service)
by _____ court-martial on _____, do
(Type of Court) (Date)

hereby make, constitute and appoint my appellate defense counsel of record appointed under the provisions of Article 70, UCMJ, and R.C.M. 1202, MCM, 1984, for the defense of my case, my true and lawful attorney or attorneys for me in my name, place, and stead, and for my use and benefit, and as my act and deed, to accept service of the U.S. Navy-Marine Corps Court of Military Review (NMCMR) decision in my case and thereby start the running of the 60-day appeal period within which I may petition the U.S. Court of Military Appeals (CMA) for a grant of review and, in the event any part of my conviction is affirmed by the NMCMR, to execute, file, and prosecute a petition for grant of review in the CMA under the provisions of Article 67, UCMJ, or, when in his judgment he deems further review of my conviction is unwarranted due to lack of meritorious grounds to be urged upon appeal, to waive my right to petition the CMA. I fully understand my statutory right under Article 67(c), UCMJ, to have actual personal service of the decision of the NMCMR on myself and I hereby voluntarily, knowingly, and consciously waive that right. I also fully understand that this special power of attorney shall be deemed revoked if, at a later date, I waive appellate review.

Giving and granting to my detailed appellate defense counsel of record full power and authority to do and perform every act and thing requisite and necessary to be done in the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power in me of substitution and revocation, hereby ratifying and confirming all that my said detailed appellate defense counsel or substitute may or shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this _____ day of _____, 19____.

(Seal)
Signature of Accused

JAGINST 5810.2A
17 Sep 1993

Signed and delivered in the presence of:

Witness

Witness

With the United States Armed Forces at _____
(Location)

I, _____, the undersigned officer, do
hereby certify that on this _____ day of _____, 19____,

before me personally appeared _____

_____, whose home address is

and who is known to me to be a member of the United States Armed
Forces on active duty and to be the identical person who is
described in, whose name is subscribed to, and who signed and
executed the foregoing instrument, and having first made known to
him the contents thereof, he personally acknowledged to me that
he signed and sealed the same, on the date it bears, as his true,
free, voluntary act and deed, for uses, purposes, and
considerations therein set forth. I do further certify that I am
at the grade, branch of service, and organization stated below in
the active service of the United States Armed Forces, that by
statute no seal is required on this certificate, and the same is
executed in my capacity as a judge advocate under authority
granted to me by Article 136, UCMJ.

Signature of Officer

Type Name, Grade, Branch, and SSN

Command or Organization

Permanent Home Address