**Section 400.1035 General and Special Courts-Martial in Which There is a Finding of Guilty; Review by Senior Force Judge Advocate; Action by the Adjutant General**

a)In addition to the judge advocate's recommendation under Code Section 60, *in a general and special court-martial in which there is a finding of guilt, the State Judge Advocate or designee shall review the case.* No person *may review the case who has acted as an accuser, member, military judge, trial counsel, assistant trial counsel, defense counsel, associate or assistant defense counsel, or investigating officer in that case. The review shall be in writing and shall contain the following:*

1) *Conclusions as to whether:*

A) *The court had jurisdiction over the accused and the offense;*

B) *The charge and specification stated an offense;*

C) *The sentence was within the limits prescribed as a matter of law.*

2) *A response to each allegation of error made in writing by the accused.*

3) *If the case is sent for action under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.*

b) *The record of trial and related documents in each case reviewed under subsection (a) shall be sent for action to the Adjutant General if:*

1) *The judge advocate who reviewed the case recommends corrective action;*

2) *The sentence approved by the convening authority under Code Section 60 extends to dismissal, bad-conduct discharge, dishonorable discharge, or confinement for more than 6 months; or*

3) *The action is required under regulations prescribed by the Adjutant General.*

c) *The Adjutant General may:*

1) *Disapprove or approve the findings or sentence, in whole or in part;*

2) *Remit, commute or suspend the sentence in whole or in part;*

3) *Except when evidence is insufficient at the trial to support the findings, order a rehearing on the findings, sentence or on both; or*

4) *Dismiss the charges.*

d) *If* the Adjutant General *orders a rehearing but the convening authority finds a hearing impractical, the convening authority shall dismiss the charges.*

e) *If, in the State Judge Advocate's opinion, corrective action is required as a matter of law, and if the Adjutant General does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of the trial and the action shall be sent to the Governor for review and action as deemed appropriate.*

f) *The State Judge Advocate, or designee, may review any case in which there has been a finding of not guilty of all charges and specifications. However, the State Judge Advocate may not review the case if he or she has acted as an accuser, member, military judge, trial counsel, assistant trial counsel, defense counsel, associate or assistant defense counsel, or investigating officer in that case. The review shall be limited to questions of subject matter jurisdiction.*

g) *The records of trial and related documents in each case reviewed under subsection (f) shall be sent for action to the Adjutant General who may:*

1) *Void the court-martial ab initio when subject matter jurisdiction is found lacking, with or without prejudice to the government, as the Adjutant General deems appropriate;*

2) *Return the record of trial and related documents to the State Judge Advocate for appeal by the government as provided by law.* (Code Section 64)