

**APPLICATION FOR RELIEF FROM COURT-MARTIAL FINDINGS AND/OR SENTENCE
UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 869**

For use of this form, see AR 27-10, the proponent agency is OTJAG.

DOCKET NUMBER

(For TJAG Use)

(Read Instructions on Reverse BEFORE Completing Application)

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 801-940 (Uniform Code of Military Justice); 10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10606 et seq.; Department of Defense Directive 1030.1, Victim and Witness Assistance; 10 U.S.C. 3037, Judge Advocate General; Army Regulation 27-10b, Military Justice; and E.O. 9397 (SSN).

PRINCIPAL PURPOSES: To satisfy statutory requirements of Chapter 47 of Title 10, United States Code, for maintaining records of trial of courts-martial proceedings to complete appellate review, to determine whether clemency is warranted. **NOTE:** For additional information see the System of Records Notice A0027-10b DAJA.

ROUTINE USES: There are no specific routine uses anticipated for this form; however, it may be subject to a number of proper and necessary routine uses identified in the system of records notice(s) specified in the purpose statement above.

DISCLOSURE: Disclosure of the requested information is voluntary. Failure to provide complete information may delay evaluation of your appeal and may result in incomplete evaluation of your appeal.

1. NAME OF CONVICTED PERSON *(Last, First, MI)*

2. PRESENT GRADE OR STATUS

3. DATE OF TRIAL

4. PLACE OF TRIAL

5. COMMAND CONVENING COURT-MARTIAL

6. TYPE OF COURT-MARTIAL

SUMMARY

SPECIAL

GENERAL

7. OFFENSE(S) CHARGED *(Article(s) and brief description of offense(s))*

8. PLEA(S)

9. FINDINGS OF THE COURT-MARTIAL, SENTENCE ADJUDGED, AND LATER MODIFICATIONS, IF ANY:

10. I BELIEVE RELIEF IN THE ABOVE NAMED COURT-MARTIAL IS JUSTIFIED BECAUSE: *(State fully the reasons you believe relief should be granted. The reasons must relate to at least one of the five grounds set forth in Article 69(c), UCMJ.)*

11. RELIEF REQUESTED

12. NAME AND ADDRESS OF COUNSEL ASSISTING WITH APPLICATION, IF ANY: *(Include ZIP Code)*

13. ENCLOSED ARE:

A COPY OF COURT-MARTIAL ORDER(S) PROMULGATING STATEMENT OF TRIAL RESULTS, AND LATER MODIFICATION(S), IF ANY

SWORN AFFIDAVITS, DOCUMENTS, OR OTHER MATTERS IN SUPPORT OF APPLICATION

14. PRESENT ADDRESS OF APPLICANT (Include ZIP Code) (Forward notification of any change)

15. OATH OR AFFIRMATION: (See instruction 5)

I DO SOLEMNLY [SWEAR] [AFFIRM AND DECLARE] THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE STATEMENTS CONTAINED IN THIS APPLICATION (including accompanying matters submitted) ARE TRUE [SO HELP ME GOD]. I MAKE THIS ASSERTION UNDER THE PAINS AND PENALTIES OF FALSE SWEARING.

(Title 18 U.S. Code, Section 1001 provides a penalty of not more than \$10,000 fine, five years imprisonment, or both, for knowingly making false statements in connection with this application.)

SIGNATURE OF APPLICANT

NAME OF APPLICANT

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS ____ DAY OF _____ 20 ____

(Seal)

INSTRUCTIONS

(Read ALL Instructions Before Completing Form)

- Application for relief from the findings or sentence, or both, of a court-martial case which has been finally reviewed, but has not been reviewed by the United States Army Court of Criminal Appeals. Army Regulation 27-10, which is summarized in these instructions.
- Article 69(c)(1) of the Uniform Code of Military Justice (Title 10, US Code, Section 869(c)(1)) provides that: "(A) In a case reviewed under section 864 or section 865(d) of this title (article 64 or 65(d)), the Judge Advocate General may set aside the findings or sentence, in whole or in part, on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence. (B) In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (Article 44). (C) If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges. (D) If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges."
- Relief is authorized only when (1) the post-trial process of legal review of the case has been completed, and (2) at least one of the five grounds set forth in paragraph 2 above has been established to the satisfaction of The Judge Advocate General. Application for relief on the ground of sentence appropriateness normally will not be considered if the application is based solely on the quality of the behavior or duty performance of the convicted person after trial, or on any evidence of personal hardship not admitted at trial. For other avenues of relief, see Title 10, U.S. Code, Section 874 (Article 74, UCMJ) or 32 CFR 581.3 (Army Board for the Correction of Military Records).
- Except as provided in this paragraph, the application must be signed by the individual convicted by court-martial. In those cases where the individual is deceased, incapable of making application, or whose whereabouts are unknown, The Judge Advocate General may permit application to be made by such person as he/she determines to be competent and suitable, and to have a proper interest therein, including, but not limited to, a spouse, parent, or relative of the person convicted by court-martial substantially affected as a result of the findings or sentence, or both, which the applicant maintains should be vacated or modified. If application is not signed by the individual convicted, full explanation should be made and attached.
- The application must be submitted under oath or affirmation executed before an official authorized to administer oaths. A notary public is usually authorized to perform this function. Military personnel on active duty may execute the application before a judge advocate or other officer authorized by Article 136(a) of the Uniform Code of Military Justice to administer oaths. Knowingly making a false statement in connection with an application for relief can be punished by a \$10,000 fine, five years imprisonment, or both.
- Applicant's entry in Item 11 should describe the reasons for the request for relief. Relevant facts which support the applicant's contentions should be included. Legal authorities may be presented in this section, or may be attached in the form of a legal brief, if applicant desires. Other matters tending to support applicant's allegations of error or impropriety, including but not limited to, sworn affidavits, official records, and other documents, may be attached. The applicant bears the burden of establishing an alleged impropriety. Unsupported allegations of matters outside the record of trial will seldom be sufficient to warrant relief.
- A copy of the court-martial order (the entry of judgment, or the record of trial in the case of a summary court-martial) promulgating the findings, sentence, and action of the convening authority in the case, and a copy of any later modifying order(s), if available to the applicant, should be submitted with the application.
- A copy of the record of trial in cases other than summary courts-martial should not be submitted.
- If the applicant is a member of the command which convened the court-martial, or of a unit within the same general court-martial jurisdiction, the application should be submitted through the Office of the Staff Judge Advocate of that general court-martial jurisdiction. In all other cases, applications will be submitted directly to Office of The Judge Advocate General, ATTN: Criminal Law Division, 2200 Army Pentagon, Washington D.C. 20310-2200 and must be received on or before the last day of the 1-year period that begins upon completion of review under either Article 64 or Article 65. The period for submissions may not be extended beyond three years, even for good cause in accordance with Article 69(b).
- Submit only the original of this form.
- Type, or print all entries in ink.
- If space allotted is insufficient, attach additional sheet(s), indicating item number continued thereon.
- Complete all items; if inapplicable, enter "None".
- Applicant should send notice of change in address while application is pending to The Judge Advocate General at the address shown in instruction 9 above.
- Applicant will be notified of receipt of application by The Judge Advocate General, and the result of review, when completed.