

35.310 Rehearings.

- (1) If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing, in which case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.
- (2) Every rehearing shall take place before a court-martial whose composition shall not include any member or military judge of the court-martial which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence shall be imposed unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings or unless the sentence prescribed for the offense is mandatory.

History: Amended 1970 Ky. Acts ch. 56, sec. 43. -- Created 1954 Ky. Acts ch. 99, sec. 61, effective July 1, 1954.