

fications (or allege acts or omissions that were included in the dismissed charges or specifications).

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 99-661, div. A, title VIII, §805(a), (b), Nov. 14, 1986, 100 Stat. 3908; Pub. L. 108-136, div. A, title V, §551, Nov. 24, 2003, 117 Stat. 1481; Pub. L. 109-163, div. A, title V, §§552(e), 553, Jan. 6, 2006, 119 Stat. 3263, 3264; Pub. L. 109-364, div. A, title X, §1071(a)(4), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111-383, div. A, title X, §1075(b)(14), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112-81, div. A, title V, §541(d)(1), Dec. 31, 2011, 125 Stat. 1410.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
843(a) .....	50:618(a).	May 5, 1950, ch. 169, §1 (Art. 43), 64 Stat. 121.
843(b) .....	50:618(b).	
843(c) .....	50:618(c).	
843(d) .....	50:618(d).	
843(e) .....	50:618(e).	
843(f) .....	50:618(f).	

In subsection (b), the word “inclusive” is omitted as surplusage.

In subsections (b) and (c), the words “is not” are substituted for the words “shall not be”.

In subsection (e), the words “For an” are substituted for the words “In the case of any”. The word “is” is substituted for the words “shall be”. The words “Secretary concerned” are substituted for the words “Secretary of the Department”.

In subsection (f), the word “is” is substituted for the words “shall be”.

#### AMENDMENTS

2011—Subsec. (b)(2)(B)(i). Pub. L. 112-81, §541(d)(1)(A), substituted “section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c)” for “section 920 of this title (article 120)”.

Subsec. (b)(2)(B)(v). Pub. L. 112-81, §541(d)(1)(B), struck out “indecent assault” after “Kidnaping,” and “or liberties with a child” after “indecent acts”.

Pub. L. 111-383 substituted “Kidnaping, indecent assault,” for “Kidnaping; indecent assault;”.

2006—Subsec. (a). Pub. L. 109-163, §553(a), substituted “with murder or rape, or with any other offense punishable by death” for “or with any offense punishable by death”.

Pub. L. 109-163, §552(e), substituted “, rape, or rape of a child,” for “or rape.”.

Subsec. (b)(2)(A). Pub. L. 109-163, §553(b)(1), substituted “during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period,” for “before the child attains the age of 25 years”.

Subsec. (b)(2)(B). Pub. L. 109-163, §553(b)(2)(A), struck out “sexual or physical” before “abuse of a person” in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 109-163, §553(b)(2)(B), substituted “Any offense” for “Rape or carnal knowledge”.

Subsec. (b)(2)(B)(iii). Pub. L. 109-364, §1071(a)(4)(A), substituted “125” for “126”.

Subsec. (b)(2)(B)(v). Pub. L. 109-163, §553(b)(2)(C), substituted “Kidnaping; indecent assault;” for “Indecent assault,”.

Subsec. (b)(2)(C). Pub. L. 109-364, §1071(a)(4)(B), substituted “under chapter 110 or 117 of title 18 or under section 1591 of that title” for “under chapter 110 or 117, or under section 1591, of title 18”.

Pub. L. 109-163, §553(b)(3), added subpar. (C).

2003—Subsec. (b)(2), (3). Pub. L. 108-136 added par. (2) and redesignated former par. (2) as (3).

1986—Subsecs. (a) to (c). Pub. L. 99-661, §805(a), amended subsecs. (a) to (c) generally. Prior to amendment, subsecs. (a) to (c) read as follows:

“(a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

“(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919-932 of this title (articles 119-132) is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

“(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 815 of this title (article 15).”

Subsec. (g). Pub. L. 99-661, §805(b), added subsec. (g).

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. A, title V, §541(f), Dec. 31, 2011, 125 Stat. 1411, provided that: “The amendments made by this section [enacting sections 920b and 920c of this title and amending this section and sections 918 and 920 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 31, 2011] and shall apply with respect to offenses committed on or after such effective date.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title V, §552(f), Jan. 6, 2006, 119 Stat. 3263, provided that: “The amendments made by this section [amending this section and sections 918 and 920 of this title and enacting provisions set out as notes under section 920 of this title] shall take effect on October 1, 2007.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 805(c) of Pub. L. 99-661 provided that: “The amendments made by this section [amending this section] shall apply to an offense committed on or after the date of the enactment of this Act [Nov. 14, 1986].”

#### § 844. Art. 44. Former jeopardy

(a) No person may, without his consent, be tried a second time for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article.

(Aug. 10, 1956, ch. 1041, 70A Stat. 52.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
844(a) .....	50:619(a).	May 5, 1950, ch. 169, §1 (Art. 44), 64 Stat. 122.
844(b) .....	50:619(b).	
844(c) .....	50:619(c).	

In subsection (a), the word “may” is substituted for the word “shall”.

In subsection (b), the word “is” is substituted for the words “shall be held to be”.

In subsection (c), the word “after” is substituted for the words “subsequent to”. The word “before” is sub-

stituted for the words “prior to”. The word “is” is substituted for the words “shall be”.

§ 845. Art. 45. Pleas of the accused

(a) If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

(b) A plea of guilty by the accused may not be received to any charge or specification alleging an offense for which the death penalty may be adjudged. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may, if permitted by regulations of the Secretary concerned, be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 52; Pub. L. 90-632, §2(19), Oct. 24, 1968, 82 Stat. 1339.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
845(a) .....	50:620(a).	May 5, 1950, ch. 169, §1 (Art. 45), 64 Stat. 122.
845(b) .....	50:620(b).	

In subsection (b), the word “may” is substituted for the word “shall”.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-632, §2(19)(A), substituted “after arraignment” for “arraigned before a court-martial”.

Subsec. (b). Pub. L. 90-632, §2(19)(B), inserted provisions covering the making and accepting of a guilty plea to charges or specifications other than charges and specifications alleging an offense for which the death penalty may be adjudged.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

§ 846. Art. 46. Opportunity to obtain witnesses and other evidence

The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe. Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Commonwealths and possessions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 109-163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
846 .....	50:621.	May 5, 1950, ch. 169, §1 (Art. 46), 64 Stat. 122.

The word “Commonwealths” is inserted to reflect the present status of Puerto Rico.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Commonwealths and possessions” for “Territories, Commonwealths, and possessions”.

§ 847. Art. 47. Refusal to appear or testify

(a) Any person not subject to this chapter who—

(1) has been duly subpoenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board, or has been duly issued a subpoena duces tecum for an investigation pursuant to section 832(b) of this title (article 32(b));

(2) has been provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage; and

(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;

is guilty of an offense against the United States.

(b) Any person who commits an offense named in subsection (a) shall be tried on indictment or information in a United States district court or in a court of original criminal jurisdiction in any of the Commonwealths or possessions of the United States, and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be fined or imprisoned, or both, at the court’s discretion.

(c) The United States attorney or the officer prosecuting for the United States in any such court of original criminal jurisdiction shall, upon the certification of the facts to him by the military court, commission, court of inquiry, board, or convening authority, file an information against and prosecute any person violating this article.

(d) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 104-106, div. A, title XI, §1111, Feb. 10, 1996, 110 Stat. 461; Pub. L. 109-163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 112-81, div. A, title V, §542(a), (b), Dec. 31, 2011, 125 Stat. 1411.)