

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 This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.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.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
847(a)	50:622(a).	May 5, 1950, ch. 169, §1 (Art. 47), 64 Stat. 123.
847(b)	50:622(b).	
847(c)	50:622(c).	
847(d)	50:622(d).	

In subsection (a), the word “Any” is substituted for the word “Every”. The word “is” is substituted for the words “shall be deemed”.

In subsection (b), the words “named in subsection (a)” are substituted for the words “denounced by this article”. The words “Territories, Commonwealths, or” are substituted for the word “Territorial”. The words “not more than” are substituted for the words “a period not exceeding”.

In subsection (c), the words “It shall be the duty of * * * to” are omitted as surplusage. The words “United States Attorney” are substituted for the words “United States district attorney”, to conform to the terminology of section 501 of title 28. The word “shall” is inserted after the word “jurisdiction”.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–81, §542(b), substituted “subpoenaed” for “subpenaed” in two places.

Subsec. (a)(1). Pub. L. 112–81, §542(a)(1)(A), substituted “board, or has been duly issued a subpoena duces tecum for an investigation pursuant to section 832(b) of this title (article 32(b));” for “board;”.

Subsec. (a)(2). Pub. L. 112–81, §542(a)(1)(B), substituted “provided a means for reimbursement from the Government for fees and mileage” for “duly paid or tendered the fees and mileage of a witness” and inserted “or, in the case of extraordinary hardship, is advanced such fees and mileage” before semicolon.

Subsec. (c). Pub. L. 112–81, §542(a)(2), substituted “board, or convening authority” for “or board”.

2006—Subsec. (b). Pub. L. 109–163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions”.

1996—Subsec. (b). Pub. L. 104–106 inserted “indictment or” after “shall be tried on” and substituted “shall be fined or imprisoned, or both, at the court’s discretion” for “shall be punished by a fine of not more than \$500, or imprisonment for not more than six months, or both”.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, §542(c), Dec. 31, 2011, 125 Stat. 1411, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to subpoenas issued after the date of the enactment of this Act [Dec. 31, 2011].”

§ 848. Art. 48. Contempts

(a) **AUTHORITY TO PUNISH CONTEMPT.**—A judge detailed to a court-martial, a court of inquiry, the United States Court of Appeals for the Armed Forces, a military Court of Criminal Appeals, a provost court, or a military commission may punish for contempt any person who—

(1) uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial, court, or military commission;

(2) disturbs the proceedings of the court-martial, court, or military commission by any riot or disorder; or

(3) willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial, court, or military commission.

(b) **PUNISHMENT.**—The punishment for contempt under subsection (a) may not exceed confinement for 30 days, a fine of \$1,000, or both.

(c) **INAPPLICABILITY TO MILITARY COMMISSIONS UNDER CHAPTER 47A.**—This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631; Pub. L. 111–383, div. A, title V, §542(a), Jan. 7, 2011, 124 Stat. 4218.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
848	50:623.	May 5, 1950, ch. 169, §1 (Art. 48), 64 Stat. 123.

The word “may” is substituted for the word “shall”.

AMENDMENTS

2011—Pub. L. 111–383 amended section generally. Prior to amendment, text read as follows: “A court-martial, provost court, or military commission may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of \$100, or both. This section does not apply to a military commission established under chapter 47A of this title.”

2006—Pub. L. 109–366 inserted last sentence.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title V, §542(b), Jan. 7, 2011, 124 Stat. 4218, provided that: “Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to acts of contempt committed after the date of the enactment of this Act [Jan. 7, 2011].”

§ 849. Art. 49. Depositions

(a) At any time after charges have been signed as provided in section 830 of this title (article 30), any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the United States or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, or similar material, may be played in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or military board, if it appears—

(1) that the witness resides or is beyond the State, Commonwealth, or District of Columbia in which the court, commission, or board is or-