

(d) **SCOPE AND NATURE OF REVIEW.**—The United States Court of Appeals for the District of Columbia Circuit may act under this section only with respect to the findings and sentence as approved by the convening authority and as affirmed or set aside as incorrect in law by the United States Court of Military Commission Review, and shall take action only with respect to matters of law, including the sufficiency of the evidence to support the verdict.

(e) **REVIEW BY SUPREME COURT.**—The Supreme Court may review by writ of certiorari pursuant to section 1254 of title 28 the final judgment of the United States Court of Appeals for the District of Columbia Circuit under this section.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2603; amended Pub. L. 112–81, div. A, title X, §1034(d), Dec. 31, 2011, 125 Stat. 1573.)

#### PRIOR PROVISIONS

A prior section 950g, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court, prior to the general amendment of this chapter by Pub. L. 111–84.

#### AMENDMENTS

2011—Subsec. (a). Pub. L. 112–81, §1034(d)(1), inserted “as affirmed or set aside as incorrect in law by” after “where applicable.”.

Subsec. (c). Pub. L. 112–81, §1034(d)(2)(A), substituted “in the Court of Appeals—” for “by the accused in the Court of Appeals not later than 20 days after the date on which—” in introductory provisions.

Subsec. (c)(1). Pub. L. 112–81, §1034(d)(2)(B), inserted “not later than 20 days after the date on which” before “written notice” and substituted “on the parties” for “on the accused or on defense counsel”.

Subsec. (c)(2). Pub. L. 112–81, §1034(d)(2)(C), inserted “if” before “the accused submits” and inserted before period at end “, not later than 20 days after the date on which such notice is submitted”.

#### § 950h. Appellate counsel

(a) **APPOINTMENT.**—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

(b) **REPRESENTATION OF UNITED STATES.**—Appellate counsel appointed under subsection (a)—

(1) shall represent the United States in any appeal or review proceeding under this chapter before the United States Court of Military Commission Review; and

(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

(c) **REPRESENTATION OF ACCUSED.**—The accused shall be represented by appellate counsel appointed under subsection (a) before the United States Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet

the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (7) of that section.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2604.)

#### PRIOR PROVISIONS

A prior section 950h, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to appellate counsel, prior to the general amendment of this chapter by Pub. L. 111–84.

#### § 950i. Execution of sentence; suspension of sentence

(a) **IN GENERAL.**—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

(b) **EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.**—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

(c) **EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.**—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when review is completed in accordance with the judgment of the United States Court of Military Commission Review and—

(A) the time for the accused to file a petition for review by the United States Court of Appeals for the District of Columbia Circuit has expired, the accused has not filed a timely petition for such review, and the case is not otherwise under review by the Court of Appeals; or

(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

(i) a petition for a writ of certiorari is not timely filed;

(ii) such a petition is denied by the Supreme Court; or

(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

(d) **SUSPENSION OF SENTENCE.**—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2605.)

#### PRIOR PROVISIONS

A prior section 950i, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2623, related to execution of sen-