

(c) APPELLATE REVIEW.—

(1) COMPLETION OF APPELLATE REVIEW.—Appellate review is complete under this section when—

(A) a review under section 865 of this title (article 65) is completed; or

(B) a review under section 866 of this title (article 66) is completed by a Court of Criminal Appeals and—

(i) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

(ii) such a petition is rejected by the Court of Appeals for the Armed Forces; or

(iii) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

(I) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

(II) such a petition is rejected by the Supreme Court; or

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

(2) COMPLETION AS FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 90-632, §2(24), Oct. 24, 1968, 82 Stat. 1341; Pub. L. 98-209, §5(f), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 102-484, div. A, title X, §1064, Oct. 23, 1992, 106 Stat. 2505; Pub. L. 104-106, div. A, title XI, §§1121(a), 1123(a)(1), (2), Feb. 10, 1996, 110 Stat. 462-464; Pub. L. 114-328, div. E, title LVIII, §5302(a), Dec. 23, 2016, 130 Stat. 2921.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
857(a)	50:638(a).	May 5, 1950, ch. 169, §1
857(b)	50:638(b).	(Art. 57), 64 Stat. 126.
857(c)	50:638(c).	

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

In subsection (b), the word “begins” is substituted for the words “shall begin”.

In subsection (c), the word “are” is substituted for the words “shall become”.

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to effective date of sentences.

1996—Subsec. (a). Pub. L. 104-106, §1121(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title (article 60(c)).”

Subsecs. (d), (e). Pub. L. 104-106, §1123(a)(1), (2), redesignated subsecs. (d) and (e) as section 857a(a) and (b), respectively, of this title.

1992—Subsec. (e). Pub. L. 102-484 added subsec. (e).

1983—Subsec. (a). Pub. L. 98-209 substituted provision that no forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this

title, for provision that whenever a sentence of a court-martial as lawfully adjudged and approved included a forfeiture of pay or allowances in addition to confinement not suspended or deferred, the forfeiture could apply to pay or allowances becoming due on or after the date the sentence was approved by the convening authority, and that no forfeiture could extend to any pay or allowances accrued before that date.

1968—Subsec. (a). Pub. L. 90-632 inserted reference to deferral of sentence of confinement.

Subsec. (b). Pub. L. 90-632 inserted reference to deferral of sentence of confinement.

Subsec. (d). Pub. L. 90-632 added subsec. (d).

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XI, §1121(b), Feb. 10, 1996, 110 Stat. 462, provided that: “The amendment made by subsection (a) [amending this section] shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act [Feb. 10, 1996].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-484 effective Oct. 23, 1992, and applicable with respect to offenses committed on or after that date, see section 1067 of Pub. L. 102-484, set out as a note under section 803 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98-209, set out as a note under section 801 of this title.

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.

§ 857a. Repealed. Pub. L. 114-328, div. E, title LVIII, § 5302(b)(1), Dec. 23, 2016, 130 Stat. 2923]

Section, added Pub. L. 90-632, §2(24), Oct. 24, 1968, 82 Stat. 1341, §857(d); amended Pub. L. 102-484, div. A, title X, §1064, Oct. 23, 1992, 106 Stat. 2505; renumbered §857a and amended Pub. L. 104-106, div. A, title XI, §1123(a), Feb. 10, 1996, 110 Stat. 463, related to deferment of sentence to confinement.

EFFECTIVE DATE OF REPEAL

Repeal effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

§ 858. Art. 58. Execution of confinement

(a) Under such instructions as the Secretary concerned may prescribe, a sentence of confinement adjudged by a court-martial or other military tribunal, whether or not the sentence in-

cludes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the armed forces or in any penal or correctional institution under the control of the United States, or which the United States may be allowed to use. Persons so confined in a penal or correctional institution not under the control of one of the armed forces are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

(b) The omission of the words “hard labor” from any sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 109-163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
858(a)	50:639(a).	May 5, 1950, ch. 169, §1
858(b)	50:639(b).	(Art. 58), 64 Stat. 126.

In subsection (a), the words “Secretary concerned” are substituted for the words “Department concerned”, since the “Department” as an entity, cannot issue instructions. The word “are” is substituted for the words “shall be”. The words “of Columbia” are inserted after “District” for clarity.

In subsection (b), the word “from” is substituted for the word “in”. The words “does not deprive” are substituted for the words “shall not be construed as depriving”.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 struck out “Territory,” after “State,”.

§ 858a. Art. 58a. Sentences: reduction in enlisted grade

(a) A court-martial sentence of an enlisted member in a pay grade above E-1, as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c), that includes—

- (1) a dishonorable or bad-conduct discharge;
- (2) confinement; or
- (3) hard labor without confinement;

reduces that member to pay grade E-1, if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

(b) If the sentence of a member who is reduced in pay grade under subsection (a) is set aside or reduced, or, as finally affirmed, does not include any punishment named in subsection (a)(1), (2), or (3), the rights and privileges of which he was deprived because of that reduction shall be restored to him and he is entitled to the pay and allowances to which he would have been entitled, for the period the reduction was in effect, had he not been so reduced.

(Added Pub. L. 86-633, §1(1), July 12, 1960, 74 Stat. 468; amended Pub. L. 114-328, div. E, title

LVIII, §5303, Dec. 23, 2016, 130 Stat. 2923; Pub. L. 115-91, div. A, title V, §531(f)(1), (2), Dec. 12, 2017, 131 Stat. 1385.)

AMENDMENTS

2017—Pub. L. 115-91, §531(f)(2), struck out “upon approval” after “reduction in enlisted grade” in section catchline.

Subsec. (a). Pub. L. 115-91, §531(f)(1), substituted “, if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date” for “, effective on the date” in concluding provisions.

2016—Subsec. (a). Pub. L. 114-328, §5303(1), in introductory provisions, substituted “A” for “Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a” and “as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)” for “as approved by the convening authority”, and, in concluding provisions, substituted “on which the judgment is so entered” for “of that approval”.

Subsec. (b). Pub. L. 114-328, §5303(2), substituted “reduced, or, as finally affirmed” for “disapproved, or, as finally approved”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective immediately after the amendments made by div. E (§§5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115-91, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

§ 858b. Art. 58b. Sentences: forfeiture of pay and allowances during confinement

(a)(1) A court-martial sentence described in paragraph (2) shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under section 857 of this title (article 57) and may be deferred as provided in that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds of all pay due that member during such period.

(2) A sentence covered by this section is any sentence that includes—

- (A) confinement for more than six months or death; or
- (B) confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal.

(b) In a case involving an accused who has dependents, the convening authority or other person acting under section 860a or 860b of this title (article 60a or 60b) may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.