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William & Mary Law School, "Military Law (August 14, 1957)" (1957). *Faculty Exams: 1944-1973*. 36.
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MILITARY LAW
August 14, 1957

1. Moe and Doe were charged under Article 128 of the UCMJ with having committed an aggravated assault upon Victim. John Blackstone, a recent graduate of an accredited law school and a member of the Bar of one of the United States and certified to serve as trial or defense counsel before a general court martial was appointed to defend Moe and Doe. James Hardknocks, an officer with the same rank as John Blackstone but not a lawyer, was appointed trial counsel. The defense counsel asked for separate trials for Moe and Doe and his request was granted. The defense counsel and the trial counsel agreed that if Moe pleaded guilty, the trial counsel would recommend leniency. This was done and Moe was sentenced to lose two-thirds of his pay for one month. Doe was then brought to trial and the trial counsel used Moe as a prosecution witness. Moe, in fact, was the only witness who identified Doe. Doe was convicted and sentenced to a bad conduct discharge. Discuss the rights of the parties.
2. The accused was convicted of rape, in violation of Article 120 UCMJ, and was sentenced to a dishonorable discharge, total forfeitures of pay, and confinement at hard labor for twenty years. The convening authority considered evidence outside of the record which proved only a lesser included offense; therefore, he approved findings of guilty of assault with intent to commit rape, in violation of Article 134, UCMJ, and reduced the period of confinement to two years, and suspended the execution of the discharge. A Board of Review in JAG decided that it was error for the convening authority to consider evidence outside the record; therefore the Board directed that the convening authority withdraw his action and forward the record to the next higher command for review. The Staff Judge Advocate of the next higher command reasoned that no greater sentence than that approved by the original convening authority could be imposed, but his commanding officer without explanation approved the findings and sentence of the original court martial. The Board of Review approved this action, but reduced the confinement to two years. Discuss the rights of the accused.
3. The accused was being tried by a special court-martial for four alleged violations of the UCMJ. The trial counsel presented each prosecution witness with a report of the investigation which contained: (a) the assignment of the investigator to the case, (b) a transcript of a conversation between the investigator and the accused in which the accused made admissions in connection with the offenses charged and confessions of other misconduct not charged, (c) a transcript of a conversation between the investigator and each witness which was signed by the witness. The trial counsel asked each witness if he recognized the document as a statement given by him to the investigator. After receiving an affirmative reply from each witness, the trial counsel asked each witness to "read it aloud to refresh his memory and then state whether the content is the truth?" The defense counsel made no objection to this procedure. The court-martial convicted the accused and sentenced him to a bad conduct discharge. Discuss the actions that should be taken by the reviewing authorities. Give reasons for your conclusions.
4. The accused while on trial by a special court-martial on a charge of being AWOL pleaded not guilty and testified that while on leave he became sick and was unable to return to his duty station in accordance with his orders. On cross-examination by the trial counsel, the accused testified further that he was in bed "part of the time that he was absent." The trial counsel had already introduced copies of the morning report which showed that the accused was absent as alleged. The President of the Court-martial instructed the court on the elements of the offense, presumption of innocence, burden of proof, and that all reasonable doubts should be resolved in favor of the accused. The President of the Court asked the defense counsel if he desired further instructions, and the defense counsel replied in the negative. The accused was convicted. Discuss the rights of the accused on appeal.