

## V. ADDITIONAL INTERNAL RULES

### **RULE 35. (INTERIM RULE, EFFECTIVE 19 MAY 2020) REQUIRED CONVENING AUTHORITY ACTION IN CERTAIN CASES WITH AN ENTRY OF JUDGEMENT UNDER ARTICLE 60C, UCMJ, (1 JANUARY 2019)**

Rule 35.1 PURPOSE. Section 6(b), Exec. Order 13825, 83 Fed. Reg. 9889, 9890 (1 Mar. 2018) provides:

If the accused is found guilty of a specification alleging the commission of one or more offenses before January 1, 2019, Article 60 of the UCMJ, as in effect on the date of the earliest offense of which the accused was found guilty, shall apply to the convening authority, in addition to the suspending authority in Article 60a(c) as enacted by the [National Defense Authorization Act for Fiscal Year 2017, P.L. 114-328 §§ 5321-5330 (23 Dec. 2016)], to the extent that Article 60:

- (1) requires action by the convening authority on the sentence;
- (2) permits action by the convening authority on findings;
- (3) authorizes the convening authority to modify the findings and sentence of a court-martial, dismiss any charge or specification by setting aside a finding of guilty thereto, or change a finding of guilty to a charge or specification to an offense that is a lesser included offense of the offense stated in the charge or specification;
- (4) authorizes the convening authority to order a proceeding in revision;  
or
- (5) authorizes the convening authority to approve, disapprove, commute, or suspend a sentence in whole or in part.

Rule 35.2: SCOPE. This rule applies to any case covered by Rule 35.1 and in which the convening authority failed to act on the sentence adjudged at trial, as reported in the statement of trial results. A "failure to act" means a statement by the convening authority in the entry of judgement package of "No Action" or similar language showing the convening authority failed to affirmatively take an action on the adjudged sentence, or the absence any language indicating the convening authority acted on the adjudged sentence, under the version of Article 60, UCMJ, applicable to the case.

Rule 35.3: RETURN. For each case covered by this rule, the Clerk of Court may return the record of trial to the same convening authority for action consistent with the applicable version of Article 60, UCMJ, and concurrently to the military judge. Upon completion of the action by the convening authority, the military judge shall enter the modified entry of judgement into the record in accordance with R.C.M. 1111(c)(3).

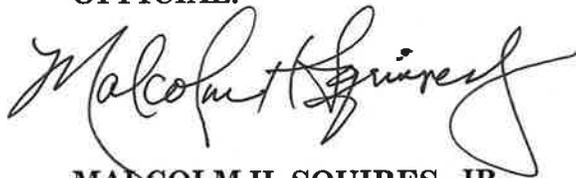
Rule 35.4: TIMING. The convening authority shall take action on the case in accordance with this rule within 10 days of receipt of the record of trial from the Clerk of Court. The military judge shall, within 10 days of the action by the convening authority, complete the modified entry of judgement.

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**GERALD R. KRIMBILL**  
**Brigadier General, USAR**  
**Chief Judge**

**OFFICIAL:**



**MALCOLM H. SQUIRES, JR.**  
**Clerk of Court**