

REPORT OF PROCEEDINGS TO VACATE SUSPENSION OF A COURT-MARTIAL SENTENCE

1a. TO: <i>(Name of Officer exercising general court-martial jurisdiction - Last, First, MI)</i>	2a. FROM: <i>(Name of Officer exercising special court-martial jurisdiction - Last, First, MI)</i>		
b. Title	b. Title		
c. Organization	c. Organization		
3a. Name of probationer <i>(Last, First, MI)</i>	b. Rank	c. DOD ID No.	d. Organization

4. Data as to trial by court-martial. Attach a copy of the entry of judgment or, if no entry of judgment is available, attach a summary of the charges and specifications, statement of trial results, action, and any supplementary actions. Attach a copy of the written notice of suspension (see RCM 1107(c)).

5. Alleged violations of the condition(s) of suspension (brief statement and date; see RCMs 1107(c) and 1108(a)).

(Check appropriate answer)

YES

NO

6. Pursuant to the provisions of Article 72, UCMJ, and RCM 1108, a hearing was held on the alleged violation(s) of the conditions of suspension.

7. Before the hearing the authority conducting the hearing caused the probationer to be notified of (see RCM 1108(d)(2)):

a. The time, place, and purpose of the hearing.

b. The right to be present at the hearing.

c. The alleged violation(s) of the conditions of suspension and the evidence expected to be relied on.

d. The right to be represented at the hearing by civilian counsel provided by the probationer or, upon request, by military counsel detailed for this purpose.

e. The opportunity to be heard, to present witnesses and other evidence, and the right to confront and cross-examine adverse witnesses unless the hearing officer determines that there is good cause for not allowing confrontation and cross-examination.

8a. The probationer requested detailed military counsel.

b. Name of detailed counsel *(Last, First, MI)*

c. Rank

d. Organization

e. Detailed counsel was qualified within the meaning of Article 27(b), UCMJ, and RCM 502(d).

NOTE: If this form is used and additional space is required for any item, enter the additional material in Block 18. Identify such material with the proper heading (Example: "3d").

(Check appropriate answer)		YES	NO
9a. The probationer indicated that he/she would be represented by civilian counsel provided by him/her.		<input type="checkbox"/>	<input type="checkbox"/>
b. Name of civilian counsel (<i>Last, First, MI</i>)	c. Address of civilian counsel		
d. Entry of appearance by probationer's civilian counsel. I hereby enter my appearance for the above-named probationer and represent that I am a member in good standing of the following bar(s) (list) or licensed or otherwise authorized to practice law (explain) (see RCM 502(d)(2)(B) concerning qualifications).			
e. Signature of counsel	f. Date		
10a. Detailed counsel or civilian counsel was present throughout the proceedings. (If probationer waives the right to have counsel present throughout part or all of the proceedings after requesting detailed counsel or employing civilian counsel, complete b, below.)		<input type="checkbox"/>	<input type="checkbox"/>
b. State circumstances and specific proceeding(s) conducted in absence of counsel.			
11. (To be signed by probationer if answer to items 8a or 9a was "No." If probationer fails to sign, the hearing officer shall explain in Block 18.) I have been informed and understand my right under RCM 1108(d) to representation at this hearing by civilian counsel provided by me, or upon request, by detailed military counsel. I hereby knowingly waive my right to such: a. <input type="checkbox"/> Detailed Counsel b. <input type="checkbox"/> Civilian Counsel			
c. Signature of probationer	d. Date		
12a. The probationer was afforded the right to obtain witnesses and produce evidence.		<input type="checkbox"/>	<input type="checkbox"/>
b. In the presence of probationer I questioned under oath all available witnesses and examined documentary and real evidence for both sides. Any documents and real evidence were shown to the probationer.		<input type="checkbox"/>	<input type="checkbox"/>
c. The probationer was afforded the right to cross examine all available witnesses.		<input type="checkbox"/>	<input type="checkbox"/>
d. I have summarized the evidence considered in exhibit		<input type="checkbox"/>	<input type="checkbox"/>
e. The following witnesses requested by the accused were not available for the reasons indicated.			
Name (<i>Last, First, MI</i>)	Reason Unavailable	Alternatives	
13. After having been informed of the right to remain silent or make a statement, the probationer			
a. Indicated that he/she did not wish to make a statement		<input type="checkbox"/>	<input type="checkbox"/>
b. Made a statement summarized in exhibit		<input type="checkbox"/>	<input type="checkbox"/>
14a. There are reasonable grounds to believe that the probationer now or at the time of the alleged violation was not mentally responsible (see RCM 916(k)) or is now incompetent to participate in the vacation proceeding (see RCM 909).		<input type="checkbox"/>	<input type="checkbox"/>
b. Indicate the grounds for such belief and the action taken.			

c. A report of medical officers under RCM 706 is attached as exhibit		<input type="checkbox"/>	<input type="checkbox"/>
15. If probationer was confined pending vacation proceedings under RCM 1108(c):			
a. I find that there is probable cause to believe that the probationer violated the conditions of suspension.		<input type="checkbox"/>	<input type="checkbox"/>
b. I do not find that there is probable cause to believe that the probationer violated the conditions of suspension and order his/her release under RCM 1108(c)(4)(C).		<input type="checkbox"/>	<input type="checkbox"/>
16. Recommendation of the officer exercising special court-martial jurisdiction over the probationer.			
a. I recommend that the suspension of the sentence be vacated. <i>(Indicate type and amount of punishment, if any, to be vacated.)</i>		<input type="checkbox"/>	<input type="checkbox"/>
b. I recommend that the proceedings to vacate suspension be dropped.		<input type="checkbox"/>	<input type="checkbox"/>
c. I recommend <i>(state other recommendation)</i> :			
17a. Name of officer exercising special court-martial jurisdiction over probationer	b. Rank	d. Organization	
d. Signature		e. Date	
18. Remarks			

18. Remarks (Continued)

(Check appropriate answer)

YES

NO

19. Decision of the officer exercising general court-martial jurisdiction over probationer.

a. Vacate suspension of the sentence to (specify type/amount of punishment to be vacated):

b. Not to vacate.

c. Other (specify):

d. If decision is to vacate, indicate evidence relied on:

e. If decision is to vacate, indicate reasons for vacating:

20a. Name of officer exercising general court-martial jurisdiction over probationer

b. Rank

c. Organization

d. Signature

e. Date