

48-2301. (KCMJ Art. 15) Commanding officer's nonjudicial punishment. (a) Under such regulations as the governor may prescribe, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) Upon an officer of the commanding officer's command:

(A) Withholding of privileges for not more than two consecutive weeks;

(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or

(C) if imposed by the governor, the adjutant general, or the commanding general of a brigade, or the commanding officer of a separate group or battalion, a fine or forfeiture of pay and allowances of not more than \$125;

(2) upon other military personnel of the commanding officer's command:

(A) Withholding of privileges for not more than two consecutive weeks;

(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;

(C) extra duties for not more than 14 days, which need not be consecutive, and for not more than two hours per day, holidays included;

(D) reduction to next inferior grade if the grade from which demoted is within the promotion authority of the officer imposing the reduction of any officer subordinate to the one who imposes the reduction;

(E) if imposed by an officer of the grade of major or above: (i) The punishment authorized pursuant to subsection (a)(2)(A) through (a)(2)(D) above; or (ii) a fine or forfeiture of pay of not more than \$50.

(b) The governor may, by regulation, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(c) An officer in charge may impose on enlisted members assigned to the unit or element of which the officer is in charge the punishments authorized pursuant to subsections (a)(2)(A) through (a)(2)(D).

(d) The officer who imposes the punishment authorized in subsection (b), or such officer's successor in command, may at any time suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition such officer may at any time remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges and property affected. Such officer may also mitigate reduction in grade to a fine or forfeiture of pay. When mitigating extra duties to restriction the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to fine or forfeiture of pay, the amount of the fine or forfeiture shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

(e) Except where punishment has been imposed by the governor, a person punished under this section who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposes the punishment.

(f) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(g) Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing on or after the date that punishment is imposed and to any pay accrued before that date.

(h) Any punishment authorized by this section which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean regularly scheduled inactive duty training days.

(i) Prior to being informed of the disciplinary action to be taken under this section, the person to be punished shall have the right to demand a trial by court-martial for the offense. Punishment may not be imposed upon any member of the state military force under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment.

History: L. 1972, ch. 203, § 48-2301; L. 1988, ch. 191, § 10; July 1.