

**39-6-43 Sworn testimony -- Read in evidence.**

- (1) The sworn testimony of a case which is contained in the authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may be read in evidence by any party before a military court if:
  - (a) otherwise admissible under the rules of evidence;
  - (b) the accused was a party before the court of inquiry;
  - (c) the same issue was involved or the accused consents to the introduction of the evidence; or
  - (d) the accused was physically present when the testimony was taken.
- (2) The testimony may be read in evidence:
  - (a) before a court of inquiry or a military board; or
  - (b) by the defense only in cases extending to the dismissal of a commissioned officer.

Enacted by Chapter 210, 1988 General Session