

39-6-55 Specification dismissal -- No finding of not guilty -- Procedure.

- (1) If a specification before a military court has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.
- (2) If there is an apparent error or omission in the record or the record shows improper or inconsistent action by a court martial regarding a finding or sentence, that may be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. However, the record may not be returned for:
 - (a) reconsideration of a finding of not guilty of any specification, or a ruling which amounts to a finding of not guilty;
 - (b) reconsideration of a finding of not guilty of any charge unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of a provision of this chapter; or
 - (c) increasing the severity of the sentence.

Amended by Chapter 15, 1989 General Session