WEST VIRGINIA CODE: §15-1E-38

§15-1E-38. Duties of trial counsel and defense counsel.

(a) The trial counsel of a general or special court-martial shall be a member in good standing of the State Bar and shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(b) (1) The accused has the right to be represented in defense before a general or special court-martial or at an investigation under section thirty-two of this article as provided in this subsection.

(2) The accused may be represented by civilian counsel at the provision and expense of the accused.

(3) The accused may be represented:

(A) By military counsel detailed under section twenty-seven of this article; or

(B) By military counsel of the accused's own selection if that counsel is reasonably available as determined under subdivision (7).

(4) If the accused is represented by civilian counsel, military counsel detailed or selected under subdivision (3) shall act as associate counsel unless excused at the request of the accused.

(5) Except as provided under subdivision (6), if the accused is represented by military counsel of his or her own selection under paragraph (B), subdivision (3), any military counsel detailed under paragraph (A), subdivision (3), shall be excused.

(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section twenty-seven of this article to detail counsel, in that person's sole discretion:

(A) May detail additional military counsel as assistant defense counsel; and

(B) If the accused is represented by military counsel of the accused's own selection under paragraph (B), subdivision (3), may approve a request from the accused that military counsel detailed under paragraph (A), subdivision (3), act as associate defense counsel.

(7) The senior force judge advocate of the same force of which the accused is a member, shall determine whether the military counsel selected by an accused is reasonably available.

(c) In any court-martial proceeding resulting in a conviction, the defense counsel:

WV Legislature

(1) May forward for attachment to the record of proceedings a brief of such matters as counsel determines should be considered in behalf of the accused on review, including any objection to the contents of the record which counsel considers appropriate;

(2) May assist the accused in the submission of any matter under section sixty of this article; and

(3) May take other action authorized by this article.

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