

WEST VIRGINIA CODE: §15-1E-71

§15-1E-71. Execution of sentence; suspension of sentence.

(a) If the sentence of the court-martial extends to dismissal or a dishonorable or bad-conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn under section sixty-one of this article, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by an appellate court prescribed in section sixty-seven-a of this article, and is deemed final by the law of state where the judgment was had.

(b) If the sentence of the court-martial extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn under section sixty-one of this article, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review under section sixty-four of this article is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section sixty of this article when so approved under that section.