

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980

32.1051 Voting by members of court-martial on findings and on sentence; rulings by military judge upon questions of law or interlocutory questions; finality; instructing court as to elements of offense and charge; court-martial composed of military judge only; procedure.

Sec. 51. (1) Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret, written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall announce the results of the ballot to the members of the court.

(2) The military judge shall rule upon questions of law and interlocutory questions arising during the proceedings. A ruling made by the military judge upon a question of law or an interlocutory question other than the factual issue of mental responsibility of the accused, and upon a question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge may change a ruling made by the military judge at any time during the trial.

(3) Before a vote is taken on the findings, the military judge, in the presence of the accused and counsel, shall instruct the court as to the elements of the offense and charge the court as follows:

(a) The accused must be presumed to be innocent until guilt is established by legal and competent evidence beyond a reasonable doubt.

(b) If there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted.

(c) If there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree to which there is no reasonable doubt.

(d) The burden of proof to establish the guilt of the accused beyond a reasonable doubt rests upon this state.

(4) Subsections (1) and (2) do not apply to a court-martial composed of a military judge only. The military judge of that court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, set an appropriate sentence. The military judge of that court-martial shall make a general finding and, on request, shall find the facts specially. If an opinion or memorandum of decision is filed, the opinion or memorandum shall be sufficient if the findings of fact appear in the opinion or memorandum.

History: 1980, Act 523, Eff. Mar. 31, 1981.