



# Discharge from Service Due to Conviction by Korean Court



**BLUF:** Pursuant to Army Regulation 635-200, paragraph 14-9, and Eighth Army Policy #18 (see Appendix 1), if a Servicemember is convicted of a criminal offense by a Korean tribunal or court, and the offense for which they were convicted falls within either category below, separation will be initiated against them.

## **Offenses Requiring the Initiation of Separation/Elimination:**

Separation will be initiated against a Soldier within fourteen (14) calendar days of a conviction regardless of the pendency of appeal, or when action is taken that is equal to a finding of guilty if one of the following conditions is present:

- A punitive discharge authorized for the same or closely-related offense under the Manual for Courts-Martial.
- The sentence by civil authorities includes confinement for 6 months or more, without regard to suspension or probation.

## **Separation Process:**

Upon a qualifying conviction, the Soldiers' immediate commander will initiate the appropriate separation action and process that action through the chain of command to the separation authority. The retention/separation authority will decide if the Soldier is retained or separate. In the event the Soldier appeals his/her conviction, the separation process will continue, but the decision to retain or separation will not occur until the appeal is finalized.

## **Appeals:**

A Soldier will be considered as having been convicted even though an appeal is pending or is later filed. Approval of discharge will be withheld until one of the following occurs, whichever is earlier:

- The Soldier indicates, in writing, that he/she does not intend to appeal the conviction,
- The time to appeal has expired, or
- The Soldier's current term of service, as adjusted, expires.

## **Confinement in Foreign Prisons:**

A Soldier confined in a foreign prison will not be discharged from military service until the term of imprisonment is completed and they return to the United States. However, confinement will not stop the separation process from being initiated or proceeding through the chain of command to the appropriate separation authority.

## **Right to Counsel:**

The SOFA establishes the right of any person protected by the SOFA to have a local national civilian attorney detailed to his/her case at the expense of the US Government. This attorney will act as the servicemembers representative during all phases of the KNP investigation and Korean court proceedings to include the appeal.

Individuals covered by the SOFA are also eligible to discuss any issue arising or related to the subjects covered in this information with an attorney within the Camp Humphrey Client Legal Services Office. Though a CLS attorney is not authorized to represent the subject in any criminal proceeding, they will be able to answer question related to the attached Policy Letter or related processes.

Finally, should a Soldier be convicted of an offense, once separation/elimination has been initiated, that Soldier has a right to representation by the U.S. Army Trial Defense Services (TDS). TDS is located in building P6410 in the Babbitt Courtroom building.

**USAG-Humphreys Client Legal Services Division  
Office of the Staff Judge Advocate, 8th US Army  
Bldg. 6400, Room R301 (One-Stop Building)  
DSN 757-2617/2618  
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