

**35.355 Restoration of rights, privileges and property affected by sentence which is set aside or disapproved.**

- (1) Under such regulations as may be prescribed pursuant to this chapter, all rights, privileges, and property affected by an executed portion of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed portion is included in a sentence imposed upon the new trial or rehearing.
- (2) Where a previously executed sentence of dishonorable or other punitive discharge is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.
- (3) Where a previously executed sentence of dismissal is not sustained on a new trial, the adjutant general shall substitute therefor a form of discharge authorized for administrative issuance and the officer dismissed by such sentence may be reappointed by the Governor, only, to such commissioned rank and precedence as in the opinion of the Governor such former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made provided a position vacancy is available under applicable tables of organization. All time between the dismissal and such reappointment shall be considered as service for all purposes.

**History:** Amended 1970 Ky. Acts ch. 56, sec. 50. -- Created 1954 Ky. Acts ch. 99, sec. 70, effective July 1, 1954.