

## Ask the Lawyer: Awards and Medals May Help in Sentencing

By Mathew B. TullyQ. I've received numerous awards and decorations during my time in service. Will that make any difference at my court-martial?

A.

Medals have great value — both to the service and to the recipient. If you are convicted at court-martial, your awards and decorations can influence the willingness of a convening authority to grant mercy or leniency, known as “clemency.” But how much weight is given to one’s service decorations depends on the type of military honors awarded. Before a convening authority acts on courts-martial cases, under certain circumstances, he must be given a staff judge advocate recommendation. The SJAR features a balanced summary of the case and a recommendation on whether the adjudged sentence should be approved as is or modified. The staff judge advocate or legal officer who prepares the SJAR is expected to use both the record of trial and the service member’s personnel records in developing the recommendation. One of the responsibilities of a conscientious defense attorney is to ensure the SJAR accurately reflects the length and character of the member’s service. Barring any egregious mistakes, the member will not be able to correct omissions of certain awards or decorations later. The 2010 case *U.S. v. Dylan L. Sanchez* involved a Coast Guard machinery technician convicted at special court-martial of making a false official statement, wrongful disposition of military property and larceny. Sanchez was sentenced to eight months of confinement, reduction to E-1 and a bad-conduct discharge. Under the negotiated pretrial agreement, the convening authority suspended all adjudged confinement in excess of 60 days. Sanchez appealed his sentence to the Coast Guard Court of Criminal Appeals, claiming the SJAR misled the convening authority by failing to accurately describe the length and character of his service. The court noted that the SJAR “selectively summarized only the most negative information” from Sanchez’s service record. It failed to mention several awards and decorations, including a Coast Guard Achievement Letter, a Commandant’s Letter of Commendation, two Good Conduct Medals and two unit awards. While the court noted that the information in the SJAR provided partially accurate information, it found that “an unbalanced selection from an accused’s service record, containing considerable negative information but none of the more recent positive information, [cannot] be characterized as accurate. If service record information is included in the SJAR, it must provide a fair portrayal, not a misleading one.” Service members facing court-martial charges should make sure their attorney is aware of all awards and decorations they have received. Depending on the circumstances, the lawyer could help present the service member’s record, especially awards and military honors, to obtain a more lenient sentence.