

Returning Commands and Substitute CA Action Chart

This is the suggested action which should be taken when Rear Commands have pending cases and their forward counterparts return or are due to return from deployment and the Rear component is disestablished.

Stage of Case	Recommended Action	Authority	Notes	Documents to Use
Post-Preferral / Pre-Referral	Forward with no recommendations to returning Commander (or any CMA).	RCM 401(c) RCM 604(a)(b)	Since charges not referred, no withdrawal ltr is necessary but forwarding ltr is.	Forwarding Ltr (A)
Post-Referral / Pre Arraignment	Withdraw w/o prejudice and forward w/o recommendations to returning Commander (or any CMA).	RCM 604(a)(b)	Add on the record in both cases the reason for the withdrawal and forwarding to document proper withdrawal.	Withdrawal Ltr (A) Forwarding Ltr (A) W/ Special Instructions
Post-Arraignment / Pre-Evidence on the merits (evidence on any motions ok)	Withdraw w/o prejudice and forward w/o recommendations to returning Commander (or any CMA).	RCM 604(a)(b) US v Koke	If post arraignment the withdrawal must be proper, as per 604(b), in order to be re-referred, therefore, document reasons for withdrawal and forwarding to show "good cause."	Withdrawal Ltr (A) Forwarding Ltr (A) W/ Special Instructions
Post-Evidence on the merits / Pre-Findings and Sentence	Make every effort not to withdraw. Only if "necessary, urgent, and unforeseen military necessity."	RCM 604(a)(b) Wade v Hunter	This will be the most difficult to overcome upon review. Therefore, avoid this stage by withdrawing earlier.	Withdrawal Ltr (B) Forwarding Ltr (B) W/ Special Instructions
Post-Finding and Sentence / Pre-Action	Defer to GCMCA for post trial initial action.	RCM 1107	The review section will take care of this situation.	

Note: The GCMCA can always withdraw a case from a subordinate commander (using the guidelines above) and either act on it himself or forward it to another subordinate commander or a commander outside of his or her command for referral.

Note: If a commander forwards charges for disposition to a superior commander (as per RCM 401(c)(2)(a)) the lower commander must make recommendations as to disposition. Therefore, add recommendation language to forwarding letter. If forwarded to a subordinate or equivalent commander then no recommendation as to disposition can be made.

Note: In all cases the Trial Counsel should put on the record the documents created above and the justification for them in the next session of trial so that both ROT reflect the movement of the case and its justification.

Note: In all cases a copy of the charges and summary of evidence or copy of evidence shall be forwarded to the receiving commander.

Special Instructions: The referral block for the new trial should reflect the following special instructions: **These charges are being referred pursuant to RCM 604(b). These charges were withdrawn by the previous Convening Authority, CO, MAC-10 (Rear), due to the impending disestablishment of MAC-10 (Rear) as outlined in SECNAV ltr of 5 Feb 03, and forwarded to me for disposition.**