

**48-2714. (KCMJ Art. 49) Depositions.** (a) At any time after charges have been signed, as provided in K.S.A. 48-2601 and amendments thereto, any party may take oral or written depositions unless the military judge or an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority shall designate lawyers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audio tapes, video tapes or similar materials, may be played in evidence before any court-martial or in any proceeding before a court of inquiry, if it appears that:

(1) The witness resides or is beyond the state in which the court, commission or board is ordered to sit, or beyond 100 miles from the place of trial or hearing;

(2) the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process or other reasonable cause is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) the present whereabouts of the witness is unknown.

**History:** L. 1972, ch. 203, § 48-2714; L. 1988, ch. 191, § 32; July 1.