**Section 400.1080 Petition for a New Trial**

a) *At any time within 2 years after approval by the convening authority of a court-martial sentence, the accused may petition the Adjutant General for a new trial on the grounds of newly discovered evidence or fraud on the court-martial*. (Code Section 73)

b) A petition for a new trial of the facts may not be submitted on the basis of newly discovered evidence when the petitioner was found guilty of the relevant offense pursuant to a guilty plea.

c) The form of the petition shall comply with RCM 1210.

d) Newly Discovered Evidence. A new trial shall not be granted on the grounds of newly discovered evidence unless the petition shows that:

1) The evidence was discovered after trial;

2) The evidence is not such that it would have been discovered by the petitioner at the time of trial in the exercise of due diligence; and

3) The newly discovered evidence, if considered by a court martial in light of all other pertinent evidence, would probably produce a substantially more favorable result for the accused.

e) Fraud on Court-martial. No fraud on the court-martial warrants a new trial unless it had a substantial contributing effect on a finding of guilty or the sentenced adjudged.