



COURT MARTIAL

Citation: *R. v. Rodrigue*, 2015 CM 4001

Date: 20150107

Docket: 201441

Standing Court Martial
2nd Canadian Division Support Base Valcartier
Courselette, Quebec, Canada

Between:

Her Majesty the Queen

- and -

Corporal F.W. Rodrigue, Offender

Before: Commander J.B.M. Pelletier, M.J.

OFFICIAL ENGLISH TRANSLATION

REASONS FOR SENTENCE

(Orally)

INTRODUCTION

[1] Corporal Rodrigue, having accepted and entered your plea of guilty for the three charges remaining on the charge sheet, the Court finds you guilty of these charges brought against you under section 130 of the *National Defence Act*, for uttering threats contrary to section 264.1 of the *Criminal Code*; for contravening regulations concerning the storage of firearms, contrary to subsection 86(2) of the *Criminal Code*; and for contravening regulations concerning the transportation of firearms, also contrary to subsection 86(2) of the *Criminal Code*.

[2] In my capacity as the presiding military judge of this Standing Court Martial, it is now my duty to impose a sentence that I deem appropriate, a task that is made particularly difficult in the context of this matter, considering the circumstances surrounding the commission of the offences and the diametrically opposed positions of

the parties involved, regarding the characterization and therefore the seriousness of the offences.

[3] During the course of my deliberations, I considered the applicable sentencing principles in courts under criminal and penal jurisdiction in Canada as well as in courts martial. I also considered the relevant facts of this case, as presented in the statement of circumstances read by counsel for the prosecution, as well as the documents and evidence submitted during the sentencing hearing, most notably the testimony of Corporal Rodrigue and a statement which Corporal Rodrigue provided to police after committing the offences in September 2013. I also considered the arguments made by both counsel for the prosecution and counsel for the defence and the case law submitted in support of their arguments.

OBJECTIVES AND APPLICABLE PRINCIPLES

[4] The military justice system is generally the ultimate way of imposing discipline within the Canadian Forces and is a fundamental element of military life. As recognized by the Supreme Court of Canada, the objective of a military justice system and courts is to give the armed forces the necessary tools to ensure respect for internal discipline in order to encourage efficiency and boost morale (See *R. v. Généreux*, [1992] 1 SCR 259, page 293.) Indeed, it is through discipline that an armed force is able to maintain a state of readiness in order to take action at the request of the Government and is able to make sure that its members can successfully execute missions in a reliable and trustworthy manner. By ensuring that persons subject to the Code of Service Discipline can be punished, this system serves the public interest in seeing the law enforced.

[5] It is a well-known fact that breaches of military discipline must be dealt with speedily and, in many cases, punished more severely than would be the case if a civilian engaged in such conduct. (See *Généreux*). Notwithstanding this fact, any punishment that is to be imposed must correspond to the minimum necessary intervention in the circumstances. It is the responsibility of the sentencing judge to impose a sentence or a combination of penalties proportionate to the seriousness of the offence and the degree of responsibility of the offender, as indicated in the *Queen's Regulations and Orders* (QR&O).

[6] Therefore, the key objectives of sentencing are to support the operational effectiveness of the Canadian Forces by helping to maintain discipline, efficiency and morale, and to contribute to respect for the law. These key objectives can be achieved by imposing sanctions which aim to achieve one or more of the following objectives:

- a) to protect the public, which includes the Canadian Forces;
- b) to denounce unlawful conduct;
- c) to deter the offender and other persons from committing offences;

- d) to provide reparations for harm done to the victims or the community;
- e) to separate offenders, if necessary, from other officers or non-commissioned members or from society in general; and
- f) to integrate offenders back into society or military life.

[7] A military court that imposes a sentence must also take into consideration the following principles:

- a) Parity in sentencing, that is, considering that the sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender, the judge must impose a sentence which is similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- b) A sentence should be the least severe sentence possible that facilitates efforts to maintain discipline, efficiency and morale;
- c) An offender should not be deprived of liberty, by imprisonment or detention, if less restrictive sanctions may be appropriate in the circumstances;
- d) Any indirect consequences of the finding of guilty or the sentence should be taken into consideration; and
- e) Lastly, the sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the situation of the offender.

THE CIRCUMSTANCES SURROUNDING THE OFFENCES

[8] A statement of circumstances was read by the prosecutor and accepted as being true by Corporal Rodrigue. The circumstances surrounding the offences are as follows:

- a) At the time of the events, Corporal Rodrigue was a member of the 12^e Régiment blindé du Canada, on the Valcartier Base.
- b) On the morning of 13 September 2013, Corporal Rodrigue was scheduled to appear at a summary trial to answer for absences without leave. Shortly before his trial, Corporal Rodrigue reportedly crossed paths with a fellow member of his regiment and indicated that he had a gloomy outlook. Corporal Rodrigue allegedly said that he intended [TRANSLATION] “to clean up the Regiment and move on”. The member then asked him to explain how he intended to clean things up. Corporal Rodrigue replied that he had a [TRANSLATION] “shotgun and fifty-six (56) bullets in the trunk of his car”. Corporal Rodrigue and the member then agreed that after his summary trial, they would both go and

retrieve his firearm and ammunition. Corporal Rodrigue agreed to comply with this arrangement, but it never actually happened because Corporal Rodrigue never went back to see the member in question.

- c) At the summary trial, Corporal Rodrigue was sentenced to pay a fine of five hundred dollars (\$500) and to serve fourteen (14) days of confinement to barracks. Corporal Demers subsequently received orders to accompany Corporal Rodrigue to his residence to get uniforms and other items required for the period of confinement to barracks, and they used Corporal Rodrigue's personal vehicle for this purpose. While en route, Corporal Rodrigue showed Corporal Demers a .12-calibre firearm which was hidden under a blanket on the back seat of the vehicle. This firearm and some ammunition had been placed in the vehicle that very morning. Corporal Rodrigue allegedly said that he had enough ammunition to do some damage to the Regiment. Fearing for his safety and the safety of Corporal Rodrigue, Corporal Demers convinced Corporal Rodrigue to drive to the Health Services Centre on the Valcartier Base (VHC) in order to obtain the support he needed for his obvious distress.
- d) After medical personnel had been consulted, military police were dispatched to take control of the situation. Corporal Rodrigue cooperated with the police officers. He was then transported in a military police vehicle to Saint-Sacrement Hospital in Québec to undergo a psychiatric evaluation.
- e) After conducting a number of checks, the military police learned that Corporal Rodrigue had a licence to possess and acquire a non-restricted firearm. On 13 September 2013, the military police obtained warrants to search Corporal Rodrigue's vehicle and residence.
- f) During the search of the vehicle, which was parked at the Health Services Centre on Base, the police officers seized a .12-calibre firearm and forty-four (44) bullets of the same calibre. This firearm had not been transported in compliance with section 10 of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations*, i.e., this firearm had been found in an unattended vehicle and was visible from the outside of the vehicle.
- g) During a subsequent search of Corporal Rodrigue's residence, the police officers found and seized the following firearms:
 - i. a MAUSEER 98k firearm
 - ii. a .22-calibre WINCHESTER model 600 firearm
 - iii. a BERRETA M1 GARAND 30-60 firearm

- iv. a NORINCO SKS 762X39 firearm
 - v. a .22-calibre REMINGTON SPORTMASTER firearm
 - vi. an ENFIELD PATERN 1914 firearm; and
 - vii. an MM9648 firearm.
- h) The police officers also seized more than three hundred (300) bullets of different calibres. Some of the ammunition had been stored and placed near firearms that had not been securely stored. The ammunition was easily accessible and had not been stored in a secure and locked location.
- i) The firearms that were found and seized had not been stored in compliance with section 5 of the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations*. They were all found in the closet of a small bedroom. Moreover, the firearms had not been rendered inoperable (with a secure locking device or by removing the bolt or bolt-carrier of each firearm), or stored in a safe and locked room or receptacle. They were also found near ammunition that was not stored in compliance with the regulations.

THE OFFENDER'S SITUATION

[9] Corporal Rodrigue is 28 years old. He joined the Regular Force on 23 March 2006, after serving as a reservist since 2003. He has served with the 12^e Régiment blindé du Canada, on the Valcartier Base since October 2006, after completing his instruction at the Royal Canadian Armoured Corps School in Gagetown. He was promoted to his current rank in April 2009. He has a girlfriend who has lived with him in Saint-Gabriel-de-Valcartier for some time and who is part of his future plans. He does not have any children.

[10] Between November 2010 and July 2011, Corporal Rodrigue was deployed with the Joint Task Force Afghanistan as part of an armoured squadron. It was upon his return from this deployment, which is understood to have been intense, that he indicates that he started to have issues with anxiety and insomnia and to engage in impulsive behavior such as reckless spending, erratic driving and incidents of road rage. He reported that at the time, he no longer derived any type of gratification from the things that he used to enjoy, since nothing could replace the “thrill” that he had experienced in Afghanistan. He had also started to indulge in the use of “spice”, a product which produces effects similar to the effects of marijuana, and, by his own admission, did so in order to reproduce the “rush” he had experienced during his deployment. In November 2011, he resigned himself to seeking help, first from a social worker on Base and subsequently by seeing a psychologist and a psychiatrist. He successfully participated in a closed treatment program in fall 2012 to address his

addiction issues. Since 6 September 2013, i.e., a few days before the events, he was diagnosed with a severe personality disorder characterized by borderline and narcissistic aspects. Essentially, Corporal Rodrigue suffers from problems related to identity and identification and has difficulty managing his emotions; this leads to destructive behaviour intended to fill some sort of internal void. He is currently participating in psychotherapy, in the context of a treatment plan that could continue for a period of up to three years.

[11] Corporal Rodrigue's military career has been in limbo since his psychological problems and issues with addiction became evident and were diagnosed. He has been assigned to various administrative duties within his regiment. Early last month, his doctor informed him that a recommendation had been forwarded to the competent authorities in Ottawa advising that he be assigned a medical category which would prevent him from continuing to serve within the Canadian Forces. His medical release will therefore be ordered within the next 18 to 24 months. Pending this order, his sole military duty is to spend a minimum of one hour a day at the sports centre on Base while waiting to benefit from the available rehabilitation programs offered in partnership with the Department of Veterans Affairs.

[12] During the presentation of evidence at sentencing, the Court heard the accused's version of events at two different times. First, the Court reviewed part of the interview of Corporal Rodrigue by a military police officer on 27 September 2013, i.e., two weeks after the events occurred, soon after he had been released from the psychiatric wing of Saint-Sacrement Hospital. It shows an accused being confronted by a police officer on allegations of uttering threats. Most of the interview focuses on the threats allegedly directed at Corporal Demers; Corporal Rodrigue denied these allegations. It is in this context, where Corporal Rodrigue is trying to defend himself, that one must interpret his attempts to minimize the significance of his actions. Despite an obvious lack of introspection regarding the seriousness of his actions and his own responsibility, particularly with respect to the actions of his chain of command, Corporal Rodrigue emphasizes the stupidity of his actions and the comments he made on 13 September 2013. During his testimony before the Court more than 15 months later, it became clear that Corporal Rodrigue had made considerable personal progress. At that time, he indicated that he had a better understanding of the position of his chain of command and that he regretted his actions, which have no place in society, much less in the Canadian Forces.

[13] It is my opinion that Corporal Rodrigue has made significant personal progress since the events occurred and that he is firmly committed to the rehabilitation process as indicated by his efforts to seek and successfully complete treatments, and by the sincere remorse that he has expressed.

THE POSITIONS OF THE PARTIES ON THE SENTENCE

The Prosecution

[14] The military prosecutor characterizes the offences committed as acts of violence which involved some degree of planning. It is the prosecutor's opinion that the principles of general deterrence and denunciation should be prioritized in this case, and the prosecution is therefore asking the Court to impose a sentence of detention for a period of 15 to 30 days, the minimum sentence needed to maintain discipline, according to the prosecutor.

The Defence

[15] For its part, the defence maintains that the offences were essentially the result of a cry for help by Corporal Rodrigue, at a time when he felt that he lacked the resources to draw attention to his situation, which he viewed as being desperate. The defence denies the fact that there was any plan whatsoever to commit violence against anyone whatsoever and maintains that the act of showing Corporal Demers the firearm in the vehicle was completely spontaneous and constituted a clumsy attempt to ask for help and obtain care from the Health Centre on Base. The defence is of the opinion that the sentence should reflect the principle of rehabilitation and allow the offender to continue to make personal progress. Counsel for the defence submits that a sentence consisting of a reprimand and a fine of between 1,000 and 2,000 dollars should be sufficient to meet requirements for discipline.

ANALYSIS

Characterization of the offences

[16] It is my opinion that the evidence presented is insufficient to allow me to conclude that Corporal Rodrigue actually intended to use his firearm and the ammunition he was transporting in his vehicle on the morning of 13 September 2013, to attack members of the 12^e Régiment blindé du Canada. The exchange that he had with a colleague prior to the summary trial and his subsequent actions instead reveal that he was trying to get the attention that he believed he was due and had been unjustly denied. However, in so doing, he consciously chose to use a violent act to attract this attention and lend credibility to his cry for help: he chose to take a firearm and ammunition with him to his unit for the purpose of exploiting the fear that these types of potentially deadly devices raise.

[17] In my opinion, we are therefore looking at a form of intimidation through a violent action, i.e., the revealing of firearms for the purpose of obtaining a result, which means that it must be taken seriously. The obvious issue at this point is to determine the impact that this characterization should have on the sentence to be imposed. The parties' respective counsel have submitted several cases to the attention of the Court that concern either the issue of violence or the more technical issue of

storing or transporting firearms but rarely both issues together, except in cases involving highly criminalized offenders involved in unlawful activities such as drug trafficking. None of these cases was able to accurately capture the situation of a non-criminalized offender who was definitely suffering from some degree of psychological distress and made use of a firearm for the sole purpose of getting attention.

[18] That being said, a careful reading of the decision rendered by the Court of Quebec in *Cadieux* (2014 QCCQ 670), submitted by counsel for the prosecution, proposes some useful guidelines to consider, including the analysis of two decisions from Ontario concerning firearms offences. More specifically, the decision rendered in the well-known case of *R. v. Nur* (2013 ONCA 677) written by Justice Doherty, on behalf of a panel of five judges of the Court of Appeal for Ontario in 2013, includes an analysis of firearms legislation and its fundamental objectives with respect to the protection of the public. It illustrates a scale of severity of firearm-related offences, ranging from the lowest level, where a non-criminalized and licensed owner contravenes a regulation concerning where he or she can be in possession of the firearm without posing a risk to anyone, and the highest level, where a criminal is in possession of a loaded, prohibited firearm in a public location while engaging in criminal activity. Clearly, the offender in this case is closer to the lower level of the scale, but cannot be situated at the lowest level itself: he was transporting a firearm that could easily have been loaded with ammunition close at hand in the vehicle, in a public location, and he used the fact of being in possession of this firearm to incite fear and provoke the reaction that he wanted from others. This case clearly involves an obvious level of danger as regards the actions of Corporal Rodrigue. The presence of a firearm, readily accessible ammunition and threatening comments made by someone dealing with psychological issues, constitute a dangerous combination.

[19] The reasons provided by the Ontario Superior Court of Justice in *R. v. Ayala-Barrios* ([2007] O.J. No. 5393) are also enlightening. The offender had been found guilty of being in possession of a prohibited firearm and carrying a concealed weapon, because he had taken a firearm with a sawed-off barrel from his home in response to a call for help from a friend who had been the victim of a serious assault. The firearm was not loaded, and the jurors concluded that the firearm had not been pointed or used in a threatening or dangerous manner. In imposing the sentence, the judge indicated that the offence of being in illegal possession of a firearm could potentially result in injury or death, which is significant, and that any sentence must be sufficiently severe enough to reflect society's intolerance for this type of conduct. The sentencing judge emphasized that with the exception of rare and exceptional circumstances, a sentence of incarceration would be required to meet the objectives of denunciation. However, the offender was given a sentence of 12 months to be served within the community, in light of his favourable profile. I understand that this case does not involve the possession of a prohibited firearm; nevertheless, the way in which the firearm was transported and the use of the firearm to engage in a form of intimidation was illegal. That being said, like Mr. Ayala-Barrios in the aforementioned case, this is a case which involves an offender with a favourable profile.

Objectives to be prioritized

[20] I have come to the conclusion that the circumstances in this case warrant a sentence that targets the objectives of denunciation, general deterrence and rehabilitation. The sentence must clearly express the notion that the conduct of the accused was unacceptable and deter others who, in a similar situation, may consider acting in a similar manner. However, the sentence should not unduly undermine the efforts undertaken by Corporal Rodrigue to engage in the rehabilitation process, since, at age 28, he has an entire future ahead of him as a member of society, even though his military career will soon be ending.

The objective seriousness

[21] In considering what would constitute a just and appropriate sentence, the Court considered the objective seriousness of the offence which, under the provisions of section 130 of the *National Defence Act*, is an offence punishable by a maximum of five years of imprisonment for an offence under section 264.1 of the *Criminal Code* and a maximum of two years of imprisonment for offences under subsection 86(2) of the *Criminal Code*.

Aggravating factors

[22] In the circumstances involved in this case, the Court considers the following to be aggravating circumstances: the subjective severity of the offences committed, in that the accused made threats against members of his regiment, to the effect that they could be victims of violence committed with a firearm on the military base and within regimental lines, the very place where the cohesion and trust between members must be paramount. Even though the evidence presented did not include any information on the impact that the offences had on the unit, the fact remains that these are not the type of action that encourages the requisite cohesion and trust among members of a regiment; this evidence was supported by the testimony of Corporal Rodrigue, who indicated that he felt that he was finally benefitting from a certain level of trust again, when he was assigned to certain duties within the regiment's transportation troop, including serving as the chauffeur of the Commanding Officer and the Regimental Sergeant-Major.

[23] The Court also noted that Corporal Rodrigue's conduct sheet includes the convictions for absence without leave dated September 13, 2013, at the time of the summary trial that prompted the current offences. Considering the nature of these convictions and despite their proximity in time to the offences for which the offender is being sentenced today, the Court is of the view that these previous convictions should not have an impact on the sentence. The offender cannot be considered to be a repeat offender in the context of matters related to violence or firearm offences.

Mitigating factors

[24] The Court also considered the following mitigating factors, as indicated in the submissions presented by counsel for the parties and illustrated by the evidence introduced during the sentencing hearing:

- a) First, and most importantly, the offender's plea of guilty, which the Court deems to be an indication of remorse, as eloquently expressed in the testimony he provided, to the effect that he accepts responsibility for his actions.
- b) The fact that Corporal Rodrigue fully cooperated with authorities in the moments following the offences and thereafter.
- c) Corporal Rodrigue's past contribution to the Canadian Forces, particularly before and during his deployment to Afghanistan after which his contribution was necessarily reduced due to the psychological issues that seem to have been caused by this deployment.
- d) Corporal Rodrigue's potential, since, by all indications, he can continue to contribute to Canadian society after his imminent release from the Canadian Forces, considering that he is still young, that he has made and continues to make efforts to better manage his psychological problems and that he has accepted the fact that he must now retrain, from a professional point of view, in anticipation of his civilian life.
- e) Lastly, and notwithstanding my previous observations on the subjective seriousness of the offences, the fact remains that the evidence shows that the offences were primarily due to irrational conduct without any substantial premeditation on the part of Corporal Rodrigue, who, despite having a certain level of experience within the Canadian Forces, did not find a better way to ask for help to deal with his condition, other than to commit the actions for which he has pleaded guilty.

The impact of the psychological problems of the accused

[25] The psychological injuries which many military personnel suffer when they return from deployment, most notably from Afghanistan, is a serious issue for the Canadian Forces and Canadian society in general. The impact of the psychological condition of an offender must be rigorously determined. It is particularly important to understand that with the exception of issues which render an accused not criminally responsible for actions committed, an existing diagnosis of psychological problems does not absolve an accused of responsibility for the actions committed.

[26] In this case, the offender has admitted his responsibility. Considering the entirety of his testimony during the sentencing hearing and considering the diagnosis provided by the treating psychologist under Exhibit 11, I have concluded that the

evidence demonstrated that Corporal Rodrigue's psychological state played a role in the commission of the offences. Due to his problems in this regard, his ability to identify solutions in order to ask for help in dealing with the predictable consequences of being convicted of offences for absences was significantly compromised, and this led him to take the actions he is accused of committing with respect to the firearm and ammunition in his vehicle and the comments that he made. It is hard to believe that he would not have been able to consider a more rational and measured way to react to the circumstances without these problems. In making this assessment, I am aware that a psychological report could have helped me reach this conclusion with greater certainty. However, in the absence of such a report, I remain confident that I can consider the offender's psychological condition as being a mitigating factor for the sentence in this case.

[27] Notwithstanding the above, despite the compassion that the Court may have for the offender's psychological condition and the fact that this condition seems to have resulted from his deployment to Afghanistan, the fact remains that this mitigating factor does not, in and of itself, have the effect of preventing the imposition of a sentence that would otherwise be appropriate. I must also clearly state that there is no evidence which would allow me to conclude that a sentence of detention or imprisonment should not be imposed due to the psychological state of the accused. However, consideration of this factor, along with the other mitigating factors could lead the Court to suspend the sentence of imprisonment or detention.

Determination of the sentences(s) to be imposed

[28] As indicated earlier and in accordance with the submissions of the parties, the sentence or combination of penalties imposed by the Court should correspond to the minimum required to maintain discipline. With respect to the submissions of counsel for the prosecution, indicating that a period of detention of between 15 and 30 days would be the minimum sentence required, I do not intend to exceed this recommendation and impose a more severe punishment based on the scale of punishments provided under section 139 of the *National Defence Act*. Indeed, contrary to the submissions presented by the defence, to the effect that imprisonment and not detention would be appropriate in this case, and considering that Corporal Rodrigue is to be discharged within the next 18 to 24 months, I agree with the position of the military judge in *Blouin*, which was brought to my attention by counsel for the prosecution, which indicates that the stigmatizing effect of a sentence of detention is less than that of a sentence of imprisonment. (See *R. v. Corporal P.S. Blouin*, 2004 CM 25, paragraph 18.) Corporal Rodrigue is involved in an ongoing rehabilitation process within the Canadian Forces. A sentence of detention is therefore not appropriate in and of itself.

[29] Having clarified the most severe punishment it would be possible to impose, it would be appropriate to start my analysis with the least severe punishment that has been recommended in order to consider whether it would meet the objectives of denunciation and general deterrence which, as indicated earlier, must be prioritized in this case. At

this point, the obvious question is the following: is the sentence of a reprimand and a fine, as suggested by the defence, sufficient to meet the aforementioned objectives to be prioritized? In my opinion, such a combination of penalties would be insufficient to adequately denounce the conduct of the offender, which as indicated in my characterization of the offence included an element of obvious danger for the public. This conclusion reflects the conclusion of the Ontario Superior Court of Justice in *Ayala-Barrios* referred to earlier.

[30] I am also of the opinion that loss of seniority and demotion would be insufficient punishments, given the circumstances in this case, especially for a member whose discharge is imminent and who serves, and by all indications will continue to serve, in areas outside a military environment until his discharge. I also believe, despite the submissions of the defence, that a demotion would have a significant effect on the financial situation of the offender and is not justified, particularly considering the minimal effect that this sentence would have of the objectives of denunciation and general deterrence under the circumstances.

[31] It is therefore my conclusion that a sentence of detention would be the minimum sentence appropriate in this case. However, this is a case where the mitigating circumstances specific to Corporal Rodrigue justify the suspension of this sentence of detention.

Orders which may be imposed

[32] Counsel for the prosecution is asking the Court to impose an order under section 147.1 of the *National Defence Act*, in order to prohibit the offender from possessing firearms for a period of five years, even if necessary for his military service. The defence opposes this request.

[33] Considering the element of obvious danger for the public referred to earlier, I have concluded that, given the circumstances of the offences, it would be desirable for the safety of the offender and others for the Court to make an order prohibiting the offender from possessing any firearm, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance. With respect to the application of the order to military service, I believe that this request is appropriate given the exceptional circumstances of this case and considering the identity of the group that was targeted by the offender's threats. Lastly, with respect to the term of this prohibition, considering that the offender is participating in therapy which may continue for up to three years, I believe that the term of five years requested by the prosecution is reasonable, as it will allow the offender to regain control over his life completely before he can once again apply for authorization to possess a firearm.

[34] The Court considered whether it would be appropriate to make an order for the taking of samples from the offender under subsection 196.14(3) of the *National Defence Act* but concluded that it was not appropriate to make such an order, in light

of the submissions by counsel for the prosecution to the effect that such an order would not serve the best interests of the administration of military justice.

[35] Corporal Rodrigue, the circumstances surrounding the offences to which you have pleaded guilty reveal conduct which is completely unacceptable from a member of the Canadian Forces. I firmly believe that you understand that now and that you are working hard to overcome the psychological problems that have affected you since your return from deployment and which played a key role in the offences you have admitted to committing. Consequently, further to some difficult deliberations, I have chosen to impose the only sentence which, in my opinion, is likely to meet the objectives of denunciation and deterrence without having an adverse effect on your rehabilitation from both a psychological and a financial point of view.

FOR THESE REASONS, THE COURT:

[36] **FINDS** Corporal Rodrigue guilty of three charges under section 130 of the *National Defence Act*,

[37] **SENTENCES** Corporal Rodrigue to a punishment of detention for a period of 30 days.

[38] **SUSPENDS** the carrying into effect of the punishment of detention under section 215 of the *National Defence Act*.

Counsel:

The Director of Military Prosecutions, as represented by Major G. Roy.

Lieutenant-Commander P. Desbiens, Defence Counsel Services, Counsel for Corporal F.W. Rodrigue.