

Citation: *R. v. Lieutenant(N) R.E. Edwards*, 2008 CM 2018

Docket: 200846

**STANDING COURT MARTIAL
CANADA
ONTARIO
HER MAJESTY'S CANADIAN SHIP STAR**

Date: 21 November 2008

PRESIDING: COMMANDER P.J. LAMONT, M.J.

HER MAJESTY THE QUEEN

v.

**LIEUTENANT(N) R.E. EDWARDS
(Offender)**

Warning

Pursuant to section 486.4 of the *Criminal Code* and section 179 of the *National Defence Act*, the court has directed that no person shall publish in any document or broadcast or transmit in any way information that could identify the witnesses referred to as K.S., C.R., M.H., C.L., or W.S.

**SENTENCE
(Rendered orally)**

[1] Lieutenant(N) Edwards, you have been found guilty, contrary to your plea, of one charge of behaving in a disgraceful manner, contrary to section 93 of the *National Defence Act*.

[2] It now falls to me to determine and to pass a sentence upon you. In so doing, I have considered the principles of sentencing that apply in the ordinary courts of criminal jurisdiction in Canada and at courts martial. I have, as well, considered the facts of the case as disclosed by the evidence taken in the course of the trial, as well as the evidence and exhibits received in the course of the mitigation phase. And I have, of course, considered the submissions of counsel, both on behalf of the prosecution and for the defence.

[3] The principles of sentencing guide the court in the exercise of its discretion in determining a fit and proper sentence in an individual case. The sentence should be broadly commensurate with the gravity of the offence and the blameworthiness or degree of responsibility and character of the offender. The court is guided by the sentences imposed by other courts in previous similar cases, not out of a slavish adherence to precedent, but because it appeals to our common sense of justice that like cases should be treated in similar ways. Nevertheless, in imposing sentence, the court takes account of the many factors that distinguish the particular case it is dealing with, both the aggravating circumstances that may call for a more severe punishment and the mitigating circumstances that may reduce a sentence.

[4] The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society, which includes, of course, the Canadian Forces, by fostering and maintaining a just, a peaceful, a safe, and a law-abiding community. Importantly, in the context of the Canadian Forces, these objectives include the maintenance of discipline, that habit of obedience which is so necessary to the effectiveness of an armed force. The goals and objectives also include deterrence of the individual so that the conduct of the offender is not repeated, and general deterrence so that others will not be led to follow the example of the offender. Other goals include the rehabilitation of the offender, the promotion of a sense of responsibility in the offender, and the denunciation of unlawful behaviour.

[5] One or more of these goals and objectives will inevitably predominate in arriving at a fit and just sentence in an individual case. Yet it should not be lost sight of that each of these goals calls for the attention of the sentencing court, and a fit and just sentence should be a wise blending of these goals, tailored to the particular circumstances of the case.

[6] Section 139 of the *National Defence Act* prescribes the possible punishments that may be imposed at courts martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment. Only one sentence is imposed upon an offender, whether the offender is found guilty of one or more different offences, but the sentence may consist of more than one punishment. It is an important principle that the court should impose the least severe punishment that will maintain discipline. In arriving at the sentence in this case, I have considered the direct and indirect consequences for the offender of the finding of guilt and the sentence I am about to impose.

[7] The facts of this offence were described in my reasons for finding, and I will not repeat what I said at that time.

[8] The prosecution asks the court to consider dismissal from Her Majesty's Service and reduction in rank to acting sub-lieutenant, the lowest naval rank for an officer. The defence asks the court to consider a severe reprimand and a substantial fine as a fit sentence in this case.

[9] I agree with the submission of the prosecutor that in the circumstances of this case, the sentencing principles of general deterrence and denunciation are of superordinate importance. The issue for the court is how to craft a fit sentence to vindicate those important principles.

[10] I consider that the conduct of the offender is very serious. It represents an egregious breach of the trust the young cadets reposed in him as their leader and role model; an egregious breach of the trust that the parents of the cadets reposed in him as a caregiver for their teenaged children; and an egregious breach of the trust reposed in him by the Canadian Forces to train up young sea cadets in the ethics and values of a noble service.

[11] It is deplorable that the behaviour of the offender occurred in the context of an exchange among sea cadets from other countries. Whether in or out of uniform, the offender was properly seen by persons from other nations to be a representative of his service and his country. His conduct must have tarnished the image of both in the eyes of those persons.

[12] I am mindful of the personal circumstances of the offender. He has reached 61 years of age after many years of devoted and commendable service as a member of the Royal Canadian Mounted Police; as a participant and a leader in the cadet organization; and, it is no exaggeration to say, as a pillar of the civilian community. It is very much to be regretted that at a stage of life where he should be looking back with satisfaction on a series of accomplishments—by no means the least of which has been the fostering of dozens of children put in his care and that of his spouse by the Children's Aid Society—his retrospective view will be marked by the blot on his character that this offensive conduct represents.

[13] Unlike some kinds of offenses of this nature, I do not find that the offender used his well-earned position in the community and rank in the Canadian Forces to gain the trust of others in order to commit the offence. Indeed, it is difficult to understand what might have motivated the offender to behave as he did on the walking tour of Amsterdam.

[14] What I do know, as a result of hearing the evidence of some of the young cadets, is that his behaviour had a deep and perhaps long-lasting effect on the well-being of the young cadets in his charge.

[15] In my view, a disposition by way of severe reprimand and a fine is wholly inadequate to address the objectives of sentencing. In all the circumstances, I consider that the minimum punishment called for in this case is dismissal from the service.

[16] Stand up, please, Lieutenant(N) Edwards. You are sentenced to dismissal from Her Majesty's Service.

COMMANDER P.J. LAMONT, M.J.

Counsel:

Major M. Trudel, Regional Military Prosecutions Central Region
Counsel for Her Majesty the Queen

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