



## COURT MARTIAL

**Citation:** *R. v. Shokouhi*, 2015 CM 1007

**Date:** 20150528

**Docket:** 201505

Standing Court Martial

Canadian Forces Base Borden  
Borden, Ontario, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Leading Seaman K. Shokouhi, Offender**

**Before:** Colonel M. Dutil, C.M.J.

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### REASONS FOR SENTENCE

(Orally)

[1] Leading Seaman Shokouhi admitted his guilt to two counts under section 129 of the *National Defence Act* for conduct to the prejudice of good order and discipline. The particulars of the first and second charges read as follows, "In that he, between 1 April 2012 and 3 July 2013, did utilize Security and Military Police Information System (SAMPIS) for unauthorized purposes contrary to Canadian Forces Military Police Group Orders 2-630." The second charge particulars read, "In that he, between 1 December 2011 and 3 July 2013, did utilize the Canadian Police Information Center (CPIC) for unauthorized purposes contrary to Canadian Forces Military Police Group Order 2-640."

[2] The prosecution and defence counsel jointly recommend that Leading Seaman Shokouhi be sentenced to a fine in the amount of \$2,000, payable in four equal instalments of \$500. Although the court is not bound by this joint recommendation or by this joint submission, it can only reject it if the recommendation is contrary to the public interest and the sentence would bring the administration of justice into disrepute. This

punishment falls within the acceptable range of sentences for offences of similar nature at courts martial and civilian courts.

[3] The circumstances surrounding the commission of the offences indicate that the offender was a member of the Regular Force, appointed as a military police and posted to the Military Police Unit at Canadian Forces Base Borden at the time of the commission of the offences.

[4] Although he was aware that he could not query the names of individuals on both SAMPIS and CPIC who were not the subject of military police investigations or that he could not query for matters not related to any military police duties, the offender made the following queries on either the SAMPIS or CPIC databases between the relevant periods: two queries of specific addresses in the city of Toronto; ten queries of his former girlfriend; and, a total of 58 other queries. These queries were not related to any military police duties and were not authorized by the applicable orders.

[5] Leading Seaman Shokouhi admitted to the investigators having made these queries and informed the prosecutorial authorities of his intent to enter pleas of guilty at the very early stage. The court is satisfied that the offender's actions in accepting responsibility are sincere and a genuine sign of remorse in the circumstances.

[6] In sentencing an offender under the Code of Service Discipline, a court martial should guide itself with the appropriate sentencing purposes, principles and objectives including those enunciated in sections 718.1 and 718.2 of the *Criminal Code*.

[7] The fundamental purpose of sentencing at a court martial is to contribute to the respect of the law and the maintenance of military discipline by imposing punishments that meet one or more of the following objectives:

- (a) the protection of the public, including the Canadian Forces;
- (b) the denunciation of the unlawful conduct;
- (c) the deterrent effect of the punishment, not only on the offender but also upon others who might be tempted to commit such offences; and
- (d) the reformation and rehabilitation of the offender.

[8] The sentence must:

- (a) be commensurate with the gravity of the offence, the previous character of the offender and his or her degree of responsibility;
- (b) the sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances; and

- (c) finally, the sentence should or will be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.

However, the court must act with restraint in determining sentence in imposing such punishment or punishments that constitute the minimum necessary intervention to maintain discipline.

[9] In this case, the sentence must emphasize the objectives of denunciation, specific and general deterrence as well as rehabilitation.

[10] The prosecution rightly submitted that the period and the number of improper queries to the SAMPIS and the CPIC are aggravating elements in the circumstances as well as the breach of trust in accessing highly sensitive material accessible only to law enforcement agencies, however, the mitigating circumstances are sufficiently probative accept the joint proposal on sentence.

[11] Leading Seaman Shokouhi has been a good asset for the military police group for four years and he has performed very well. His conduct since the commission of the offences has also been exceptional according to his chain of command. He has also lost his badge as a result of his conduct and was removed from performing his regular police duties. I would consider that such measure, which is totally appropriate in the circumstances, is very humiliating for any proud police officer. The fact that Leading Seaman Shokouhi continued to perform very well and with a positive attitude in these circumstances speaks highly of his good character. Prior to the commission of these offences, he had no previous disciplinary or criminal record. He is still a relatively young and inexperienced police officer and I'm satisfied that he will use his negative experience with the judicial process positively.

**FOR THESE REASONS, THE COURT:**

[12] **FINDS** you guilty of the first charge and second charge for conduct to the prejudice of good order and discipline under section 129 of the *National Defence Act*.

[13] **SENTENCES** you to a fine in the amount of \$2,000 beginning on 15 June 2015, payable in four equal and consecutive monthly instalments of \$500. Should the offender be released from the Canadian Forces prior to the full payment of the fine, the balance will be payable immediately prior to the effective date of release.

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The Director of Military Prosecutions as represented by Major E. Carrier

Major S. Collins, Defence Counsel Services, Counsel for Leading Seaman Shokouhi