



COURT MARTIAL

Citation: *R. v. Crocker*, 2015 CM 1014

Date: 20150906

Docket: 201552

Standing Court Martial

Canadian Forces Base Halifax
Halifax, Nova Scotia, Canada

Between:

Her Majesty the Queen

- and -

Corporal A.H.J. Crocker, Offender

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

REASONS FOR SENTENCE

(Orally)

[1] Corporal Crocker has admitted his guilt to a charge of drunkenness under section 97 of the *National Defence Act*. The particulars of the charge read as follows, “In that he, on or about 12 April 2015, onboard HMCS FREDERICTON, deployed on OPERATION REASSURANCE, at anchor off Greenock, Scotland, was drunk.” Counsel for the prosecution and defence jointly recommend that the court impose the punishment of a reprimand accompanied by a fine of \$1,500, payable in six equal monthly instalments. Although the court is not bound by this joint submission, it can only reject it if the recommendation is contrary to the public interest or if it would bring military justice into disrepute. If the case does not meet one of those two criteria, the court has no other choice than to accept it.

[2] For clarity, I reproduce the Statement of Circumstances and the Agreed Statement of Facts that were filed before the court in my decision. They provide the complete

context as to what happened during the incident. The Statement of Circumstances read as follows:

- (a) At all material times, Corporal Crocker was a member of the Regular Force, Canadian Armed Forces, attached posted to HMCS FREDERICTON, deployed on OPERATION REASSURANCE and employed within the Air Detachment as an Aviation Technician.
- (b) The Alcohol Policy for HMCS FREDERICTON, while deployed on OPERATION REASSURANCE was included in TFSO 002/15, dated 9 January 2015, which is being introduced as an exhibit into these proceedings. In summary, the policy prohibits any alcohol from being consumed while at sea or at anchor. It further allows for a maximum of two drinks, per person, per 24 hour period while alongside. While there is the possibility for exceptions under specific circumstances, none apply to this case.
- (c) Each member of the crew was provided access and briefed on the policy. Corporal Crocker signed a distribution list by which he formally acknowledged that he understood TFSO 002/15.
- (d) Moreover, the Commanding Officer, Executive Officer and Coxswain mustered the crew before shore leave was piped in every port visit, on which occasions, the expectations regarding conduct, including the alcohol policy, were discussed time and again.
- (e) Additionally, the Ship Standing Orders AL9, at section 2101, provides the following information under the heading "Abuse of Alcohol": Drunkenness will not be permitted onboard at any time for any reason. It is the duty of everyone to report any case of suspected drunkenness and to ensure that the circumstances are immediately reported to the Officer of the Day (OOD) or Officer of the Watch (OOW). When at sea, all members of a ship's company may be called upon 24 hours a day in emergency situations.
- (f) On 8 August 2014, prior to his deployment on OPERATION REASSURANCE, Corporal Crocker signed a register confirming that he had read the Ships Standing Orders AL9.
- (g) On 11 April 2015, HMCS FREDERICTON was at anchor off Greenock, Scotland. The Ship was then at 12 hours' notice to sail. The crew was allowed shore leave, which expired with last water taxi proceeding back to the ship at approximately 2330 hours.

- (h) During the day of 11 April 2015, along with other members of the Air Detachment, Corporal Crocker was working on the Ship's helicopter, which was disembarked at the Prestwick Airport, Scotland, for maintenance purposes for a few days. Corporal Crocker was under orders to return to the ship with the last water taxi or earlier.
- (i) While waiting for the last water taxi, Corporal Crocker went to a local pub and consumed two alcoholic beverages, in the form of dark fruit cider.
- (j) Later in the evening, once on board, he proceeded to the Air Mechanic Workshop and spent time with other members of the ship's company, some from the Air Detachment and others from other Departments. Corporal Crocker consumed more alcohol while he was there. Shortly after 0100 hours, on 12 April 2015, music was being played loud enough in the Air Mechanic Workshop to wake up the Coxswain, Chief Petty Officer First Class Murphy.
- (k) The latter proceeded to the Air Mechanic Workshop, along with Chief Petty Officer Second Class Chiasson, Chief Petty Officer Second Class Currie and Master Warrant Officer Scott. They noticed a smell of alcohol upon entry. They came to face a group of approximately 12 airmen and sailors gathered together. As a group, they were asked if there was alcohol in the space, to which they replied that there was none. However, a search of the space revealed several opened cans and bottles of alcohol, along with a large bag of ice in the sink. A picture of the cans and bottles found in the space is introduced as an exhibit in these proceedings.
- (l) Following the search, an interview to assess fitness for duty was conducted with the members, including Corporal Crocker. Chief Petty Officer First Class Murphy, Chief Petty Officer Second Class Chiasson and Chief Petty Officer Second Class Currie were present during the interview of Corporal Crocker.
- (m) On the way down to the Coxswain's office, Chief Petty Officer Second Class Chiasson noticed the following:
 - i. Corporal Crocker was having balance issues and was noticeably staggering; and
 - ii. he had difficulties going down the ladder even though the ship was stable;

- (n) During the interview, Chief Petty Officer Second Class Chiasson further noted that:
- i. Corporal Crocker hesitated when answering simple questions, such as his service number;
 - ii. his speech was significantly slurred during most answers;
 - iii. he had difficulty recalling who he had spent the day with and what he had been doing throughout the day; and
 - iv. he was easily confused when repeated questions were asked to him.
- (o) Chief Petty Officer Second Class Currie, who was also present, noticed the following:
- i. a smell of alcohol in the Coxswain's office while Corporal Crocker was being interviewed;
 - ii. Corporal Crocker was very confused regarding the timeline of earlier in the evening;
 - iii. his speech was notably slurred;
 - iv. he was unsteady on his feet; and
 - v. he had difficulty reciting part of his service number.
- (p) Chief Petty Officer First Class Murphy, Chief Petty Officer Second Class Chiasson and Chief Petty Officer Second Class Currie each individually came to the conclusion, based on their respective observations, that Corporal Crocker was drunk.
- (q) As a member of the Air Detachment, Corporal Crocker is always responsible for responding to general emergencies while at sea. On 12 April 2015, the duties he may have been required to perform included:
- i. Emergency Stations for fire or flood - In case of fire emergency, he could have been required to dress in Full Fire Fighting Ensemble and breathing apparatus to fight fires. In the event of floods, he could have been required to conduct damage control activities, such as cutting shoring or plugging leaks using various methods;

- ii. Rescue Stations - In the event of a person going over board, he could have been required to deploy lifesaving equipment and assist with recovery;
 - iii. Elevation in Force Protection level/Security alert – In the event of a Security Alert, he could have been called upon to perform tasks in response, which could include the use of small arms;
 - iv. Flying Stations – There was no expectations of conducting flight operations for the evening of 11 April or on 12 April 2015, as the Ship's helicopter was ashore. However, with the Ship at anchor, there was still a possibility, for Flying Stations to become required to receive a foreign helicopter. In such a case, Corporal Crocker would have been responsible to close up in Fire Fighting Ensemble to be part of the crash response team or he would have been one of the Flight Deck Handlers providing servicing to the landing helicopter.
- (r) At the time he was interviewed in the Coxswain's office at approximately 0215 hours on 12 April 2015, Corporal Crocker was, owing to the influence of alcohol, unfit to be entrusted with any of the aforementioned duty.
- (s) On the morning of 12 April 2015, Corporal Crocker was tasked to return ashore around 0700 hours to be part of the repair party for the helicopter.

[3] The Agreed Statement of Facts reads as follows:

BACKGROUND ON OPERATION REASSURANCE

- (a) OPERATION REASSURANCE refers to the military activities undertaken by Canadian Armed Forces to support NATO assurance measures through the provision of military capabilities for training, exercises, demonstrations and assigned NATO tasks.
- (b) The Canadian Armed Forces response in support of NATO's request for enhanced assurance measures promotes security and stability in Central and Eastern Europe, and demonstrates the readiness and professionalism of the Canadian Armed Forces.
- (c) At the time of the offence, OPERATION REASSURANCE included the deployment of a Maritime Task Force, TASK FORCE FREDERICTON.

- (d) HMCS Fredericton was transferred to NATO's operational control on 6 January 2015 and arrived in the Mediterranean Sea shortly after where it was assigned to Standing NATO Maritime Group 2 (SNMG2). HMCS FREDERICTON was tasked with patrolling the Mediterranean Sea to help detect, deter and protect against terrorist activity.
- (e) SNMG2 was comprised of HMCS FREDERICTON as well as other ships belonging to the United States, Turkey, Germany, Italy and Romania.
- (f) Throughout the deployment, HMCS FREDERICTON participated in a variety of training exercises with NATO and non-NATO forces including exercises in the Black Sea, Exercise JOINT WARRIOR, Exercise DYNAMIC MONGOOSE, and EXERCISE BALTOPS. These exercises developed maritime situational awareness and interoperability as well as particular skills such as Anti-Submarine Warfare tactics. HMCS FREDERICTON also conducted a number of port visits to enhance diplomatic and defence relations with strategic partners in the region.

PROCEEDINGS RELATED TO THE SAME INCIDENT INVOLVING OTHERS

- (g) Two other members, a Leading Seaman and a Petty Officer Second Class were charged in relation to their own state of drunkenness during the same incident that led to these proceedings.
- (h) The Leading Seaman was charged under section 97 of the National Defence Act, as well as, under Section 129 for failure to report a breach of the alcohol policy, contrary to Task Force Standing Order 002/15. He was found guilty of both charges at summary trial and awarded a fine of \$1,500.00 to be paid over two months, accompanied with 21 days of confinement to ship.
- (i) The Petty Officer Second Class was charged under section 97 of the National Defence Act, as well as, under Section 129 for having consumed more than two drinks, contrary to Task Force Standing Order 002/15. He was found guilty of both charges and awarded a fine of \$2,760.76 to be paid over three months, accompanied with 30 days stoppage of leave.

CORPORAL A.H.J CROCKER'S PERSONAL CIRCUMSTANCES

- (j) Corporal Crocker has been placed on Counselling and Probation for duration of six months with regards to the incident of the 12 April 2015. This remedial measure was initiated on the 21 May 2015. A signed copy of the DAOD Form 5019-4A, Remedial Measure, dated 21 May 2015, is introduced as an exhibit in these proceedings.
- (k) Corporal Crocker was under an order from his Commanding Officer prohibiting him from taking overnight leave between the 15th and 25th May 2015, while he was serving on HMCS FREDERICKTON. A signed copy of this order is introduced as an exhibit in these proceedings.
- (l) Shortly after charges were preferred, Corporal Crocker instructed his Defence Counsel to resolve this matter efficiently and to proceed with a guilty plea. Prosecution was engaged quickly thereafter.
- (m) Corporal Crocker is the father of two young children, Mason aged seven and Sienna aged nine. He is engaged to Alexis, and they have been together for thirteen years.
- (n) Corporal Crocker has consulted with SISIP to establish a monthly family budget. It concludes that Corporal Crocker has a monthly free balance of \$427.00. A copy of the budget is introduced as an exhibit in these proceedings.

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

- (a) the protection of the public, that includes the Canadian Forces, the material of the Canadian Forces and its members as well;
- (b) the denunciation of the conduct;
- (c) the general deterrence and the specific deterrence; and
- (d) the reformation and the rehabilitation of the offender.

[5] The sentence must also take into consideration the following principles:

- (a) it must be commensurate to the gravity of the offence, the previous character of the offender and his or her degree of responsibility; and

- (b) the sentence should be similar to sentences imposed on similar offenders for similar offences in similar circumstances.

[6] In this case, I agree with counsel that the objectives of sentencing must emphasize the need for general deterrence, denunciation of the conduct, but also rehabilitation.

[7] Turning to the aggravating factors of this case:

- (a) The most serious one is the fact that the incident occurred when the person was on active service while deployed on an operation with other allies.
- (b) The fact that the rules that applied at the time were clear and well understood by everyone involved, including the accused.
- (c) The behaviour of Corporal Crocker that night showed a clear disregard for those rules.
- (d) Although there was no incident, the risk that exists on a deployed ship while on operations or not is always there. This should always be considered an aggravating factor in such environments for that type of offence.

[8] Now, turning to the mitigating factors that are equally important in this case:

- (a) The guilty plea at the earliest opportunity. In these circumstances, this plea of guilty is a genuine sign of remorse and a full acceptance of responsibility by the offender of his actions.
- (b) The behaviour of the offender since the commission of the offence. It has been put into evidence that he has been on Counselling and Probation as a result of the incident. This measure is not completed yet but the evidence indicates that he has performed well in respect of the conditions that were imposed on him as a result of that. Also, there is evidence in the form of a letter that Corporal Crocker was deprived, directly linked to this incident, of overnight leave for an undetermined period on 15 May 2015. Whether or not this sanction is a punishment disguised as an administrative measure or not is not a matter for the court to comment, but I raise that to say that, in the context of this case, it plays as a mitigating factor.
- (c) The records of the accused, mostly in his recent Personnel Evaluation Reports, show that he is an extremely strong performer and I accept the comments made by his defence counsel to the effect that in the context, the behaviour of Corporal Crocker that night seems to be out of character and a lack of judgement, although a very serious lack of judgement that night. Also mitigating, the fact that he enrolled eight years ago and, during

that period or before, he had no criminal record and since then, of course, no disciplinary record in the Canadian Forces; and

- (d) I note his family situation and financial situation. He is the father of two young children and has been in a steady relationship for many years.

[9] Considering all mitigating factors, the aggravating factors and the need to ensure general deterrence, denunciation of the conduct and rehabilitation, I will accept the joint submission made by counsel.

FOR THESE REASONS, THE COURT:

[10] **FINDS** you not guilty of the first and second charges, for an offence of conduct to the prejudice to good order and discipline under section 129 of the *National Defence Act*.

[11] **FINDS** you guilty of the third charge for the offence of drunkenness under section 97 of the *National Defence Act*.

[12] **SENTENCES** you to a reprimand and a fine in the amount of \$1,500, that will be payable in six equal monthly instalments beginning on 15 October 2015.

The Director of Military Prosecutions as represented by Major D. Martin

Major B. Tremblay, Defence Counsel Services, Counsel for Corporal Crocker