



COURT MARTIAL

Citation: *R. v. Blenkhorn*, 2015 CM 1015

Date: 20151114

Docket: 201563

Standing Court Martial

Asticou Centre
Gatineau, Québec, Canada

Between:

Her Majesty the Queen

- and -

Corporal M.L. Blenkhorn, Offender

Before: Colonel M. Dutil, Chief Military Judge

REASONS FOR SENTENCE

[1] The accused, Corporal Blenkhorn, has admitted his guilt to an offence under section 129 of *the National Defence Act* for having consumed alcohol, contrary to Task Force El-Gorah Standing Order 2.00 that applied to him on 26 March 2015 in Israel.

[2] The circumstances of the offence and the facts agreed by counsel before the court reveal the following.

- (a) Corporal Blenkhorn was a member of the Regular Force, deployed on Operation CALUMET, as a member of Task Force El-Gorah located in Sinai, Egypt.
- (b) The alcohol policy for members of that Task Force was included in Task Force Standing Order 2.00. In summary, the policy prohibited any alcohol from being consumed during a member's period of duty, and alcohol consumption was limited to a two drink maximum during off-duty hours.

- (c) The Task Force Standing Order 6.00, Theatre Leave and Compensatory Time Off Policy, expressly confirmed that during their deployment, the Task Force El-Gorah members could be granted compensatory time off, and while members on compensatory time off were not on any type of leave, they could participate in duty tours organized by Multinational Force and Observers in various locations, including Egypt, Israel and Jordan.
- (d) On 26 March 2015, Corporal Blenkhorn was granted compensatory time off and was part of a group of soldiers from the Multinational Force and Observers who were embarking on a duty tour of the Holy Lands in Israel. This group included soldiers from Canada, the United States of America, and Australia as well as a civilian tour guide and civilian bus driver.
- (e) Members who participated in this duty tour were required to attend a pre-tour briefing on 24 March 2015. During that briefing the members were specifically told that while on the tour they were on duty and, as such, the alcohol policy applied and the consumption of alcohol was prohibited during that tour.
- (f) Members of the tour were transported by military transport to Israel, and then boarded a civilian tour bus where a civilian tour guide joined the group. During the bus tour, a group of males, including two Canadians, Corporal Blenkhorn and another individual, as well as three Americans, were creating a lot of noise and were suspected of consuming alcohol on the bus. When the senior tour guide became aware of this conduct, she ordered all the members in question, including the accused, to desist and reminded them that the consumption of alcohol was prohibited during the tour.
- (g) During a scheduled stop in Nazareth, Israel, the second tour guide witnessed Corporal Blenkhorn consuming a beer in the parking lot where the tour bus was parked. She ordered Corporal Blenkhorn to get rid of the beer, to which Corporal Blenkhorn complied. The tour concluded with the bus heading back to the hotel in Tiberius, Israel, later that day.
- (h) On 27 March 2015, the senior tour guide spoke to all five military members who had consumed alcohol to describe her dissatisfaction. Three days later, Corporal Blenkhorn acknowledged having consumed alcohol on the day in question and he knew that his behaviour did not comply with the no-drinking policy.
- (i) The other Canadian Forces member present during that tour, who had consumed alcohol, was charged under section 97 of the *National Defence Act*, as well as under Section 83 and section 129 for consuming alcohol prior to 1800 hours when ordered not to by a master corporal and

for a breach of the alcohol policy, contrary to Task Force Standing Order 2.00. He was found guilty of all charges at summary trial and awarded a fine of \$750.

- (j) Corporal Blenkhorn, as a result of his behaviour, was placed on recorded warning for three months with regard to the incident of 26 March 2015. His remedial measure was initiated on 13 April 2015 and he has complied with this warning. Shortly after charges were preferred, Corporal Blenkhorn instructed his defence counsel to resolve this matter efficiently and to proceed with a guilty plea, and the prosecution was engaged quickly thereafter.
- (k) The offender is the father of two young children, and he is married and the sole income provider at this time.

[3] In this case, the prosecution and defence have proposed a joint submission to the court of a fine in the amount of \$750. For the prosecution, this sentence would emphasize the objectives of general deterrence and specific deterrence, but also respect the principle of parity, considering the sentence that was imposed on the colleague of Corporal Blenkhorn at summary trial for the same behaviour during the same incident.

[4] Based on the extensive information that was provided by both counsel, I consider that this proposed sentence would be a fit and proper sentence in the circumstances. Counsel have, again, provided the court with extensive information making it easier to accept the joint submission. For these reasons, I have asked both counsel to make their submission very short and they have complied with the court's direction; not because I didn't want to hear what they had to say, but because they have provided sufficient information for the court to impose a fit and proper sentence.

FOR THESE REASONS, THE COURT:

[5] **FINDS** you guilty of the second charge under section 129 of the *National Defence Act*.

[6] **DIRECTS** that the proceedings of the first charge under section 83 of the *National Defence Act* be stayed.

[7] **SENTENCES** you to a fine in the amount of \$750, payable in three equal monthly instalments commencing on 15 October 2015.

Avocats:

The Director of Military Prosecutions as represented by Major C. Walsh

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