



COURT MARTIAL

Citation: *R. v. Campos*, 2015 CM 3017

Date: 20151208

Docket: 201571

Standing Court Martial

Canadian Forces Base Petawawa
Petawawa, Ontario, Canada

Between:

Her Majesty the Queen

- and -

Master Corporal H.D. Campos, Offender

Before: Lieutenant-Colonel L.-V. d'Auteuil, M.J.

REASONS FOR SENTENCE

(Orally)

Introduction

[1] Master Corporal Campos, the court having accepted and recorded a plea of guilty in respect of the first and third charges on the charge sheet, this court now finds you guilty of these charges. Other charges have been withdrawn by the prosecution, then the court has no other charges to deal with in this matter

[2] It is now my duty as the military judge who is presiding at this Standing Court Martial to determine the sentence.

[3] In the particular context of an armed force, the military justice system constitutes the ultimate means of enforcing discipline, which is a fundamental element of the military activity in the Canadian Forces. The purpose of this system is to prevent misconduct or, in a more positive way, promote good conduct. It is through discipline that an armed force ensures that its members will accomplish, in a trusting and reliable

manner, successful missions. The military justice system also ensures that public order is maintained and that those subject to the Code of Service Discipline are punished in the same way as any other person living in Canada.

[4] Here in this case, the prosecutor and the offender's defence counsel made a joint submission on sentence to be imposed by the court. They recommended that this court sentence you to a reprimand and a fine in the amount of \$800. Although this court is not bound by this joint recommendation, it is generally accepted that the sentencing judge should depart from the joint submission only when there are cogent reasons for doing so. Cogent reasons mean where the sentence is unfit, unreasonable, would bring the administration of justice into disrepute or would be contrary to the public interest as indicated in the Court Martial Appeal Court decision of *R. v. Taylor*, 2008 CMAC 1, at paragraph 21.

[5] The fundamental purpose of sentencing in a court martial is to ensure respect for the law and the maintenance of discipline and, from a more general perspective, the maintenance of a just, peaceful and safe society. However, the law does not allow a military judge to impose a sentence that would be beyond what is required in the circumstances of the case. In other words, any sentence imposed by a judge must be adapted to the individual offender and constitute the minimum necessary intervention since moderation is the bedrock principle of the modern theory of sentencing in Canada.

[6] When imposing sanctions, the court shall consider one or more of the following objectives:

- (a) to protect the public, which includes the Canadian Armed Forces;
- (b) to denounce unlawful conduct;
- (c) to deter the offender and other persons from committing the same offence or offences;
- (d) to separate offenders from society where necessary; and
- (e) to rehabilitate and reform offenders.

[7] When imposing sentence, a military court must also take into consideration the following principles:

- (a) the sentence must be proportionate to the gravity of the offence;
- (b) the sentence must be proportionate to the responsibility and previous character of the offender;
- (c) the sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

- (d) an offender should not be deprived of liberty, if applicable in the circumstances, if less restrictive sanctions may be appropriate in the circumstances; in short, the court should impose a sentence of imprisonment or detention only as a last resort as it was established by the Court Martial Appeal Court and the Supreme Court of Canada decisions; and
- (e) lastly, any sentence to be imposed by the court should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.

[8] Here, that sentencing in this case should focus on the objectives of denunciation and general deterrence. It is important to remember that the principle of general deterrence means that the sentence should deter not only the offender from reoffending, but also to deter others in similar situations from engaging in the same prohibited conduct.

[9] The circumstances of this case are as follows:

- (a) Master Corporal Campos was born in Lima, Peru on 29 April 1966, and later immigrated to Canada in February 1988. He spent most of his life as a Canadian citizen in the province of Ontario, as did the rest of his family.
- (b) The offender is the father of four children, who are the fruits of two different relationships. He is also the grandfather of two young children, ten years and six years of age. He is going through divorce proceedings and the parties are debating on the custody of the youngest child, Alexandra, nine years old.
- (c) Master Corporal Campos enrolled in the Canadian Armed Forces in 2001. He has been a member of the 2 Princess Patricia's Canadian Light Infantry (PPCLI) and he is currently a member of 3 Royal Canadian Regiment (RCR) here in Petawawa.
- (d) In July 2012, while with the RCR, his mother passed away in Lima, Peru. He was approved compassionate leave from the end of July to mid-August 2012. Upon his return, he submitted a compassionate travel allowance claim in order to be reimbursed for part of his travel expenses. This claim was misplaced along with the receipt from a plane ticket. A second claim was submitted, but not finalized for unknown reasons. A third claim was initiated, but because there were no other receipts existing for his claim, he then made a statutory declaration where he indicated that the return flight from Ottawa to Lima, Peru cost him

\$1400. He stated he could no longer get receipts from the airline or a printout of his credit card statement for that time period.

- (e) The third claim was not finalized and a fourth claim was initiated and signed by Master Corporal Campos on 31 October 2013. Again, the cost of the flights was substantiated by him through a statutory declaration. His claim was returned due to a lack of proof and he provided a credit card statement that showed that he purchased his plane ticket at a cost of approximately \$800.
- (f) The Base Comptroller's office sent an email to Air Canada requesting a copy of the ticket based on the information received and a copy of the ticket obtained showed that it was for a flight from Toronto, not Ottawa, to Lima and back. Details stated in the third and fourth claim were inexact. He flew from Toronto and not from Ottawa and the actual cost of the flight tickets from Toronto to Lima and return was \$803.46 and not \$1400.
- (g) Charges were preferred on 29 Oct 2015 and the court was convened later and I am here today to deal with the matter.

[10] It is important to highlight the fact that Master Corporal Campos was diagnosed with Post-Traumatic Stress Disorder (PTSD) in 2011 further to a deployment that occurred in 2008 with 3 RCR. Further to his diagnosis, he was followed since 2012. Different physicians and psychiatrists raised as in issue that he had problem-solving and interpersonal relating.

[11] In determining the sentence, I considered the following aggravating factors:

- (a) The court considered as aggravating the objective seriousness of the offence. The two offences you were charged with were laid in accordance with subsection 125(a) of the *National Defence Act* and it is punishable for a term not exceeding three years or to less punishment.
- (b) The abuse of trust. You have to understand, Master Corporal Campos, that the financial system in the Canadian Armed Forces relies mainly on the integrity and honesty of its members to ensure the sound management of the funds. Because of the number of claims made by different members of the Canadian Armed Forces, there is a simple system – we trust people, we take their word, especially because of their training and the commitment they make from an ethical perspective. Otherwise, it would be very difficult for financial personnel to track down every single transaction in the system. That is why values of honesty and integrity are so important.

- (c) Also, your rank and experience. Your appointment as a master corporal occurred in 2007 so when the incidents occurred you had about twelve years of experience, six years as a master corporal, so you knew that what you did was inappropriate considering the time you had spent in the Canadian Armed Forces.
- (d) There is also premeditation as an aggravating factor that I have to consider because you submitted, not once, but twice, your statutory declarations, meaning that you planned, in some way, to do what you did.
- (e) Also, I consider as aggravating, although not so much, but it is nevertheless an aggravating factor, the fact that there is a conduct sheet. It is true that there are no annotations on your conduct sheet in relation to similar offences. However, you are very familiar with the Code of Service Discipline and with tribunals. This is what has been shown by this conduct sheet, so you know that if you do not behave properly, you may end up before a court or any tribunal.

[12] I have also considered the following mitigating factors:

- (a) The first thing is your guilty plea. It shows to me that you are taking full responsibility for what you did.
- (b) There are also the administrative measures that were taken by your unit, including the counselling and probation. You went through them without any problem. Despite the fact that it is not a sentence per se, the fact that administrative measures were taken contributed certainly to the idea of deterring anyone of doing such thing, including you.
- (c) There is your mental health condition. You have to understand that after nine years on the bench, it is not the first time I have faced the situation where a sound member of the Canadian Armed Forces, well trained, devoted, was deployed and before his deployment things were going really well and when he came back something had changed. It is something that is not necessarily under the control of the member, but something has changed, and it became an issue with his behaviour to the point that his chain of command used, for various reasons, the Code of Service Discipline to pass a message that “enough is enough.” Is it appropriate or not? I cannot debate this, I cannot discuss this because I do not have the full context, but it is true that your mental health condition proved before this court that it had something to do with it. It clouded your judgement, but it is not an excuse for what you did. However, I have to consider that, it was a well-known condition at the time of the commission of the offences and there was a decision to deal with this matter in that fashion through the Code of Service Discipline. I

do understand that you are still having issues, but you are trying to cope with them by meeting therapists in order to resolve them. You express the fact that you wanted to come back as you were before it occurred. It may or may not happen, but I got from you that you are still fighting; you have this desire to remain a valuable asset to society, a valuable person for your family, for your children, and your grandchildren. You want to be there for them and I hope it will still help you to work through your mental health issues and I encourage you to continue, but, for me it is a mitigating factor that I have to consider and I think I have plenty of evidence about your specific issue, the impact it had on your judgement at the time of the offence, but also after. In fact, you will be released from the Canadian Armed Forces because of that despite the fact that you performed your duty well. There are some consequences, unfortunate consequences, but you are dealing with them.

- (d) There is also your personal situation, from a financial and family perspective. Going through a divorce is an additional problem that you have to solve in the context of your mental health condition. It is not an easy task to do, but I think you will succeed.

[13] So, having looked at all the principles and factors that I had to consider, I will accept the joint submission made by counsel to sentence you to a reprimand and a fine in the amount of \$800, considering that it is not contrary to the public interest and will not bring the administration of justice into disrepute.

[14] This matter will find an end. I appreciate the fact that you are still in the Forces while we are dealing with this matter; it makes it easier on you and easier on the unit and the system that we are dealing with this thing while you are in uniform. It will help you to turn the page on this matter and I think that is the purpose. This is one of the reasons why you pleaded guilty; you wanted to put an end to this matter, turn the page, and focus on other things, and I think it is appropriate to do this in this way.

[15] I wish you good luck with all the issues you have to deal with. I hope the experiences you had in the Canadian Armed Forces will help you to get through this because there are positive things. When I looked at your personnel evaluation reports, I found many positive things you did within the Canadian Armed Forces and the life experience you went through so far may help you, at some point, to go through the other issues you are facing, so I wish you good luck.

FOR THESE REASONS, THE COURT:

[16] **FINDS** you guilty of the first and third charges on the charge sheet for having made a false entry in a document signed by you that was required for official purpose contrary to subsection 125(a) of the *National Defence Act*;

[17] **SENTENCES** you to a reprimand and a fine in the amount of \$800. The fine is to be paid in monthly instalments of \$200, commencing on the 1st of January 2016, and continuing for the following three months. In case you are released before the full amount of the fine is paid, then the remaining amount should be paid before your release from the Canadian Armed Forces.

Counsel:

The Director of Military Prosecutions as represented by Major J.S.P. Doucet

Major B.L.J. Tremblay, Defence Counsel Services, counsel for Master Corporal Campos