



## COURT MARTIAL

**Citation:** *R. v. Drummond*, 2016 CM 1006

**Date:** 20160229

**Docket:** 201520

Standing Court Martial

Halifax Courtroom  
Halifax, Nova Scotia, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Master Bombardier M.S. Drummond, Offender**

**Before:** Colonel M. Dutil, CMJ

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### REASONS FOR SENTENCE

(Orally)

[1] Master Bombardier (retired) Drummond has pleaded guilty to two counts under section 130 of the *National Defence Act (NDA)*; firstly, for dangerous operation of a motor vehicle, contrary to section 249(1)(a) of the *Criminal Code*. The particulars read as follows:

"In that he, on or about 28 October 2013, at or near Base Petawawa, Ontario, did operate a motor vehicle in a manner that was dangerous to the public."

[2] The second charge is laid under section 130 of the *NDA*; that is to say, flight from peace officer contrary to section 249.1(1) of the *Criminal Code*. The particulars read as follows:

"In that he, on or about 28 October 2013, at or near Base Petawawa, Ontario, while operating a motor vehicle and being pursued by a peace

officer operating a motor vehicle, did in order to evade the peace officer fail without reasonable excuse to stop his vehicle as soon as was reasonable in the circumstances."

[3] The circumstances surrounding the commission of the offences are found in a document entitled "Joint Statement of Facts" which was filed as Exhibit 6. In a nutshell, it says that, on 24 May 2012, Master Bombardier Drummond was diagnosed with post-traumatic stress disorder (PTSD) as a result of operational exposure in Afghanistan. On 28 October 2013, Dr Quinn contacted 2 Military Police Regiment in Petawawa to report that Master Bombardier Drummond had expressed suicidal threats before departing the base hospital. Military police located Master Bombardier Drummond sitting in his car in the Warrior Support Building parking lot on base, where he was speaking with medical personnel. Upon a signal from a member of the medical personnel speaking to Master Bombardier Drummond, military police approached his vehicle. Master Bombardier Drummond suddenly put his vehicle in motion despite military police requests to stop. As he quickly accelerated out of the parking lot, he nearly collided with two military police members who had approached his vehicle on foot. Military police immediately followed Master Bombardier Drummond in a police cruiser with emergency lights activated. Master Bombardier Drummond failed to stop at a stop sign, but thereafter reduced his speed and followed posted speed limits and rules of the road until he reached the base gate. Military police followed throughout with emergency lights activated. After swerving to avoid a military police roadblock at the gate, Master Bombardier Drummond accelerated towards Ontario Highway 17. Military police ceased to pursue Master Bombardier Drummond and allowed the Ontario Provincial Police (OPP) to continue the pursuit. Upon being intercepted by the OPP, Master Bombardier Drummond proceeded to put his vehicle in reverse on the highway and returned driving backwards towards the base gate with the OPP in pursuit. Master Bombardier Drummond's vehicle was boxed in by the military police and the OPP. He remained in his vehicle smoking a cigarette until police coaxed him from his vehicle at gunpoint and he was arrested. Upon his arrest, Master Bombardier Drummond was cooperative and after being interviewed by the military police, he was taken to Pembroke Regional Hospital where he was transferred to the Ottawa Regional Hospital for further assessment.

[4] On 25 November 2013, Master Bombardier Drummond was posted to the Joint Personnel Support Unit in Halifax. Master Bombardier Drummond was medically released from the Canadian Armed Forces in August of 2015 and he has adjusted well to civilian life. Master Bombardier Drummond continues to be treated psychiatrically and pharmaceutically for PTSD, though he is currently largely free of symptoms and has achieved stability in his personal life, Master Bombardier Drummond has a good prognosis for functional stability and recovery. In the long term, he will likely be taken off medication and no longer require psychotherapy.

[5] The evidence provided to the court consists of an affidavit and curriculum vitae and an expert report from the treating psychiatrist of Master Bombardier Drummond.

And, of course, they confirm that he suffers from PTSD and that he is doing well in his recovery.

[6] With regard to the mental state of Master Bombardier Drummond, at the time of the offence, is of interest, and it's found at page 5, of his report, which was filed in court. And it also must be read in the context of Master Bombardier Drummond's own testimony at trial when he explained that after being told by his treating physician that he might have to be put in confinement because he had suicidal thoughts, he panicked and left. At page 5 of the expert report and it states:

"What often happens in PTSD, however, is that the ability to control basic emotional states (limbic system), especially fear and anxiety, by the higher order, logical part of the brain (the frontal and pre-frontal cortex, or executive function as it is often termed), is severely impaired. Some researchers theorize a disconnect between the frontal/pre-frontal cortex and the limbic system, and this has some support in recent neuroimaging studies. This lack of executive control combines with hypervigilance and increased irritability, to produce a state of high anxiety. They often then act impulsively in an attempt to decrease this anxiety, even while their higher brain realizes what they are doing is wrong.

I suspect that this is what happened to Mr. Drummond on October 28, 2013. It is likely that he knew what he was doing was not right, but at the same time his anxiety and impulsivity would have been high and hard for him to control."

[7] Master Bombardier Drummond testified during this trial and I found his testimony to be impressive. I commend him for the work he has been doing in trying to recover from a severe case of PTSD, now that he is with his family in Dartmouth. And he apologized, he expressed remorse for his conduct and the court is satisfied that his expressions of remorse and responsibility are truly genuine.

[8] There was also the testimony of Major Heer, who used to be the Battery Commander of Master Bombardier Drummond for the last two years that he served with the regiment and she, again, has spoken very highly of Master Bombardier Drummond and I have no doubt that he was a truly dedicated, loyal, hardworking master bombardier who took care not only of his own work but of his people. So, I express my sincere thanks to Major Heer who was in court today to represent the commanding officer and the sergeant major of the unit; that speaks highly of the character of Master Bombardier Drummond.

[9] This case is truly exceptional in the sense that there's no doubt that it falls within the cases in the lower range for these type of offences and it should not be used in the future to have any precedential value or precedent value for other counsel. It is an exceptional case and it was put to the court as being an exceptional case by both counsel

who have done excellent work in this case. Their remarks to the court in their submissions were made very short at the request of the court. I, frankly, didn't have to hear from them because the case they put to the court was very helpful, well put together.

[10] I must state very briefly that the fundamental purpose of sentencing at courts martial is to contribute to the respect to the law and the maintenance of discipline by imposing punishments that meet one or more of the following objectives:

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

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

- (a) it must be commensurate with the gravity of the offence;
- (b) the previous character of the accused or the offender and his or her degree of responsibility;
- (c) the sentence should be similar to sentences imposed on similar offenders committed in similar circumstances; and
- (d) the court should also respect the principle that an offender should not be deprived of liberty, if less restrictive punishments may be appropriate.

[12] In this case, as it was pointed out by the prosecution, general deterrence and denunciation are the primary objectives, but I would also add that rehabilitation is also a key objective in this case.

[13] They made a joint submission for a reprimand and a fine in the amount of \$600. The court has absolutely no concern that this is not only within the range for similar cases, as it is at the very lower end of the spectrum, but also that this joint submission is not contrary to the public interest or the administration of justice.

[14] The only aggravating circumstance that I have in this case is purely objective and that's the maximum punishment under the *Criminal Code* which makes a person liable to imprisonment for a maximum of five years, there's no other. The conduct sheet that was filed with the court is dated, it's there, but the court does not consider it as an aggravating factor.

[15] However, as we know, as the court has been told, there are exceptionally solid mitigating circumstances:

- (a) The plea of guilty at the first opportunity and, in light of the testimony of Master Bombardier Drummond, as I said earlier, this is a genuine sign of remorse and acceptance of responsibility for his actions.
- (b) Notwithstanding the exceptional short career that he had in the Canadian Armed Forces, as he was highly spoken of by Major Heer in court. Master Bombardier also served three times in Afghanistan, lost a significant part of his hearing in one mission and he has to endure a severe case of PTSD now and he's doing the best he can to get better with the support of the medical world, but mostly of his family and friends.
- (c) The last mitigating factor, which is critically important in this case as well, is the support from his previous chain of command. It is only in those rare cases where the chain of command steps up and speaks at a court martial in support of an exceptional person. Therefore, as I said, the court has no issue in accepting the joint recommendation made by counsel.

**FOR THESE REASONS, THE COURT:**

[16] **FINDS** you guilty of the first charge for dangerous operation of a motor vehicle, contrary to section 249(1)(a) of the *Criminal Code*; and the Court finds you guilty of flight from a peace officer, contrary to section 249.1(1) of the *Criminal Code*.

[17] **SENTENCES** you to a reprimand and a fine in the amount of \$600.

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**Counsel:**

The Director of Military Prosecutions, as represented by Major A. Van der Linde

Lieutenant-Commander P. Desbiens, Defence Counsel Services, Counsel for Master Bombardier Drummond