



## COURT MARTIAL

**Citation:** *R. v. Fancy*, 2016 CM 1010

**Date:** 20160527

**Docket:** 201557

General Court Martial

Canadian Forces Base Halifax  
Halifax, Nova Scotia, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Master Warrant Officer (Retired) R.A. Fancy, Offender**

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

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### REASONS FOR SENTENCE

(Orally)

[1] Master Warrant Officer (Retired) Fancy admitted his guilt to the three counts of conduct to the prejudice of good order and discipline under section 129 of the *National Defence Act* for having worn without authority, in Halifax, Nova Scotia, on 11 November 2014, the Somalia Medal, the General Campaign Star - South-West Asia Medal and operational jump wings, respectively.

[2] The prosecution and defence jointly recommend that the court impose the punishments of reduction in rank to the rank of warrant officer and a fine of \$300, payable in three 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 and the sentence would bring the administration of justice into disrepute.

[3] The circumstances surrounding the commission of the offences revealed that the offender was a member of the Regular Force between 14 March 1984 and 10 February 2010 and a member of the Reserve Force between 11 February 2010 and 1 November

2015. The offender's Reserve unit was Halifax Rifles, Halifax, Nova Scotia. He held the rank of sergeant before his transfer to the Reserve Force. At the time of the offences, Master Warrant Officer (Retired) Fancy was the Squadron Sergeant Major of Halifax Rifles, participating in the Remembrance Day Parade in uniform. He wore the Somalia Medal, the General Campaign Star - South-West Asia Medal and operational jump wings on his Distinctive Environmental Uniform (DEU) while participating at that parade. He had worn these medals previously and it had caused significant concern within his unit as to his legitimacy to wear these medals and the operational jump wings.

[4] It started in December 2013, where promotions were awarded to junior members of his unit. In January 2014, Warrant Officer Mosher, the Rifles Troop Warrant Officer, had a conversation with him about the medals and badges and was left with the impression that the offender earned the medals and jump wings and that he would locate the required documentation and have his Military Personnel Record Resume (MPRR) updated. In April 2014, during the unit mess dinner, the offender did not wear the Somalia Medal, the General Campaign Star - South-West Asia Medal and operational jump wings on his mess dress. However, Master Warrant Officer (Retired) Fancy wore them again on 11 November 2014, on his DEU at the Remembrance Day Parade with the other members of his unit on Grand Parade in the downtown of Halifax. He had no authority to wear them.

[5] The fundamental purpose of sentencing in a court martial is to ensure the respect of the law and the maintenance of discipline. However, the law does not allow a military court to impose a sentence that would be beyond what is required in the circumstances. In other words, any sentence imposed by a court 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 a punishment, the court shall consider one or more of the following objectives and principles, including those set out in subsections 718.1 and 718.2 of the *Criminal Code*. The objectives aim:

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

[7] Those objectives must take into account the following principles.

- (a) a sentence must be proportionate to the gravity of the offence;

- (b) it must be proportionate to the responsibility and previous character of the offender;
- (c) a 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 punishments or sanctions may be appropriate in the circumstances; and
- (e) all sentences should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.

[8] Given the very nature of the offences for which the offender admitted his guilt, the sentence should focus on the objectives of denunciation and general deterrence. The circumstances surrounding the commission of the offences demonstrate a lack of integrity and respect for the profound meaning of medals and decorations for the Canadian Armed Forces and for those who have gained the right to wear them. It is very aggravating that the offender committed the offences when he occupied a most significant leadership position as one of the squadron's Sergeants Major of his unit. The subjective gravity of these offences is very serious in the circumstances. In this regard, I fully endorse the remarks made by Gibson M.J. in *R.v. Miller*, 2014 CM 2018.

[9] However, the offender has admitted his guilt to all charges and he had no previous criminal or disciplinary record. He is currently unemployed. The recommended sentence is appropriate in the circumstances.

**FOR THESE REASONS, THE COURT:**

[10] **FINDS** you guilty of three counts of conduct to the prejudice of good order and discipline under section 129 of the *National Defence Act*.

[11] **SENTENCES** you to reduction in rank to the rank of warrant officer and a fine of \$300.

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**Counsel:**

Lieutenant (N) C.Y. MacKinnon and Major M.E. Leblond for the Director of Military Prosecutions

Lieutenant- Commander M. Letourneau, Defence Counsel Services, Counsel for Master Warrant Officer (Retired) R.A. Fancy