



COURT MARTIAL

Citation: *R. v. Grant*, 2017 CM 1016

Date: 20171204

Docket: 201756

Standing Court Martial

Asticou Centre
Gatineau, Quebec, Canada

Between:

Her Majesty the Queen

- and -

Warrant Officer T.L. Grant, Offender

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

REASONS FOR SENTENCE

(Orally)

[1] Warrant Officer Grant admitted his guilt to one count of behaving in a disgraceful manner contrary to section 93 of the *National Defence Act (NDA)* and one count of drunkenness contrary to section 97 of the Act.

[2] The Court must now determine the sentence to be imposed on the offender. Counsel have made a joint submission on sentence. They recommend that this Court impose a reprimand and a fine in the amount of \$1,500 to be paid in monthly instalments of \$200. They have submitted that their analysis led them to conclude that such a sentence would meet the necessary objectives of denunciation, general deterrence and rehabilitation.

[3] The following aggravating factors were taken into account by the prosecution in making this joint submission:

- (a) Warrant Officer Grant held a position of trust and leadership in the unit as a high-ranking non-commissioned member;
- (b) the fact that his words and conduct took place at a social event attended by military and civilian members of the unit;
- (c) the sexual nature of the words spoken by the offender,
- (d) the social military and civilian context such behaviour today has, which is highly condemned by Canadian society in general; and,
- (e) the high level of intoxication of the offender at the time of the events.

[4] The circumstances surrounding the commission of the offences are found in the Statement of Circumstances that was filed as an exhibit before the Court, which provides the following information:

- (a) Warrant Officer Grant was a member of the Canadian Armed Forces assigned to Canadian Forces Station (CFS) Leitrim in Ottawa at the time of the events. He was enrolled on 13 September 2001 and promoted to his current rank in May of 2016.
- (b) Warrant Officer Grant attended the all ranks mess for a holiday season party on 10 December 2016. He was given complimentary drink tickets which he used to obtain and consume alcoholic beverages and then purchased additional drinks out of pocket which he also consumed. He was intoxicated.
- (c) Over the course of the evening he approached several females and made sexually inappropriate comments towards two of them. He approached Master Seaman Beaudette, took her by the arm and told her that she smelled nice and was beautiful. She thanked him and walked away. Later while she was standing near the pool table, Warrant Officer Grant approached her again and while standing close to her she heard him say, "If there were nobody around, I would fuck you on this pool table." Master Seaman Beaudette walked away from him again and avoided him for the rest of the evening.
- (d) Another person at the party, Corporal Katherine Busse-Plante, had noticed that Warrant Officer Grant appeared drunk and felt that he was behaving in a "creepy" manner. Her intention was to speak to him about his behaviour, but as she approached him, she saw him whisper in Private Staci-Lee Tyrrell's ear. Private Tyrrell informed the investigators that Warrant Officer Grant simply asked how her evening was going, but Corporal Busse-Plante was concerned, based on her previous observations of Warrant Officer Grant, and told Warrant Officer Grant

that Private Tyrrell was married. Corporal Busse-Plante then heard him say, “You’re really making me want to fuck you right now.” Corporal Busse-Plante said, “Wow,” and walked away.

- (e) Ms Dixon was a civilian who attended the party with her husband, Master Corporal Gionet. Ms Dixon was seated with other individuals, consuming drinks at the bar. At one point in the evening, while a group was doing shots at the bar, the offender came over to her, put his hand on her knee and asked her where her drink was. Master Corporal Edwards pulled him away. Ms Dixon was not upset by the interaction, but she also noted that Warrant Officer Grant appeared intoxicated. Master Corporal Gionet saw Master Corporal Edwards grab Warrant Officer Grant and asked what was going on. When Master Corporal Edwards told him that Warrant Officer Grant had touched Ms Dixon’s knee, Master Corporal Gionet told Warrant Officer Grant to leave and then Warrant Officer Grant replied by saying, “What are you going to do about it?”
- (f) At this point, the mess manager approached Captain Blake and told him to remove Warrant Officer Grant from the premises. Captain Blake followed Warrant Officer Grant outside and waited for twenty minutes with him until the duty vehicle arrived to take Warrant Officer Grant home. He described Warrant Officer Grant as being “piss drunk.”
- (g) Warrant Officer Grant spoke to Captain Blake the Monday following the party and apologized for his behaviour. He gave a cautioned statement to members of the National Investigation Service in which he admitted that he had been drunk, but said that he could not remember how he had behaved that evening.
- (h) The unit records indicate that Warrant Officer Grant did not attend the unit Operation HONOUR briefing, but that he had completed ethics training on 8 December 2016, two days before the holiday party.

[5] The joint submission is made in the context of the Supreme Court of Canada decision in *R. v. Anthony-Cook*, 2016 SCC 43, where the court exposed the legal test that trial judges should apply in deciding whether it is appropriate in a particular case to depart from a joint submission. The court stated that the public interest test is the proper legal test that trial judges should apply, which means that a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. Trial judges should depart from the proposed sentence only if it would be viewed by a reasonable and informed person as a breakdown in the proper functioning of the justice system.

[6] It is recognized by the Supreme Court of Canada that it is an accepted and entirely desirable practice for prosecution and defence counsel to agree to a joint

submission on sentence in exchange for a plea of guilty. Agreements of this nature are commonplace and acknowledged as vitally important to the well-being of our criminal justice system and the military justice system.

[7] The prospect of a joint submission that carries with it a high degree of certainty encourages persons to enter a plea of guilty. It means also that for joint submissions to be possible, the parties must have a high degree of confidence that they will be accepted. If there is too much doubt about it, then the parties may choose instead to accept the risks of a trial or a contested sentencing hearing.

[8] Guilty pleas save the justice system precious time, resources and expenses that can be channelled into other matters. This approach, recognized by the Supreme Court of Canada, relies heavily on the work of the prosecution, as representing the community's interest, and counsel for the defence, representing the best interests of the accused. It requires that counsel must provide the Court with a full account of the circumstances of the offender and the offences.

[9] In addition to the circumstances surrounding the commission of the offence, as described in the Statement of Circumstances that I have just read, the Court was informed that Warrant Officer Grant is 38 years old and joined the Regular Force in 2001. He has no previous criminal or disciplinary record. Warrant Officer Grant apologized for his behaviour the day after the events and informed the prosecution of his intent to enter a plea of guilty at the earliest opportunity. Since the incidents, his behaviour and performance have been exemplary and Warrant Officer Grant enjoys the full support of his chain of command. He has been placed on counselling and probation for a period of six months for these events. Warrant Officer Grant has also been posted to a new unit after the incidents, as well as being removed from the list of members who would deploy on a mission. This fact had a direct impact on his career, both administratively and financially. Finally, Warrant Officer Grant is the father of two sons born in 2000 and 2008 for whom he has shared custody.

[10] As trial judges are obliged to depart only rarely from a joint submission, I am unable to conclude that the sentence proposed by counsel would bring the administration of justice into disrepute or would otherwise be contrary to the public interest, therefore it fully meets the standard and threshold set by the Supreme Court of Canada.

FOR THESE REASONS, THE COURT:

[11] **FINDS** Warrant Officer Grant guilty of one count of disgraceful conduct contrary to section 93 of the *National Defence Act* and one count of drunkenness contrary to section 97 of the Act.

[12] **SENTENCES** you to a reprimand and a fine in the amount of \$1,500, payable in seven equal monthly and consecutive instalments of \$200, commencing 15 January 2018, and a final instalment of \$100 payable on 15 August 2018.

Counsel:

The Director of Military Prosecutions as represented by Major M. Pecknold

Major F.D. Ferguson, Defence Counsel Services, Counsel for Warrant Officer T.L.
Grant