



COURT MARTIAL

Citation: *R. v. Covyew*, 2017 CM 3019

Date: 20171212

Docket: 201751

Standing Court Martial

14 Wing Greenwood
Greenwood, Nova Scotia, Canada

Between:

Her Majesty the Queen

- and -

Sergeant L.M. Covyew, Offender

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

REASONS FOR SENTENCE

(Orally)

[1] Sergeant Covyew pleaded guilty to the first and only charge on the charge sheet. The Court, having accepted and recorded a plea of guilty in respect of that charge, which is contrary to section 129 of the *National Defence Act (NDA)*, now finds you guilty of that charge.

[2] In this case, both the prosecutor and the offender's defence counsel made a joint submission on the sentence to be imposed by this Court. They recommended that this Court sentence you to a reprimand and a fine of \$200.

[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 military activity in the Canadian Armed Forces (CAF). 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] Circumstances surrounding the offence were explained through the Statement of Circumstances and your personal circumstances were also put to this court through the Agreed Statement of Facts. Both documents are reproduced as follows:

“STATEMENT OF CIRCUMSTANCES

1. At all material times, Sgt Coveow was a member of the Regular Force posted to 5 Canadian Division Support Group Detachment Aldershot (Detachment Aldershot).
2. On 12 October 2016, Sgt Coveow was the Senior Non-commissioned officer in charge of the kitchen and dining hall facility supporting Detachment Aldershot.
3. At approximately 1830 hours, 12 October, 2016, Sgt Coveow joined a group of military and civilian employees who were working in the kitchen. All were his subordinates.
4. Sgt Coveow showed one of his subordinates “funny” pictures on his phone. Other subordinates asked them what they were laughing at and approached Sgt Coveow to look at his phone. Sgt Coveow then said to the people who came to look, “*If you are easily offended don’t look*”. To those employees who came over to look at the phone, Sgt Coveow displayed to those who came to look at his phone an image of a hand which had a penis in place of the thumb. After this, he displayed to them an image of three people wearing bikinis. The middle person was nude from the waist down and appeared as a transwoman with male genitalia. The caption on the image read, “*Does the girl in the middle look familiar to you?*”.
5. On 15 November 2016, Junghyun (Jenna) Parks participated in an exit interview after notifying her employer that she would be accepting another job offer. During her interview, Ms. Parks recounted the conduct described in paragraph 4. Sgt Coveow was one of Ms. Park’s direct supervisors. She was offended by the pictures displayed by Sgt Coveow.
6. CAF personnel posted to Detachment Aldershot are subject to specific standards of conduct. For Detachment Aldershot, those rules are contained within Detachment Aldershot Garrison Coordinator’s Orders and In-Routine (Orders). Notably, these Orders require familiarity with, and adherence to, the following:

- a. QR&O;
- b. DAOD;
- c. CFAO;
- d. Gagetown Standing Orders; and,
- e. Detachment Aldershot Standing Orders and In-routine.

7. The Orders also provide the following specific instructions at paragraph 10, entitled “HARASSMENT”, which read, in part: “*You are ordered not to display or share pornographic material or other form of material that could be offensive to another while on a CF establishment*”.

8. The activities of Sgt Coveow carried out on 12 October 2016 were in violation of all the applicable rules summarized at paragraphs 6 and 7. Sgt Coveow knew the Detachment Aldershot Standing Orders and In-routine and that the pictures he showed to the others in the workplace could be offensive to some.”

“AGREED STATEMENT OF FACTS

1. Maj B.A. Kerr, G5 of the 5th Canadian Division Support Group, states that he admires Sgt Coveow who is a hard working soldier, who has many positive attributes and who had done much good during his career.

2. Sgt Coveow was exposed to multiple deaths as well as mutilated bodies during his deployments to Afghanistan. As a result, Sgt Coveow was diagnosed in September 2014 with the following occupational stress injuries: chronic post-traumatic stress disorder and major depressive disorder. He has been posted to the Greenwood Integrated Personnel Support Centre and has been assigned a permanent medical category. He is awaiting release.

3. Sgt Coveow financial situation is strained. He is the father of 4 children all under the age of 14 who he supports financially. He is also currently responsible for two mortgages, one for his family home in Nova Scotia and the other for a home in Prince-Edward-Island where he expect to relocate once released from the Canadian Forces.”

[5] Although this Court is not bound by the joint recommendation made by counsel, it is generally accepted that the sentencing judge should depart from the joint submission only when it is contrary to the public interest as stated by the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43, at paragraph 32. The only situation where the Court would depart from the recommendation is where the proposed

sentence would be viewed by reasonable and informed persons as a breakdown in the proper functioning of the justice system.

[6] This approach relies heavily on the work of the prosecution as representing the community's interests, which would include the CAF members and the chain of command at the unit of the accused and also on the defence counsel as acting in the accused's best interests.

[7] It is the duty of counsel to provide the Court with the full circumstances in relation to the offender and the circumstances surrounding the commission of the offence and it must be done without the judge, presiding at the trial, requesting the information.

[8] In the actual context of this court martial, the Court is satisfied that the information necessary for its understanding were provided in full.

[9] In this case, objectives related to the denunciation and the deterrence of the offender were used to frame the discussions among counsel. Rehabilitation has also been considered.

[10] Sergeant Coveyow initially enrolled for the CAF in 1994 up to 1998. He re-enrolled in 2002 as a cook in the CAF. He progressed from 2002 to 2012 from the rank of private to the rank of sergeant to which he was promoted in 2012. He went on multiple deployments and then, in 2014, he was diagnosed with various occupational stress injuries. There is no link that has been established between his medical situation and the commission of the offence, but it is part of the context in order to consider his personal situation.

[11] The incident occurred while you were posted to Aldershot in 2016 and the Court would like to highlight the fact that your guilty plea reflects your understanding of the principle of respecting the dignity of all persons. By pleading guilty you recognize your personal responsibility in the commission of the offence and you accept it. Basically, you understood that what is funny for some people may not be so funny for someone else and I think that it is mainly the lesson in that situation: people must be respectful of others and this is what is reflected by this case.

[12] I will accept the joint submission made by counsel to sentence you to a reprimand and a fine of \$200, payable immediately.

FOR THESE REASONS, THE COURT:

[13] **FINDS** Sergeant Coveyow guilty of the charge of conduct to the prejudice of good order and discipline, the first charge on the charge sheet.

[14] **SENTENCES** Sergeant Coveyow to a reprimand and a fine of \$200, payable in monthly instalments of \$50, the first payment being payable immediately, followed by

three other instalments of \$50. If for any reason, Sergeant Covyew, you are released prior to the fine paid in full, then the remaining sum must be paid at the time of your release.

Counsel:

The Director of Military Prosecutions as represented by Major M.E. Leblond and Lieutenant (Navy) H. Burchill

Major A. Gélinas-Proulx, Defence Counsel Services, Counsel for Sergeant L.M. Covyew