



## COURT MARTIAL

**Citation:** *R. v. Levangie*, 2018 CM 3022

**Date:** 20181204

**Docket:** 201846

Standing Court Martial

Halifax Courtroom Suite 505  
Halifax, Nova Scotia, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Sergeant L.E. Levangie, Offender**

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

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### **REASONS FOR SENTENCE**

(Orally)

[1] Sergeant Levangie pleaded guilty to the first charge and only charge on the charge sheet which reads as follows:

**“FIRST CHARGE**  
Section 129 of the  
*National Defence Act*

**AN ACT TO THE PREJUDICE OF GOOD  
ORDER AND DISCIPLINE**

*Particulars:* In that he, on or about 21 June 2017, at or near CFB Borden, did possess Cannabis (Marihuana), while undergoing military training.”

[2] The Court accepts and records your plea of guilty in respect of the first charge and finds you guilty of this charge. As stated in the *National Defence Act*, as a military judge presiding at this court martial, it is now time for me to impose a sentence in this matter. But before that, I would like to tell you,

[3] In the present 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 fine in the amount of \$200.

[4] 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 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.

[5] The evidence before this Court includes a Statement of Circumstances and a very detailed Agreed Statement of Facts. The Statement of Circumstances reads as follows:

#### “STATEMENT OF CIRCUMSTANCES

1. Sergeant Levangie (Sgt Levangie) enrolled in the Canadian Armed Forces (CAF) as a reservist on or about 31 January 2008. Sgt Levangie was promoted to his current rank on 28 November 2016.
2. From 1 April 2017 to 31 March 2018, Sgt Levangie was on Class B Service with 36 Service Battalion, 36 Canadian Brigade Group, 5<sup>th</sup> Canadian Division, located in Halifax, Nova Scotia. This is his home unit and chain of command.
3. On or about 23 May 2017 to 23 June 2017, Sgt Levangie was undergoing training on Temporary Duty (TD) at or near CFB Borden in order to obtain an occupational specialization in Road and Vehicle Safety. Specifically he was taking Course 112840-0034, *Road and Vehicle Safety Specialist*.
4. At all material times it was an offence to possess Cannabis (Marihuana) pursuant to s. 4(1) of the then *Controlled Drugs and Substances Act* (CDSA), Schedule II, except as otherwise authorized by regulation.
5. At all material times Sgt. Levangie had no regulatory authority to possess Cannabis (Marihuana) and no authority under QR&O 20.04 to use the substance.
6. While subject to the *Code of Service Discipline* under s. 60(1)(c)(viii) of the *National Defence Act* (NDA), at or near CFB

Borden, Sgt Levangie in his personal motor vehicle (PMV) submitted to a routine exit search of his person and property while exiting CFB Borden's South Gate.

7. The search was performed at CFB Borden's South Gate pursuant to s. 5 of the *Inspection and Search Defence Regulations (ISDR)*. Corporal Cameron Laidlaw (Cpl Laidlaw), Badge # 6449, of the Military Police informed Sgt. Levangie of the legal authority to search and performed the search.

8. Cpl Laidlaw saw a light gray backpack in the front seat of Sgt Levangie's PMV. When he opened the backpack he smelled an odour that he believed to be caused by Cannabis (Marijuana). Upon further search of the backpack he discovered a zip lock bag that contained a blue glass pipe used to inhale smoke created by burning dry Cannabis. He also discovered a zip lock bag that contained a substance that resembled dry Cannabis (Marijuana).

9. Cpl Laidlaw seized the substance and the pipe. He temporarily detained Sgt. Levangie for further investigation and informed him of his right to counsel. He also read him a non-specific caution.

10. On 21 June 2017, Sgt Levangie was released without conditions and issued an Appearance Notice for the Ontario Court of Justice.

11. On 22 June 2017, Cpl Laidlaw weighed the substance seized from Sgt. Levangie. The substance weighed 5.1 grams with a possible deviation of 0.1 gram.

12. On 22 June 2017, Cpl Laidlaw performed a NIK Drug Test for Marijuana on 0.1 grams of the seized substance. The test indicated positive for Cannabis (Marijuana) and was sealed.

13. On 22 June 2017, Cpl Laidlaw cancelled the issued appearance notice and informed Sgt. Levangie that he would likely be charged under the *NDA*.

14. On 28 June 2017, Sgt. Levangie was placed on counselling and probation by his Commanding Officer, Lieutenant-Colonel T.M. White, for his conduct deficiency in being involved with a prohibited drug to wit Cannabis (Marijuana) under the *CFDCP* as it existed at the time.

15. On 25 April 2018, the substance seized by Cpl Laidlaw from Sgt Levangie's possession was confirmed to be Cannabis (Marijuana) by a Certificate of Analyst from Health Canada."

[6] The Agreed Statement of Facts reads as follows:

“AGREED STATEMENT OF FACTS

1. Born and raised in Cape Breton, Nova Scotia, Sgt Levangie was raised in a family with 4 other siblings. His Mother was a nurse and is now retired. His father was an electrician and prominent volunteer in the community. His father is also retired. Sgt Levangie’s siblings are all adults and are gainfully employed in various capacities. Most notably, one of his brothers is a current site manager for a construction company and has recently released from the CAF also as a Sergeant as an MSE Op (Mobile Support Equipment Operator).
2. Sgt Levangie graduated from high school in 2009 from River View Secondary School located in Sydney River, Cape Breton, Nova Scotia. Sgt Levangie achieved excellent grades in the high 90’s in various subjects/disciplines. This eventually led to his admission to King’s College University (part of Dalhousie University) where he obtained a Bachelor’s degree with Honours and a double major in History and Political Science.
3. Sgt Levangie obtained bursaries and scholarships and worked as a reservist to finance his university education. Sgt Levangie joined the CAF in 2008. He was promoted to Master Corporal in 2014. In March of 2015, Sgt Levangie was awarded a Class B position as the Transport NCO for 36 Service Battalion. He continues to serve in that role to this day. He was promoted to his current rank of Sergeant on 28 November 2016.
4. Sgt Levangie’s role as Transport NCO has earned him commendations. Notably, in 2015, Sgt Levangie was a participant in the Canadian Patrol, acting as a 2IC. The patrol earned Bronze that year. He received a commendation for his participation. In both 2016 and 2017, Sgt Levangie again participated in the Canadian Patrol competition with the latter year acting as a mentor. In 2017 during Ex Strident Tracer, Sgt Levangie received a commendation in recognition of his exceptional work both in the lead up and during the exercise. Sgt Levangie further received a commendation (37 Brigade Command Team Coin) for the exceptional performance of his duties during Ex
5. In addition to commendations, Sgt Levangie has become invaluable in his role in Transport. First, he acted as the Course Warrant for a Driver Wheeled course in 2017 working 6 days a week to ensure the course had the resources required. Sgt Levangie is also an airbrakes instructor. He is currently one of a few members in Nova Scotia that can

teach the course. As such, due to his skill sets, he has not been deployed on Operations despite having been identified for same.

6. Lt. Jon de Ste. Croix, 36 Service Battalion's Adjutant has known Sgt Levangie since September 2018. He describes Sgt Levangie as a fit and effective leader. He describes his attitude as being good for morale and cohesion. He has continued to act as a positive leader for other members of the unit.

7. During the time of this incident, Sgt Levangie was on a military course important for his career. Sgt Levangie is not a regular user of marijuana. At the material time of his arrest, Sgt Levangie had a small amount of marijuana in his possession. It was never used on base, nor was it ever sold to other members. Sgt Levangie used marijuana only off base, when not in service, and only in social settings that condoned such use. It was never abused, and Sgt Levangie has always been fit for service when he reported for work or courses.

8. Following the incident, Sgt Levangie completed the CAF Drug Awareness Program. He acknowledges that the abuse of drugs, the abuse of alcohol, addictive gambling and addictive gaming pose a risk to good order and discipline within the CAF. Moving forward in his career and as a leader in the CAF he will advocate for the responsible use of marihuana in compliance with orders, regulations and the law.

9. Sgt Levangie seriously regrets his actions and expresses significant remorse in accepting responsibility for his actions. Sgt Levangie has the utmost respect for discipline and order within the CAF and is embarrassed to have this blemish on his service record. Despite this, Sgt Levangie continues to strive for excellence in his work and hopes that his impressive military experience and ethos will overshadow this particularly isolated incident in his military career."

[7] Although the 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.

[8] 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", as mentioned at paragraph 42 of the same decision.

[9] In *Anthony-Cook* at paragraph 25, the Supreme Court of Canada recognized:

It is an accepted and entirely desirable practice for Crown 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 vitally important to the well-being of our criminal justice system, as well as our justice system at large.

I would add that these comments also apply also to the military justice system.

[10] However, lawyers must provide to the court a full account of the offender's situation and of the circumstances of the offence in the joint submission. Here, the Court is satisfied with the information and explanation provided by counsel. In fact, they provided sufficient detailed information for the Court to appreciate the joint submission.

[11] In this case the principles and objectives of denunciation and general deterrence were an integral part of counsel's discussions on the basis of the joint submission they made. They also gave consideration to rehabilitation.

[12] Sergeant Levangie enrolled in January 2008 with the reserve force and was employed, since then, many times and recently mostly, in Class "B" service. The documentation provided and the agreed statement of facts made it clear to the Court that Sergeant Levangie is a devoted soldier and devoted person to his trade. And you are not just devoted, but you are also knowledgeable and successful in what you do, generally speaking. This is what I got from the information.

[13] I understand that counsel gave thought to the fact that the law has changed concerning cannabis, and that it may have changed perception of people in relation to the use and possession. However, as mentioned by the prosecutor, even if the CAF adapts to the reality of today, at the time of the offence, possession while undergoing military training was considered as being an act to the prejudice of good order and discipline and still could be, as explained by the prosecutor, depending on the circumstances. In the context of a military environment, the CAF still have policies where, in some circumstances, possession of cannabis would constitute an offence as the one for which the Court accepted and recorded your plea of guilty.

[14] That being said, counsel gave consideration to many mitigating factors. I understand that it was something out of character for you and I was reassured, and the prosecutor too, that there was no use on the base and you were making a point of respecting the regulation concerning the use and possession of cannabis, despite the fact that you were using it recreationally. You had some awareness, and you still do, about where and when it could be used, especially in the context of operations within the CAF. Because of that, counsel suggested a \$200 fine, a sentence that would disappear from your conduct sheet after one year, should there be no other conviction during that year. Also, because the law in the *National Defence Act* has changed for minor offences such as this one, it would not call for the creation of a criminal record.

[15] That being said, I would say that I do not think that this kind of suggestion would cause a breakdown within the military justice system. To the contrary, as you heard from the prosecutor, he gave consideration to similar cases that would suggest that, where, first offences such as this one would call for a fine between \$1 and \$500.

So, I am reassured that counsel gave consideration to similar cases and similar situations and I don't see why I could not accept the suggestion and, basically, I will accept the joint submission made by counsel to sentence you to a fine of \$200 payable immediately, considering that it is not contrary to public interest and will not bring the administration of justice into disrepute.

[16] I understand that after you went on CAF Drug Awareness Program and, because you were successful with your counselling and probation, your chain of command is satisfied with your attitude and maintains you on your Class "B" terms of service. I hope you will continue your good and hard work for the CAF, and that, as a sergeant, you will learn from this experience, act as a leader for others and consider your own career at the same time.

**FOR THESE REASONS, THE COURT:**

[17] **FINDS** Sergeant Levangie guilty of the first charge on the charge sheet for an act to the prejudice of good order and discipline, contrary to section 129 of the *National Defence Act*.

[18] **SENTENCES** Sergeant Levangie to a fine of \$200 payable immediately.

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**Counsel:**

The Director of Military Prosecutions as represented by Lieutenant Commander D.R.J. Shroeder

Captain C.M. Da Cruz, Defence Counsel Services, Counsel for Sergeant L.E. Levangie