



COURT MARTIAL

Citation: *R. v. Krajaefski*, 2019 CM 4004

Date: 20190318

Docket: 201878

Standing Court Martial

Asticou Courtroom
Gatineau, Quebec, Canada

Between:

Her Majesty the Queen, Applicant

- and -

Major T.A. Krajaefski, Respondent

Before: Commander J.B.M. Pelletier, M.J.

Restriction on publication: Pursuant to section 179 of the *National Defence Act*, the Court directs that any information obtained in relation to this trial by Standing Court Martial that could identify anyone described in these proceedings as a victim or complainant, including the person referred to in the Charge Sheet as “T.C.” shall not be published in any document or broadcasted or transmitted in any way.

DECISION ON AN APPLICATION FOR A SUPPORT DOG TO BE PRESENT WITH THE COMPLAINANT DURING HER TESTIMONY

(Orally)

[1] This application seeks the Court’s authorization for a service dog in training, Henry, to accompany the complainant, T.C., during her testimony before the Court.

[2] The prosecution argues that this Court has the discretion to grant this request and should do so, essentially to facilitate the giving of a full and frank account by T.C. The prosecution refers, by analogy, to the test found at section 486.1 of the *Criminal*

Code given that the offences, as particularized in this case, allege disgraceful conduct and conduct to the prejudice of good order and discipline involving behaviour of a sexual nature.

[3] The defence initially opposed the application. This required that T.C. be called and examined. That was done in the presence of Henry at her side with the consent of defence, without prejudice. The defence's position is now that the application is not being opposed.

[4] I have read the application by the prosecution and the accompanying book of authorities. I agree with the prosecutor that the rationale for the testimonial aids outlined at section 486.1 of the *Criminal Code* is useful in assisting this Court in the exercise of its discretion.

[5] I have also considered the affidavit of T.C. and the accompanying documents, as well as her testimony. The evidence reveals that T.C. has been diagnosed with post-traumatic stress disorder and suffers from numerous symptoms, including anxiety and depression. An evaluation written by her treating psychologist reveals that, in February 2018, she was anxious about the trial. She testified that she obtains assistance of a service dog, Henry, who helps her deal with these symptoms. She explained how Henry is doing so.

[6] In consideration of the factors listed at subsection 486.1(3) of the *Criminal Code*, I find that the witness' mental disability and society's interest in encouraging the reporting of offences and the participation of victims and witnesses in the criminal justice process are relevant to my consideration of this application. I also find that the inconvenience to the accused and the trial process is minimal, especially after having seen T.C. testify with Henry present in the course of the evidence on the application. I have no difficulty accepting that given T.C.'s medical condition, namely post-traumatic stress disorder, Henry's presence at her side will assist her and facilitate the giving of a full and candid account.

[7] I note that it has not been submitted and I do not assume in any way that the mental condition of T.C. is specifically related to consequences of the offences alleged in the charges before the court.

[8] The Court exercises its discretion in the circumstances of this case to allow T.C.'s service dog in training to be present with her during her testimony as it will both facilitate her testimony and be in the interest of the proper administration of justice.

FOR THESE REASONS, THE COURT:

[9] **GRANTS** the application for a support dog to be present with the complainant during her testimony.

Counsel:

The Director of Military Prosecutions as represented by Major G.J. Moorehead and Lieutenant(N) G.J.M. Benoit-Gagné, Counsel for the Applicant

Mr D.M. Hodson, David Hodson Criminal Defence Law, 16 Lindsay Street North, Lindsay, Ontario, Counsel for Major T.A. Krajaefski, the Respondent