



COURT MARTIAL

Citation: *R. v. Egers-Wood*, 2020 CM 3003

Date : 20200310

Docket : 201924

Standing Court Martial

Halifax Court Room Suite 505
Halifax, Nova Scotia, Canada

Between:

Her Majesty the Queen

- and -

Corporal C.G. Egers-Wood, Offender

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

REASONS FOR SENTENCE

(Orally)

Introduction

[1] Corporal Egers-Wood pleaded guilty to the charge of conduct to the prejudice of good order and discipline, which reads as follows:

“FIRST CHARGE
Section 129 of the
National Defence Act

**CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND DISCIPLINE**

Particulars: In that he, between 01 September 2016 and 31 March 2017, all dates inclusive, at or near Gander, Newfoundland, did use a prohibited drug, to wit Cocaine (Benzoylmethleconine), contrary to *Queen’s Regulations and Orders*, 20.04.”

[2] The Court having accepted and recorded a plea of guilty in respect of this charge, now finds you guilty of this offence.

[3] The prosecution has decided to withdraw the second charge, then accordingly there is nothing else to deal with as a matter of finding.

[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] Concerning the sentence to be imposed by the Court, the prosecutor and the offender's defence counsel presented a joint submission. They recommended that the Court impose a reprimand and a fine in the amount of \$3,000.

[6] The circumstances of the offence were presented through a Statement of Circumstances, which reads as follows:

“STATEMENT OF CIRCUMSTANCES

1. On 5 June 2014 Corporal (Cpl.) Egers-Wood (E.W.) signed a *Declaration of Compliance with Canadian Armed Forces Drug Control Program* form. On 16 October 2014, Cpl. E.W. enrolled in the CAF and signed a *Pre-enrolment Statement of Understanding*.

2. On 13 February 2015, Cpl. E.W. completed his Basic Military Qualification Course. On 19 May 2016, he completed Military Police Qualification Level 3. On 19 May 2016, Cpl. E.W. was posted to Gander, Newfoundland as a member of 29 Military Police Flight.

3. In September of 2016, Cpl. E.W. used ½ a gram of cocaine during a house party at the residence of J.G. in Gander, Newfoundland. In September of 2016, Cpl. E.W. with J.P. used one gram of cocaine that was split between the two of them. The cocaine was used down a dirt road at or near Boot Pond, Newfoundland. In January of 2017, Cpl. E.W. again used one gram of cocaine with J.P. that was split between the two of them, while at the Corner Pocket in Gander, Newfoundland.

4. Cpl. E.W. used cocaine on the three occasions previously referenced recreationally, when he knew that it was contrary to the *Canadian Armed Forces Drug Control Program (CDCP)*, *Queen's*

Regulations and Orders, article 20.04. He also knew that as a member of the Military Police, he could also be called upon to enforce the prohibited use of drugs under the *CDCP* against other members of the CAF.

5. On or around 14 September 2019, Cpl. E.W. consumed alcohol in violation of conditions imposed by a Custody Review Officer, Captain Robert Mackenzie in effect since 15 August 2017. Cpl. E.W. was picked up by Constable. Daniel Gillingham of the RCMP intoxicated by alcohol at a Circle K Convenience Store located in Gander.

6. Cpl. E.W. regrets his decision to participate in the illegal use of drugs. He is taking steps to rehabilitate himself by seeking counselling for the use of drugs and alcohol.”

[7] The Court was presented with letters from the commanding officer, from the clinical social worker, peers, supervisors and former supervisors of the offender.

The joint submission

[8] 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 and this includes courts martial. It is the responsibility in these circumstances for lawyers to provide to the Court a full account of the offender’s situation and of the circumstances of the offence in a joint submission. Here, the Court is satisfied with the information provided by counsel. They provided sufficient and detailed information for the Court to appreciate the joint submission arising from their discussions in the specific context they were dealing with.

[9] In this case, the principles and objectives of denunciation, general deterrence and rehabilitation were an integral part of counsel’s discussions and the basis for their joint submission.

[10] Corporal Egers-Wood is 29 years old. He has spent almost six years with the CAF as a military police (MP). He was described as a good performer in his job at the time of the alleged incident and after, even though he was not performing in his main trade as an MP. Such illegal activity is in clear conflict with his duty to enforce the law as an MP. He recognized his responsibility and he accepts the consequences for his behaviour.

[11] Consumption of drugs is still a huge concern in the military context. And I just want to refer counsel and the public to a Court Martial Appeal Court decision of

R. v. MacEachern (1986), 24 C.C.C. (3d) 439, where at page 444 the Court said and I think it is still relevant despite the fact that our society is changing:

Because of the particularly important and perilous tasks which the military may at any time, on short notice, be called upon to perform and because of that team work required in carrying out those tasks, which frequently involve the employment of highly technical and potentially dangerous instruments and weapons, there can be no doubt that military authorities are fully justified in attaching very great importance to the total elimination of the presence of and the use of any drugs in all military establishments or formations and aboard all naval vessels or aircraft. Their concern and interest in seeing that no member of the forces uses or distributes drugs and . . . ultimately eliminating its use, may be more pressing than that of civilian authorities.

[12] For sure, it should be read with the actual policy for using drugs in the CAF, which has been adjusted to our reality today in our society, but it is still relevant to think that there is a reason why in such context as a military one, the use of drugs is a concern.

[13] I look at the suggestion made by counsel and for me, it is in line with what they suggest. As a matter of circumstances, it does respect the principles and objectives they discussed before the Court. As a matter of parity, it is totally in line with what usually happens in these circumstances even though the responsibility here is potentially higher, because we are dealing with someone who is an MP, who has credentials. For me, the sentence proposed by counsel does reflect the range of sentences to be considered in the circumstances, which goes usually from a fine alone up to a severe reprimand and a fine. Usually that is the case, especially where we are dealing with a first-time offender.

[14] So looking at the case a whole, I will accept the joint submission made by counsel to sentence Corporal Egers-Wood to a reprimand and a fine in the amount of \$3,000 as it is not contrary to the public interest and will not bring the administration of justice into disrepute.

[15] The Court encourages you to continue in your effort to deal with other challenges you may have. I think you took it seriously. You got your warning regarding the consumption of drugs and alcohol and you continued to deal with it seriously. And I think it was considered heavily in the suggestion made by both counsel. So I do not know what will happen to you, but at this point for sure and as expressed by the commanding officer, once this court martial will be terminated, it will turn the page on the aspect of discipline. It will bring back to the unit and probably to you too, you will feel relieved and people will be able to carry on with their duties. You will be able to continue with your career and people will address what they have to address regarding the administration of your career and the fact that you have to be maintained or not in the CAF, but it will not be for this Court to decide about this.

FOR THESE REASONS, THE COURT:

[16] **FINDS** Corporal Egers-Wood guilty of the first charge contrary to section 129 of the *National Defence Act* for conduct to the prejudice of good order and discipline.

[17] **SENTENCES** the offender to a reprimand and a fine in the amount of \$3,000, payable in six equal monthly instalments of \$500 commencing on 1 April 2020.

Counsel:

The Director of Military Prosecutions as represented by Major P. Germain

Mr. D. Bright, Boyne Clarke, LPP, 609-99 Wyse Rd, Dartmouth, Nova Scotia, Counsel for Corporal C.G. Egers-Wood