



## COURT MARTIAL

**Citation:** *R. v. Sangha*, 2020 CM 2011

**Date:** 20201006

**Docket:** 202023

Standing Court Martial

Denison Armoury  
Toronto, Ontario, Canada

**Between:**

**Her Majesty the Queen**

**- and -**

**Officer Cadet G.S. Sangha, Offender**

**Before:** Commander S.M. Sukstorf, M.J.

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### **REASONS FOR SENTENCE**

(Orally)

#### **Introduction**

[1] Officer Cadet Sangha pleaded guilty to two charges. One charge relates to an offence contrary to section 129 of the *National Defence Act (NDA)* while the second charge relates to an offence contrary to section 85 of the *NDA*. The prosecution withdrew the remaining charges on the charge sheet at the commencement of the proceedings. Having accepted and recorded his pleas of guilty with respect to the two charges, the Court must now determine and pass sentence on the charges which read as follows:

**“SECOND CHARGE**

Section 129 of the  
*National Defence Act*

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

*Particulars:* In that he, between 17  
and 18 August 2019, at or near CFB

Petawawa, Ontario, did harass Pte French.”

**“FORTH CHARGE**

Section 85 of the  
*National Defence Act*

**BEHAVED WITH CONTEMPT  
TOWARDS A SUPERIOR OFFICER**

*Particulars:* In that he, between 17 August 2019, at or near CFB Petawawa, Ontario, said to 2Lt Lin: “Yeah, yeah, get started” or words to that effect.”

[2] The Statement of Circumstances filed in court reads as follows:

“Statement of Circumstances

*(Queen’s Regulations and Orders for the Canadian Forces, art. 112.51(3))*

1. At all material times, the offender, OCdt Sangha, was a member of the Reserve Force, Canadian Armed Forces, employed with the 4<sup>th</sup> battalion of the Royal Canadian Regiment located in London, Ontario.
2. In August of 2019, the offender, along other members of his unit, was taking part in a training exercise at CFB Petawawa, Ontario.
3. On 17 August 2019, the offender was sharing a tent with Pte French, a member of his unit. During the evening, Pte French and the offender had a discussion with respect to their ethnic backgrounds. At one point, the offender told Pte French that all he knew about New Zealanders was that they “bang sheep” (slang for sexual intercourse) or words to that effect.
4. Pte French, whose father is from New Zealand and who has many relatives living in that country, told the offender not to speak in this way. He had advised that his grandfather was involved in missionary work in India building churches. The offender informed Pte French that he did not agree with such work nor the associated ideologies. Pte French repeatedly advised the offender that he did not want to engage in the discussion further.
5. The offender did not stop as requested, but carried on making comments about New Zealand and its inhabitants.

6. At one point, Pte French had to leave the tent to calm himself down.
7. On 18 August 2019, Pte French entered the tent in which the offender was located. The offender told him: “It’s your daily dose of triggers” or words to that effect. After saying these words, the offender showed Pte French a video. Pte French told him to stop.
8. The offender and Pte French engaged in a very heated discussion about morals and religion for about 20 minutes despite Pte French asking him to stop repetitively.
9. Pte French was upset by the offender’s behaviour and told OCdt Sangha that if he didn’t stop, Pte French would report the incident to their chain of command.
10. The offender replied that he would report Pte French for racism.
11. At one point after this, while the insults continued, despite Pte French’s protests that they cease the conversation, Pte French left the tent in great emotional distress.
12. OCdt Sangha knew, or ought to have known, that his words on these two occasions would cause offence or harm.
13. Between March and April 2020, Pte French received about 70 phone calls and 30 text messages to his private telephone number. These voicemails and messages contained vulgarities. Pte French believes the offender was behind these calls and messages.
14. On 17 August 2019, 2Lt Lin, in charge of the offender’s group at this point in the training exercise, called for a briefing for the section.
15. Since this briefing took place during a rest period, 2Lt Lin prefaced his comment by apologizing for the timing but also highlighting the importance for the meeting to take place at that moment.
16. The offender cut off 2Lt Lin in mid-sentence by saying: “yeah, yeah, just get started” or words to that effect.

17. Later during the briefing, the offender interrupted 2Lt Lin to ask if could get some brownies.
18. Surprised by this untimely request, 2Lt Lin mentioned that the offender needed to think about his troops before himself, but OCdt Sangha ignored this comment and started to argue with 2Lt Lin in the presence of subordinates.”

### **The joint submission**

[3] In a joint submission, the prosecution and defence counsel recommend that the Court impose a sentence of a fine in the amount of \$1,000 payable in multiple instalments. In *R. v. Anthony-Cook*, 2016 SCC 43, the Supreme Court of Canada clarified that a trial judge must impose the sentence proposed in a joint submission “unless the proposed sentence would bring the administration of justice into disrepute, or is otherwise not in the public interest.” By entering into a joint submission, the constitutional right to be presumed innocent is given up and this should never be done lightly. In fact, by virtue of the oath taken by all service members, this right is one that we all stand to protect.

[4] Thus, in exchange for making a plea, the accused must be assured of a high level of certainty that the Court will accept the joint submission. The prosecution, who jointly proposed the sentence, will have been in contact with the chain of command as well as the victims, and is aware of the needs of the military and the surrounding community and is responsible for representing those interests. The defence counsel acts exclusively in the accused’s best interests, including ensuring that the accused’s plea is a voluntary and informed choice, and unequivocally acknowledges the accused’s guilt. As members of the legal profession and accountable to their respective law societies, the Court relies heavily on their professionalism, honesty, judgement, as well as their duty to the Court.

### **The evidence**

[5] In this case, the prosecutor read the Statement of Circumstances and provided all those documents required under the *Queen’s Regulations and Orders for the Canadian Forces*. The Statement of Circumstances was introduced on consent to inform the Court of the context of the incident that led to the charge before the Court. Further, the Court benefitted from counsel’s submissions to support their joint submission on sentence, where they highlighted additional relevant facts and considerations. The prosecution informed the court that the victim in this case did not provide a statement.

### **The offender**

[6] Officer Cadet Sangha is twenty-seven years old. He enrolled in the Canadian Armed Forces (CAF) on 28 March 2019 and had only served for approximately five months when the incidents occurred. He is currently serving in the infantry in the reserve force and wishes to continue serving. He is also studying political science in university. He has completed a number of courses since the incidents that have provided him with

helpful insight into the expectations of all service members. Aside from the incident before the Court, he has no conduct sheet or criminal record.

**Purpose, objectives and the principles of sentencing**

[7] The fundamental purpose of sentencing in a court martial is to promote the operational effectiveness of the CAF by contributing to the maintenance of discipline, efficiency and morale, and to contribute to respect for the law and maintenance of a just, peaceful and safe society. This fundamental purpose is achieved by imposing sanctions that have one or more objectives as set out at subsection 203.1(2) of the *NDA*. The prosecution has emphasized that, in negotiations, he and defence counsel closely considered the objectives set out therein. On the facts of this case, both prosecution and defence submit the objectives they considered most important are general deterrence as well as denunciation. The Court agrees with their assessment.

[8] Pursuant to section 203.3 of the *NDA*, in imposing a sentence, the Court shall increase or reduce a sentence to account for any aggravating and mitigating circumstances relevant to the offence or the offender. After hearing the submissions of counsel, the Court highlights the following aggravating factors:

- (a) Victim. Although generally discussions on sensitive issues should be permitted to take place between members, given the nature of the comments, Officer Cadet Sangha seriously offended Private French;
- (b) Repetitiveness of the behaviour. Private French made it clear on multiple occasions he was uncomfortable with the discussions and specifically asked Officer Cadet Sangha to stop. Officer Cadet Sangha ignored his requests.
- (c) Religion and culture. Although most discussions on these subjects are healthy, Officer Cadet Sangha's continued pursuit of the discussion and the nature of his comments crossed the line into an unacceptable realm.

[9] However, the Court notes there are several mitigating factors that must be highlighted:

- (a) Guilty plea. Officer Cadet Sangha's pleas of guilty for the offences as described in the Statement of Circumstances must be given its full weight. His guilty pleas have saved the Court, counsel and the unit supporting the Court considerable time.
- (b) First-time offender. The Crown duly noted that the offences before the Court took place in the first few months of Officer Cadet Sangha's military career. He has no conduct sheet or previous criminal record. This is the first disciplinary hearing of any type for him.

- (c) Rehabilitation. Officer Cadet Sangha had reached out and tried to initiate a mediation between himself and Private French, however, his counsel advised the Court that this was placed on hold during the ongoing plea negotiations.

[10] Threat of a racism complaint. The prosecution submitted that the court consider as an aggravating factor the fact that the offender threatened to make a racist complaint against the victim. Although this fact was acknowledged in the Statement of Circumstances, his defence counsel contested this as an aggravating factor. Since the Court did not have sufficient evidence to properly assess the seriousness of this fact, the Court considered this as neutral. However, it is imperative that I stress, the CAF takes allegations of racism very seriously and consequently any suggestion that an unsubstantiated complaint could be used as a sword or threat is counterproductive to everything that the CAF stands for. It is also an offence to actually make a false complaint.

### **Parity**

[11] Pursuant to section 203.3 of the *NDA*, the law requires that the sentence imposed be similar to sentences imposed for similar offences. In assessing the appropriateness of the sentence, the prosecution advised the Court that they reviewed the following courts martial based on offences under section 129 and section 85: *R. v. Coveyow*, 2017 CM 3019; *R. v. William*, 2017 CM 4017; *R. v. Lafontaine*, 2019 CM 3015 for the 129 offence and *R. v. Levesque*; 2016 CM 4018; *R. v. Lefebvre*, 2016 CM 1005; *R. v. Gagnon*, 2015 CM 4013; *R. v. Savard*, 2020 CM 5001 for the section 85 offence.

### **Comments**

[12] Officer Cadet Sangha, the Court hopes you have learned a very valuable lesson here and wishes to remind you that the Department of National Defence and Canadian Forces Code of Values and Ethics requires every one of us to respect the human dignity and the value of every person. This involves treating every person with respect and fairness, valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce, and importantly, helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination.

[13] We must all work together in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication. I would encourage you to access the publication, “Duty with Honour”, which is available on the Internet as well as the Defence Wide Area Network. If you read that document, you will gain an appreciation of our responsibilities as members of the profession of arms. It also sets out the military ethos:

“The military ethos embodies the spirit that binds the profession together. It clarifies how members view their responsibilities, apply their expertise and express their unique military identity. It identifies and explains military

values and defines the subordination of the armed forces to civilian control and the rule of law.

...

Ultimately, it is the ethos, which incorporates fundamental Canadian values, that distinguishes a member of the Canadian profession of arms from ill-disciplined irregulars, mercenaries or members of another armed force that lacks defining values.”

[14] Canadians expect a certain standard of conduct from its military members no matter where they serve. Consequently, Canadian values must be adopted in everything we do, so when Canadians are not watching, they have confidence that we will conduct ourselves consistent with their expectations. I encourage you to access “Duty with Honour”, read it through and understand what is expected.

### **Conclusion**

[15] After considering counsel’s submissions in their entirety and all the evidence before the Court, I must ask myself whether the proposed sentence would be viewed as a breakdown in the proper functioning of the military justice system by the reasonable and informed CAF member, as well as the public at large. In other words, would the acceptance of the sentence cause the general public to lose confidence in the military justice system?

### **Sentence**

[16] Considering all the factors, the circumstances of the offence, the consequence of the finding, the sentence and the gravity, the Court is satisfied that counsel have discharged their obligations in making their joint submission. The recommended sentence is in the public interest and does not bring the administration of military justice into disrepute.

### **FOR THESE REASONS, THE COURT:**

[17] **FINDS** Officer Cadet Sangha guilty of the second and fourth charges on the charge sheet.

[18] **SENTENCES** the offender to a fine in the amount of \$1,000, payable in three monthly instalments in amounts to be determined by the offender, the first of which is due on 1 November 2020.

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### **Counsel:**

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

Captain D. Mansour, Defence Counsel Services, Counsel for Officer Cadet G.S. Sangha