



## COURT MARTIAL

**Citation:** *R. v. Roney*, 2021 CM 2025

**Date:** 20211214

**Docket:** 202163

Standing Court Martial

5th Canadian Division Support Base Gagetown  
Oromocto, New Brunswick, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Captain W.M. Roney, Offender**

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

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### REASONS FOR SENTENCE

(Orally)

#### Introduction

[1] Today Captain Roney pleaded guilty to one charge contrary to section 129 of the *National Defence Act (NDA)*. The remaining charges were withdrawn by the prosecution at the commencement of the proceedings. Having accepted and recorded his plea of guilty with respect to the charge, the Court must now determine and pass sentence. The charge reads as follows:

**“Second Charge**

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

Section 129 *NDA*

*Particulars:* In that he, on or about 18 August 2020, at or near 5<sup>th</sup> Canadian Division Support Base Gagetown, New Brunswick, on a LAV 6.0 25mm gunnery range, allowed personnel to move

forward of the firing line while it was not safe to do so.”

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

“STATEMENT OF CIRCUMSTANCES

1. At all material times, Captain Roney was a member of the Canadian Armed Forces, Regular Force. An Infantry Officer, he was posted to the Infantry School, 5<sup>th</sup> Canadian Division Support Base Gagetown, New Brunswick.

2. On 8 July 2020, the Officer-in-Command of the Infantry Officer Developmental Phase 1.2 Cell, Captain Geoffrion-Lockheed, prepared a range instruction for a LAV 6.0 turret operator, gunnery range for Infantry Officer candidates. The instruction was approved by Major Legros, Officer Commanding A Company. The range was scheduled for 18-20 August 2020. Captain Roney was designated as the Officer-in-Command of the range. Sergeant Richard was designated as the Range Safety Officer.

3. The range was planned for two serials of Infantry School candidates, with four LAV 6.0 vehicles each. A platoon from the 2<sup>nd</sup> Battalion, The Royal Canadian Regiment (2 RCR), also with four LAV 6.0 vehicles, was added on. The range was conducted in the Gagetown training area at Firing Point 4, a standardized armoured vehicle range with a permanent safety template, firing pad and battle runs.

4. On 18 August 2020, the range staff and participants assembled at Firing Point 4. Sergeant Richard was initially present for the range briefing, but left the range to deliver range sentries to their locations. Whilst he was away, Captain Roney conducted the range safety briefing with the remainder. Captain Roney did not clarify Sergeant Richard’s tasking as Range Safety Officer with him. Instead, Sergeant Richard was employed conducting the range practice for his platoon, whilst Captain Roney assumed both roles as Officer-in-Command and Range Safety Officer.

5. A separate Range Safety Officer was required on this range by 5<sup>th</sup> Canadian Division Support Base Gagetown Range Standing Orders, Edition 2018, Volume 2, Annex F, and by the Range Instruction. Moreover, all personnel on a range must attend a safety briefing for that range. As the Officer-in-Command of the range, Captain Roney had an obligation to ensure that all staff were properly aware of their tasks and were executing them as assigned.

6. The range was conducted without incident until approximately 1630 hours. The weather was hot, and Range Control was expected to issue a change to the fire index. This change would require the removal of tracer ammunition and would affect the how the range would continue. The range second-in-command, Warrant Officer Du Mesnil, spoke with the Sergeants in the three platoons to determine how far their training had advanced. The two Infantry School platoons indicated that they were, effectively, done firing. Sergeant Brown, the Sergeant for the 2 RCR platoon, indicated to Warrant Officer Du Mesnil that they had a vehicle with a stoppage, but were otherwise essentially done firing for the day shoot.

7. Very shortly after this conversation, Range Control issued the change of fire index. Captain Roney issued a 'check fire' to the range on the military radio net. The 'check fire' was also issued on the Motorola radio net.

8. The Infantry School platoons were done firing and had either downloaded their turrets or were at Turret Make Safe (red and green flags, with barrels at maximum elevation). They confirmed the 'check fire' to Captain Roney.

9. Sergeant Brown and the 2 RCR platoon did not acknowledge either radio call. Call sign 2 RCR Alpha had its speakers on and headsets were manned, but the check fire was not heard. Call sign 2 RCR Alpha was working through a prolonged stoppage drill. The vehicle's flags were set to red and yellow to indicate this. It was the left most vehicle on the firing pad.

10. WO Du Mesnil (incorrectly) informed Captain Roney that the 2 RCR platoon was done the day shoot. The fact that Call Sign 2 RCR Alpha was still working through a stoppage, with red and yellow flags displayed, was not properly articulated. Given the vehicle's position on the pad, its turret was not immediately visible to Captain Roney. Neither Captain Roney, nor WO Du Mesnil, moved to check the flags on the turret. Neither followed up the 'check fire by radio with the 2 RCR platoon.

11. Thinking (incorrectly) that the 2 RCR platoon was done shooting for the day, and not realizing that the stoppage was ongoing, Captain Roney authorized movement forward of the firing line. First, Sergeant Richard and some troops were dispatched down range to fight a small fire. A civilian contractor with Lockheed-Martin, Mr Despres, asked if he could go down range to conduct maintenance on a target. He was so authorized, and departed down range in his vehicle.

12. B-GL-381-001/TS-001 Training Safety requires that all weapons systems be verified safe, and flags changed to green, or verified Turret Make Safe with green and red flags, with gun barrels set to maximum elevation prior to movement forward of the firing point. Neither Captain Roney, nor Warrant Officer Du Mesnil, confirmed the flags on the vehicles following the check fire. The range flag on the firing point remained red throughout the incident.

13. After a few minutes, Sergeant Richard and his party returned to the firing point.

14. Call Sign 2 RCR Alpha, on the left most end of the firing line, completed the prolonged stoppage drill. The crew fired a single round of 25mm ammunition. They then fired a 3-round burst to complete the drill. Mr Despres was still down range, approximately 1800 meters from the firing point.

15. Warrant Officer Du Mesnil ran over to Call Sign 2 RCR Alpha and yelled “stop stop stop”. The crew immediately acknowledged and completed a Turret Make Safe drill. Warrant Officer Du Mesnil then drove down range to meet Mr Despres and confirm that he was unharmed.”

### **Joint submission**

[3] In a joint submission, the prosecution and defence counsel recommend that the Court impose a sentence of a reprimand and a fine in the amount of \$2,000 payable forthwith. 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.

### **Evidence**

[5] In this case, the prosecutor read the Statement of Circumstances and provided all those documents required at article 111.17 of 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. The Court was also provided with an Agreed Statement of Facts related more specifically to Captain Roney.

[6] Further, the Court benefitted from counsel's submissions to support their joint submission on sentence where they highlighted additional relevant facts and considerations.

### **The offender**

[7] Captain Roney, the offender, is thirty-three years old. He enrolled in the Canadian Armed Forces (CAF) on 11 September 2012 and thus far has served his country for just over nine years as both a reservist and a regular force combat arms infantry officer. Aside from the incident before the Court, he has no conduct sheet or criminal record. Captain Roney is currently being considered for an exchange position as a company second in command with the British Army.

[8] Prior to being posted to the Infantry School, Captain Roney was posted to a light infantry battalion. He deployed on a number of international and domestic exercises. Prior to running the range on 18 August 2020, he had not participated in a light armoured vehicle 6.0 gunnery range since his own trade qualification shoot, four years previously. Captain Roney deployed to Mali in 2018 to 2019 as part of the United Nations Multidimensional Integrated Stabilization Mission in Mali.

### **The purposes, objectives and principles of sentencing**

[9] The fundamental purposes of sentencing in a court martial are 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. These fundamental purposes are achieved by imposing sanctions that have one or more objectives that are delineated in the *NDA* at subsection 203.1(2).

[10] The prosecution has emphasized, on the facts of this case, that the objectives considered most important are denunciation and general deterrence. He submitted that the objective of specific deterrence has already been met based on the rehabilitative progress already made by Captain Roney. In his submissions, defence confirmed the same position. The Court agrees with their assessment.

### **Accounting for relevant aggravating or mitigating circumstances**

[11] Also under the *NDA*, in imposing a sentence the Court must increase or reduce a sentence to account for any aggravating and mitigating circumstances relevant to the offence or the offender.

*Aggravating factors*

[12] After hearing the submissions of counsel, the Court highlights the following aggravating factors:

- (a) the nature of the errors made. The incident before the Court resulted from several errors made at various stages of the range safety protocols such as double-hatting the range safety officer position when there should have been only one person designated for that position, failure to confirm the check fire and not confirming with the flags on the turrets. Safety procedures ensure that there are redundancies or multiple layers of protection that are designed into the system to ensure safety. In this case, the multiple smaller errors led to the larger failures;
- (b) real danger and violation of trust. As stated in the Agreed Statement of Facts:

“Range safety protocols and live fire training are important. Lieutenant-Colonel Corby stated:

B-GL-381-001/TS-001 Training Safety states: “Commanders are responsible for integrating safety throughout all military activities; failure to do so would be a violation of the trust between superior and subordinate. Risk must be managed, not avoided, as training for operations is an innately dangerous activity which balances the risks of achieving lawful training objectives against the approved end state.” This is the tone that we strive to strike at the School to influence across our Corps.”

- (c) training environment. The Agreed Statement of Facts states the following:

“1. The Infantry School’s mission and role is to deliver high quality specialist infantry and general leadership training, and execute functional centre of excellence responsibilities in order to enable success in Canadian Army operations.

...

3. At the time of the incident, the range was part of a Turret Operator Course. This is a qualification required for Second Lieutenants and Lieutenants undergoing their training on the Infantry Officer Development Phase 1.2, Mechanized Platoon Commander’s Course. This is the final stage of an Infantry

Officer's training prior to assuming command of their first platoon at an Infantry Battalion.

4. . . . Lieutenant-Colonel Corby stated:

The officers in training will be assuming command of their first platoon in an Infantry Battalion where many of them will be responsible for running identical ranges. We pride ourselves in setting the tone of professionalism, safety, fitness at the Infantry School for the rest of the Infantry Corps. Live fire ranges are key to our proficiency as professional soldiers. Errors made during the conduct of this training has cost the lives of our soldiers in the past and it erodes our reputation as professionals. We need to always ensure that what our students see on our ranges are the standard in which they will conduct their own training once they graduate from the Infantry School.”

*Mitigating factors*

[13] However, as counsel pointed out, there are several mitigating factors that must be highlighted:

- (a) the guilty plea. Captain Roney's plea of guilty for the offence as described in the Statement of Circumstances must be given its full weight. His guilty plea has saved the Court, counsel and his unit supporting the Court considerable time;
- (b) the offender has no conduct sheet or previous criminal record and this is the first disciplinary hearing of any type for him;
- (c) acceptance of responsibility. It is clear from the evidence and Captain Roney's own words that:

“Captain Roney deeply regrets what occurred on the range that day. The fact that his actions put someone at risk of injury or death on a training range has led him to conduct a significant amount of personal and professional re-examination. He accepted responsibility for his role in this incident immediately, from the first report he sent to his CoC, and did not avoid taking responsibility at any point.”

- (d) the delay. Although this court martial unfolded very quickly, within thirty days of the prefferal of the charges, and despite Captain Roney's willingness to assume immediate responsibility for his neglect that day, this court martial is occurring two years after the incident;

- (e) potential for rehabilitation. Captain Roney assumed immediate and full responsibility for his conduct. As a result of the incident, Captain Roney was placed on a recorded warning for performance. From the Agreed Statement of Facts, it is clear that Captain Roney completed the six-month monitoring period successfully and was re-tasked as the officer in command for an identical light armoured vehicle gunnery range. He successfully ran a safe and professional range that met the standards set out in Training Safety publications and the Range Standing Orders. He made every possible effort to ensure that all staff and participants were fully aware of all relevant safety protocols, as well as their tasks. He has learned a lot from the experience and intends to carry those lessons with him as he continues to grow and develop as an officer; and
- (f) Lieutenant-Colonel Corby's assessment of Captain Roney is as follows:

“His performance since the initial incident has been excellent. He has remained focused on his duties while navigating this process which has been longer in moving toward resolution than he had anticipated. The uncertainty of the legal proceedings, as well as his next posting has clearly been a source of stress for him; nevertheless he has persevered. He has gone on to run very safe and professional ranges during the past 19 months.”

### **Parity**

[14] Counsel provided the Court with two cases, being *R v Day*, 2011 CM 4027 and *R. v. Captain J.D. Leslie*, 2008 CM 2015 which are somewhat similar to the case at bar in that they disclose a series of actions or inactions or omissions that led directly to a serious threat to the lives and safety of Canadian Forces engaged in either an exercise or combat operations.

### **Proposed Sentence**

[15] A fine in the amount of \$2,000 is significant and reflects that similar neglect such as that set out in the charged conduct will have serious consequences. Further, based on the scale of punishments set out within the *NDA*, the imposition of a reprimand is reserved for serious offences. Together, they send a message to the larger defence community that the lack of attention to safety protocols is unacceptable and will be punished. The reprimand will serve as a blemish on the career record of Captain Roney, as a personal reminder of his failing.

### **Generally**



[16] Captain Roney's actions on 18 August 2020 disclosed his omission to ensure that the required procedural protocols designed to ensure safety, led to a serious threat to the life and safety of a civilian contractor that day.

[17] Leadership requires an inculcated pattern of discipline at all times. It starts in training. As Lieutenant Colonel Corby stated:

“[I]f you could not display the situational awareness and safety policies in the conduct of safe training, you couldn't possibly be able to maintain awareness or navigate the conditions present on a modern, complex battlefield. Safety in training builds what I would consider similar to muscle memory: operate safely during training and you will develop the reactions and calculations that you need to know in order to operate within an environment where the geometries of fire and coordination of supporting arms are increasingly more complex.”

### **Conclusion**

[18] As the Court often expresses to people who come before it when they have fallen short of the expectations and standards expected of them; we all make really bad choices at one point in our lives and it is how we deal with our mistakes that governs our success moving forward. Captain Roney, the fact that you assumed immediate responsibility and were fully cooperative and embraced the necessary help and guidance to correct your deficiencies are a testament to your character. It reflects the necessary humility to grow as an officer and a commitment to continually develop your personal leadership. When you were given the opportunity to speak, you embraced that as well and your words reflect that you indeed have reflected long and hard on what happened that day.

[19] I was particularly impressed by the words of support from the commandant of the Infantry School and the fact that the senior non-commissioned members (NCMs) also assisted you in hoisting in the requisite lessons to ensure that this level of neglect is unlikely to occur again. This level of support reflects their confidence in you and their belief in your future as an officer in the combat arms. It can be said that it takes a village to raise a junior officer and the NCMs are an integral part of that development and the fact that they have demonstrated this support inspires confidence.

[20] After considering counsel's submissions in their entirety and all the evidence before the Court, I must ask myself whether the proposed sentence would, if viewed by the reasonable and informed CAF member, as well as the public at large, be viewed as a breakdown in the proper functioning of the military justice system.

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

**FOR THESE REASONS, THE COURT:**

[22] **FINDS** Captain Roney guilty of charge two on the charge sheet for an offence contrary to section 129 of the *NDA*.

[23] **SENTENCES** Captain Roney to a reprimand and a fine in the amount of \$2,000 payable forthwith.

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**Counsel:**

The Director of Military Prosecutions as represented by Major G.J. Moorehead

Lieutenant(N) B.D. Wentzell, Defence Counsel Services, Counsel for Captain W.M. Roney