



## COURT MARTIAL

**Citation:** *R. v. Reid*, 2022 CM 2004

**Date:** 20220204

**Docket:** 202116

Standing Court Martial

LCol Philip L. Debney Armoury  
Edmonton, Alberta, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Corporal G. Reid, Offender**

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

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### **REASONS FOR SENTENCE**

(Orally)

#### **Introduction**

[1] On 3 February 2022, the Court found Corporal Reid guilty of one offence under section 95 of the *National Defence Act (NDA)*, for ill-treating a person who by reason of rank was subordinate to him. The Court must now determine and pass sentence on the charge which reads as follows:

**“Second Charge**

Section 95 *NDA*

**ILL-TREATED A PERSON WHO BY REASON OF RANK WAS SUBORDINATE TO HIM**

Particulars: In that he, on or about 13 June 2019, at or near Debney Armoury, Edmonton, Alberta, ordered Private U Turemis into a shower, and without justification watched the Private shower.”

**Circumstances surrounding the offences**

[2] The facts surrounding the offence before the Court were set out fully in my finding delivered orally on 3 February 2022.

**Evidence**

[3] In this case, the prosecutor provided the documents required under *Queen's Regulations and Orders for the Canadian Forces* (QR&O) article 111.17 that were supplied by the chain of command. In addition, the parties filed an Agreed Statement of Facts for Sentencing which includes statements from Lieutenant-Colonel Longhurst, Corporal Reid's current commanding officer as well as Captain Bannerman, the operations officer of 41 Service Battalion.

[4] In addition, the following evidence was adduced at the sentencing hearing in the court martial:

- (a) the in-court testimony of Lieutenant-Colonel Boyle, former commanding officer of 41 Service Battalion, testifying for the prosecution;
- (b) the in-court testimony of Master Warrant Officer Urquhart, the operations and training officer testifying for the defence; and
- (c) the in-court testimony of Corporal Valdemarca, financial services analyst clerk at 41 Service Battalion, testifying for the defence.

[5] The prosecution reached out to the victim in this case, and he declined to offer a victim impact statement.

[6] Furthermore, the Court benefitted from counsel's submissions to support their respective positions on sentence where they highlighted facts and considerations relevant to Corporal Reid.

[7] Counsel's submissions and the evidence before the Court have enabled me to be sufficiently informed of Corporal Reid's personal circumstances so I may adapt and impose a sentence specifically for him, taking into account the rehabilitation and progress he has made to date.

**Circumstances of the offender**

[8] Corporal Reid is twenty-five years old and would have been twenty-two years of age when the incident occurred that underlies the conviction for which he is to be sanctioned. He enrolled in the Canadian Armed Forces (CAF) in March 2016 and is a combat engineer. At the time of the incident, he was serving as a clerk with 41 Service

Battalion. Corporal Reid has served in the CAF for a total of six years, although the Court notes that he had only served for three years at the time of the incident. He has no discipline or criminal record.

[9] Corporal Reid moved to Canada from the United Kingdom (UK), in 2007. He is both a Canadian and UK dual citizen. He was raised within a stable family life and after a short period studying at university, he joined the CAF. He has a common law partner and is currently serving at 41 Service Battalion on a Class B full-time contract. Since the charges were laid before the Court, his career has somewhat stalled.

### **Position of the parties**

#### ***Prosecution***

[10] The prosecution asks the Court to impose a sentence of fifteen days' detention. He argues that this case is unique with no similar precedents and he suggested that in this case, the Court should craft a sentence based on the facts and the relevant case law as applied to the unique considerations for Corporal Reid.

#### ***Defence***

[11] Conversely, defence counsel recommends that the Court impose an absolute discharge.

### **Statutory framework**

#### ***Purposes, objectives and principles of sentencing to be emphasized in this case***

[12] The prosecution provided the Court with the Supreme Court of Canada (SCC) decision in *R. v. Lacasse*, 2015 SCC 64 regarding the importance of individualizing the sentencing process and not blindly following precedent. More recently, in its recent decision in *R. v. Parranto*, 2021 SCC 46, the SCC described sentencing as “one of the most delicate stages of the criminal justice process. It requires judges to consider and balance a multiplicity of factors and it remains a discretionary exercise.”

[13] When crafting a sentence, I must first consider the fundamental purposes and goals of sentencing as well as its objectives and principles as codified at sections 203.1 to 203.3 of the *NDA*. Although they are adapted to the special circumstances associated with the requirements of military service of the armed forces and its military members, it is important to note that they are consistent with Canadian values having been specifically modelled upon similar provisions in the *Criminal Code*.

[14] 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 the maintenance of a just, peaceful and safe society.

[15] The above purposes are achieved by imposing sanctions that have one or more of the objectives set out within the *NDA*. The prosecution emphasized that given the uniqueness of this case, the objectives of sentencing should be denunciation, general and specific deterrence as well as rehabilitation. He ranks them in equal priority, but argued that since Corporal Reid is young and shows promise as a soldier within the CAF, his rehabilitation with respect to his future service is also an important priority. It is for this reason, that the prosecution feels a sentence of detention would benefit Corporal Reid.

[16] Defence counsel presented evidence specifically to support the member's rehabilitation since the date of the offence and although he agreed that denunciation and deterrence are important, with respect to the objective of rehabilitation, he refuted the prosecution's suggestion that a sentence of detention was necessary to rehabilitate Corporal Reid. He questioned how a period of fifteen days' detention served now, two and an half years later, would advance his rehabilitation.

[17] Defence counsel submitted that since the date of the incident before the Court, the offender's unit has provided very positive feedback. In an Agreed Statement of Facts for Sentencing, Lieutenant-Colonel Longhurst, commented that since he took command of the unit, he has not been apprised of any action required with respect to the performance or conduct of Corporal Reid. He stated that from his assessment, Corporal Reid now "has a much better perspective as to what is and is not acceptable in the CAF." He wrote that he is "encouraged by the fact that there have been no further incidents of improper conduct or comments made since the summer of 2019 FTSE program." He wrote that Corporal Reid "is an active participant with the unit and [consistently] volunteers to do more than would be expected of a member in his position." He confirmed that he was "happy to continue to employ Cpl Reid in the role he currently fills and willing to give him an opportunity to learn and grow."

[18] Further, Lieutenant-Colonel Longhurst writes that in his view, Corporal Reid "strongly believes in the ethics and values of the CAF. He continues to view any allegations of impropriety that are either sexual or racist in nature, as serious, and something that must be eliminated from the CAF. He agrees that any further occurrences must be punished appropriately."

[19] Similarly, Captain Bannerman, the operations officer at 41 Service Battalion wrote that he has not observed any lasting or ongoing impact on the unit that flowed from the allegations and the offence before the Court. He views Corporal Reid as "a hard worker who has succeeded in the performance of his duties." He views Corporal Reid "as respectful and highly invested in mentoring younger members of the unit." This was confirmed through the video testimony of Corporal Valdemarca who, in

January 2020, six months after the incident occurred, was assigned to work within the same orderly room as Corporal Reid. Corporal Valdemarca joined the orderly room as an untrained private and provided the Court with positive feedback with respect to the professionalism exhibited by Corporal Reid.

[20] The Court also heard the video testimony of Master Warrant Officer Urquhart, the operations and training warrant officer, who described Corporal Reid's performance as exemplary. He described Corporal Reid as a good soldier who is very connected to the existence of his unit and who delivers a vital service in the functions of his role. He told the Court that despite the charges before it, Corporal Reid's performance and commitment have not wavered.

[21] Based on the facts of this case, in this Court's view, sentencing should focus on the objectives of denunciation and general deterrence. The Court highlights that the principle of general deterrence means that the sentence should deter not only Corporal Reid from reoffending, but also to deter any other CAF members who might be tempted to commit similar or comparable offences. However, in this particular case, since Corporal Reid is a young, first-time offender, I do agree that these objectives should not trump the objective of rehabilitation. Based on the positive progress that he has distributed since the incident, it is imperative that any sentence imposed does not run counter to the positive and rehabilitative progress he has already made.

### ***Gravity of the offence***

[22] Another fundamental principle of sentencing, set out at section 203.2 of the *NDA* stipulates that "[a] sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender." Proportionality means a sentence must not exceed what is just and appropriate in light of the moral blameworthiness of the offender and the gravity of the offence. A sentence serves to clearly communicate to members the specific consequences of engaging in similar conduct.

[23] In describing the gravity of this offence of ill-treatment of a person who by reason of rank is subordinate, I will refer to the comments I made in the case of *R. v. Euper*, 2018 CM 2012:

22. Parliament legislated this offence into the *National Defence Act* to ensure that superiors respect the dignity of all those who are more junior in rank and are subordinate. The essence of the section 95 offence is to denounce conduct that rises to the level of what is otherwise an abuse of authority even where it involves low-level behaviour. Holding a senior rank as an officer or a member in the Canadian Armed Forces is a privilege and with that privilege comes both responsibility and accountability. Hence, any conduct that undermines the trust, confidence and morale of others must be addressed.

[24] The offence is indeed a serious one, which can capture a broad range of conduct within it. It captures everything from physical assault to other non-physical conduct that

is inflicted in a manner that is cruel or intended to demean or belittle a subordinate. The conduct captured here falls within the latter. The prosecution argued that Corporal Reid holds a high level of personal responsibility for the offence as he intended his actions. I agree with this assessment.

***Parity***

[25] Another important sentencing principle set out at *NDA* paragraph 203.3(b) stipulates that “a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances”.

[26] In making his recommendation on sentence, the prosecution relied upon the following courts martial precedents. A brief summary is provided as follows:

- (a) *R. v. Euper*, 2018 CM 2012 - This case involved a sergeant, who was serving as the senior ranking member of the camp opening team for Operation NEVUS 2016 at Camp Eureka, Ellesmere Island, Nunavut. Operation NEVUS is an annual operation that provides the framework to perform preventive maintenance and the upgrading of key communication systems and infrastructure in the most remote parts of the Canadian North. While serving in the senior ranking role on an operation, he made unwanted and inappropriate sexually suggestive comments such as mentioning to others that a female corporal had a “nice ass.” Uninvited, he touched other female members by putting his arms around them or rubbing their shoulders. He was sentenced to a reduction in rank to corporal and a fine in the amount of \$1,500;
- (b) *R. v. Bannister*, 2020 CM 4005 - Captain Bannister was a member of the reserve Force serving part-time as the commanding officer of the 148 Charlottetown, Royal Canadian Army Cadet Corps. An eighteen-year-old cadet was in Captain Bannister’s office (in the presence of a civilian woman) completing the necessary paperwork to join the Cadet Instructor Cadre (CIC). The cadet was upset and advised both adults present that she was stressed at work in her civilian capacity as a tire installer and vehicle technician because of the sexual comments she was hearing. She felt some of the comments were directed at her and she was being sexually harassed at work. Captain Bannister responded, saying that young men often discuss topics that can be bothersome, but it is not always harassment. He told her she needed to develop a thick skin especially if she was going to work in a garage. In attempting to either lighten the mood or explain his point, Captain Bannister made inappropriate comments regarding having sex on the desk and on another occasion suggesting having sex in general. It was clear that Captain Bannister should have known that his words, on the two occasions,

would cause offence or harm to the eighteen- year-old cadet. Captain Bannister's comments were a violation of the Cadet Administrative and Training Order 13-24 – Harassment Prevention and Resolution. He was sentenced to a reduction in rank to the rank of lieutenant and a fine in the amount of \$1,500;

- (c) *R. v. Duquette*, 2021 CMAC 10 - The offender was a major attending a Christmas party for his unit at Canadian Forces Base Bagotville in Quebec. There were approximately 200 persons in attendance. Three charges were laid with respect the major's conduct while dancing: sexual assault contrary to section 271 of the *Criminal Code*; conduct prejudicial to good order and discipline contrary to section 129 of the *National Defence Act*; and ill-treatment of a subordinate contrary to section 95 of the *NDA*. All of the charges emanated from the offender sexually touching the buttocks of a female master corporal during two separate incidents while dancing that evening. At trial, Major Duquette was found guilty of all three charges and sentenced to a reduction in rank to captain. On appeal, the Court Martial Appeal Court (CMAC) ordered a new trial with respect to charges 1 and 3 (sexual assault and ill-treatment of a subordinate), but rejected the appeal on sentence due to the fact it was still appropriate given that the CMAC upheld the conviction on the second charge for conduct prejudicial to good order and discipline; and
- (d) *R. v. Lieutenant(N) R.E. Edwards*, 2008 CM 2018 - The offender was a lieutenant(Navy) serving with the Cadet Instructor List (CIL) facing six charges; four charges of sexual exploitation, contrary to paragraph 153(1)(b) of the *Criminal Code*; a charge of scandalous behaviour unbecoming an officer, contrary to section 92 of the *NDA*; and, a charge of behaving in a disgraceful manner, contrary to section 93 of the *NDA*. The charges arose out of a visit to the Netherlands by a group of Canadian sea cadets in July of 2006. They were on an international exchange with other cadets from the United States, the United Kingdom, and the Netherlands. The offender was the escort officer for a group of five Canadian cadets. During the second week of the two-week visit, the male cadets visited what was referred to as the "red-light district" of Amsterdam, in the company of the accused and the British escort officer, one Petty Officer A. In that particular area of Amsterdam, prostitutes openly solicit the public to provide sexual services. The charges arise from the fact that the male cadets were encouraged or assisted by Lieutenant(Navy) Edwards and Petty Officer A. to engage in sexual activity with the prostitutes which some of the cadets did. The offender was 61 years of age with devoted and commendable service as both a member of the Royal Canadian Mounted Police as well as having been a

leader in the cadet organization. The Court found that the only acceptable punishment was dismissal from Her Majesty's service.

[27] In making his recommendation on sentence, in addition to the courts martial of *Euper* and *Bannister*, the defence relied upon the following courts martial precedents. A brief summary of the case law is provided as follows:

- (a) *R. v. Bernier*, 2015 CM 3015 - This court martial involved a lieutenant-colonel in command of the 2nd Canadian Division Training Centre. The charges arose during an evening event commemorating the 100th anniversary of *le Royal 22e Régiment* held at the Québec Convention Centre, located at 1000 René-Lévesque Boulevard East, in Québec City, in the province of Québec. The guests were in civilian attire. The complainants were members of the regular Force of the CAF, one as an officer and the other as a non-commissioned member serving at the 2nd Canadian Division Training Centre, the unit commanded by Lieutenant-Colonel Bernier. While dancing that evening, Lieutenant-Colonel Bernier grabbed and/or touched the buttocks of the two complainants. Lieutenant-Colonel Bernier pleaded guilty to two charges, being the second and fourth charges which were offence punishable under section 129 of the *NDA* for conduct to the prejudice of good order and discipline and since they were alternate charges, a stay of proceedings was ordered on the first and third charges. He was sentenced to a severe reprimand and a fine in the amount of \$2,000;
- (b) *R. v. Chiasson*, 2020 CM 2006 - In a guilty plea, joint submission, Petty Officer 2nd Class Chiasson pleaded guilty to one charge contrary to section 97 of the *NDA* for drunkenness. On a mid-November evening, after a snow storm, the complainant offered to let the offender stay at her place. The offender was very drunk and made consistent and persistent sexual advances towards the complainant which were successfully repelled. At the time of the incidents, Petty Officer 2nd Class Chiasson's life was in turmoil, she was suffering from mental health issues and it was agreed that this incident was an isolated incident. Petty Officer 2nd Class Chiasson was sentenced to a severe reprimand and a fine in the amount of \$2,000;
- (c) *R. v. Mark*, 2019 CM 2012 - In a guilty plea, joint submission, Major Mark pleaded guilty to one offence under section 129 of *NDA*; that is to say, conduct to the prejudice of good order and discipline for striking the buttocks of a master corporal who was junior in rank to him, during a physical training session. The incident occurred while Major Mark was deployed to a Role 2 medical facility in Erbil, Iraq as a part of Operation IMPACT. He was sentenced to a fine in the amount of \$2,000; and



- (d) *R. v. Duvall*, 2018 CM 2027 - In a guilty plea, joint submission, Captain Duvall pleaded guilty to an offence contrary to section 93 of the *NDA* for disgraceful conduct for touching the complainant without her consent over her clothes and on her vaginal area. He was sentenced to a severe reprimand and a fine in the amount of \$2,000.

[28] Relying upon the scale of punishment set out within the *NDA*, at section 139, in making his submissions, the prosecution very thoughtfully and diligently offered precedents to assist the Court in determining the appropriate range of sentences based on the scale of seriousness. The scale of punishments is as follows:

- (a) imprisonment for life;
- (b) imprisonment for two years or more;
- (c) dismissal with disgrace from Her Majesty's service;
- (d) imprisonment for less than two years;
- (e) dismissal from Her Majesty's service;
- (f) detention;
- (g) reduction in rank;
- (h) forfeiture of seniority;
- (i) severe reprimand;
- (j) reprimand;
- (k) fine; and
- (l) minor punishments.

[29] It is the prosecution's position that the *Edwards* case, which involved a CIL officer who coached and encouraged cadets to engage the services of prostitutes while in the Netherlands offers the high level mark with a punishment imposed being dismissal from the CAF. He admitted that he sees this case before the Court as less serious.

[30] The prosecution also provided the Court with a variety of precedents where the punishment of reduction in rank was provided. Relying upon the facts set out in *Euper* and *Bannister* where the Court imposed sentences of dismissal, he suggests that Corporal Reid's case is more serious than the cases where reduction in rank were awarded. It is from this analysis that he makes the recommendation that detention is most appropriate as detention is nestled between these two punishments.

[31] Although the Court greatly appreciated the level of diligence engaged by the prosecution in coming to its recommendation, I find that the necessary individualization and the crafting of a sentence specifically for Corporal Reid introduces his own unique characteristics that must be weighed heavily in the sentencing process. Unlike the other cases being relied upon, Corporal Reid was significantly younger, less mature, held a rank significantly lower and was neither formally placed in a leadership role nor provided the necessary training to supervise the complainant.

[32] I noted that in all of the cases relied upon by the prosecution where the punishment of reduction in rank was imposed, the offenders were much more senior in rank, they had long-serving military careers and held positions of trust with respect to the complainants. Furthermore, they all had the experience, training and the responsibility to understand what was expected of them. For example, Captain Bannister was serving as a commanding officer at the time. In *Euper*, the offender was serving as the senior ranking member of the camp opening team for Operation NEVUS 2016 at Camp Eureka, Ellesmere Island, Nunavut. With respect to the sentence of reduction in rank, in both those cases, the members had been released from the CAF, and the Court accepted the sentences proposed as a result of guilty pleas and joint submissions from counsel.

[33] In recommending an absolute discharge, defence counsel did not propose any specific case law to support this punishment, but he relied primarily on the aforementioned cases where the Court imposed a mixture of reprimands and fines. It is also important to note that in the cases relied upon, the offenders were also in senior positions and roles or were commissioned officers which situates their cases very differently from that of Corporal Reid.

[34] I explained to counsel that this case is more appropriately compared to that of *R. v. Gobin*, 2018 CM 2008. In *Gobin*, the Court heard that there was an atmosphere of teasing and immature conduct that unfolded during the after-hours portion of a basic infantry course. The charges in *Gobin* were brought before the Court when a complainant reported that Corporal Gobin walked past him and jabbed him in the rear with his hand. In that case, the Court found that the offender had engaged in this conduct in order to harass the complainant. Corporal Gobin was found guilty of one charge under section 130 of the *NDA* for having committed an assault on another recruit. In that case, the offender was also a very junior member who after the incident, made significant strides in rehabilitating himself and regaining the trust from his peers and his chain of command. For a sentence, the Court imposed a reprimand and a fine in the amount of \$1,500.

[35] The facts of this court martial suggest that due to a manpower shortage, Corporal Reid, who was a very junior recently promoted corporal who had not received any formal training in leadership was unceremoniously put into the role of supervising and mentoring recruits employed in the full-time summer employment (FTSE). What he

did was wrong and it was an abuse of a subordinate, but on a sliding scale, in light of the comparative age and rank difference as well as the unofficial position that Corporal Reid held. I do not see his case as being as serious as the cases set out by the prosecution.

***Detention as a last resort***

[36] Under the principles of sentencing set out in the *NDA* at paragraph 203.3(d), a military judge must impose “the least severe sentence required to maintain the discipline, efficiency and morale of the Canadian Forces” and further, under the *NDA* at paragraph 203.3 (c.1), “all available punishments, other than imprisonment and detention, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders”.

[37] Further, the case law requires that when considering the proper sentencing of first-time offenders, the sentencing judge is required to exhaust all other possibilities before concluding that imprisonment is required. On the facts of this case, I agree with defence that detention is not a consideration

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

[38] In imposing a sentence, under the statutory regime of the *NDA*, military judges must increase a sentence where the aggravating factor of an abuse of rank or other position of trust is present. Subparagraph 203.3(a)(i) of the *NDA* reads as follows:

203.3.1 A service tribunal that imposes a sentence shall also take into consideration the following principles:

(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and aggravating circumstances include, but are not restricted to, evidence establishing that

(i) the offender, in committing the offence, abused their rank or other position of trust or authority,

[39] A determination as to whether an offender abused a position of trust or authority in committing an offence requires an examination of the facts and the relationship between the parties. Courts must be particularly prudent not to broaden the scope of what constitutes a position of trust or abuse of one’s rank. It was recognized by both counsel that the existence of this statutory consideration is triggered in this case due to the rank difference and the fact that the complainant, who was a recruit, complied with the request of Corporal Reid because he felt he had no choice given the rank difference.

[40] However, it is also important to note that this consideration requires the military judge to consider the impact of the abuse of rank or authority on a sliding scale of conduct and position. It is from this perspective that Corporal Reid's case differs significantly from the other case law where the offenders were of significantly higher in rank and position and who also engaged in more egregious misconduct.

### **Additional aggravating factors**

[41] In addition to the fact that Corporal Reid abused his rank by ordering the recruit to shower, the Court highlights the following additional aggravating factors for the record:

- (a) effect on the victim - as a result of conflicts that occurred during that summer training program, the victim chose to release from the CAF;
- (b) premeditation - some of the evidence suggested that Corporal Reid had planned what would unfold that morning; and
- (c) impact on unit and the CAF at large - when incidents like this happen, it precipitates and accentuates a lack of trust between members particularly towards those members more senior in rank to them. Further, given that the incident unfolded during a program specifically designed to introduce recruits to military service, it had an undesirable deterrent effect.

### **Mitigating factors**

[42] After hearing the submissions of counsel, the Court highlights the following mitigating factors for the record:

- (a) age and ongoing rehabilitation - the evidence before the Court is that Corporal Reid has a promising career ahead of him within the CAF. It was noted during the sentencing hearing that he has learned from this and over the last two and a half years, there have been no similar incidents of him engaging in inappropriate behaviour or making inappropriate or offensive comments. I see this as a positive step and recommend that Corporal Reid continue to focus on his already well-established pursuit towards rehabilitation;
- (b) first-time offender - the offender has no conduct sheet or previous criminal record. This is the first disciplinary hearing of any type for him;
- (c) remorse and taking responsibility for his conduct - despite the professional stigma that he has carried since the charges were laid,

Corporal Reid has focused on becoming a better soldier. When offered the opportunity to address the Court, he was apologetic and made many notable comments, some of which are summarized as follows:

“One of those duties as a reserve soldier is to build trust and relationships with the community and in that regard, I have let everyone down, my unit, my subordinates at the time and myself,

In my attempts to further the goal of “ornament in peace” by ensuring the members dress was in tune with that history of excellence, I failed to think of the way my actions would come across. Instead of instilling the excellence of dress, I instead created a situation which brought into question my rank and leadership.

As the court has heard I am not a mean, spiteful, hating bully, I genuinely wish to help any and all of those around me in every aspect I can, and if I can’t help them, I will fight tooth and nail to get them the help they ask for. Since the summer of 2019, I have been given time and resources to allow me to grow and understand how to better interact with colleagues, junior members and the public. I have, since that time, ensured my words are clear and fully understood by all parties. I take time to think before I speak on a topic, whether I have a great deal of knowledge on it, or none at all. I have been given leadership roles with very little supervision and a lot of supervision since that time and I hope I can continue with my learning and roles of leadership.

I would like to round off my statement again with I am sorry and that I apologize for the way my actions have affected others, either directly or indirectly, and the disgrace the effects of them has brought upon 41 Service Battalion, the Canadian Army and the nation of Canada.”

- (d) recent performance – Master Warrant Officer Urquhart described Corporal Reid’s performance as exceptional despite the fact that he has been facing these disciplinary proceedings. Captain Bannerman described Corporal Reid’s willingness to support other activities, volunteering for exercises etc; and

- (e) support from his chain of command - the defence evidence was clear that given the strides that Corporal Reid has made to correct his shortcomings, he has their support moving forward.

***Any indirect consequences of the finding of guilty or the sentence should be taken into consideration.***

[43] Pursuant to paragraph 203.3(e) of the *NDA*, defence counsel made extensive submissions on the indirect consequences of the finding and the sentence. Corporal Reid has dual citizenship with Canada and UK and depending on the type of sentence provided, it may have unintended indirect consequences that might affect his ability to travel freely between the two countries to visit his family.

**Final comments**

[44] Service in the CAF, whether in the reserves or in the regular Force presents unique challenges, most of which are not always predictable. We are often ready for those challenges presented based on our rank, training and experience and other times we are not. In this particular case, you were still a very junior member and also very young. All of a sudden, you were responsible for providing guidance and instruction to the FTSE candidates, two of which were significantly older than you. This is not an easy task and both very junior commissioned officers as well as junior non-commissioned members all need to learn how to migrate this space with both humility and strength.

[45] As I mentioned in my decision on finding, you could have benefited from close mentoring during the summer of 2019, when you first started to work full-time as a clerk and then had several candidates arrive in the battalion orderly room to work with you. I accept that if the unit was not as short staffed, things may have been very different and you likely would not have been placed in this situation.

[46] You were in a unique and awkward position as you were still quite junior, but nonetheless what you did and said had an impact on those members working with you.

[47] A great deal is demanded of our military members, particularly those serving in the combat arms. In the future, you may be asked to deploy where you might be needed to fight to the death against an enemy, or alternatively, you could be tasked to serve as a consummate diplomat, interacting and providing assistance to the world's most vulnerable. For this reason, self-discipline is essential.

[48] In an effort to maintain a robust armed force capable of meeting any challenge, the CAF recruits young men and women who possess unbridled enthusiasm and energy together with great resourcefulness and trains them in duty and discipline. Discipline in

the CAF must become a trained reflex upon which our superiors, peers and subordinates can rely at all times.

[49] As such, discipline is an inculcated pattern of obedience. It starts in training, in your unit, with your leaders instilling in you the values Canadians expect of us to be instinctive, when nobody is looking. It is the way we act, when nobody is looking that is a testament to our character and reflects the discipline needed for Canadians to trust us in our roles.

[50] However, when our military members operate outside of CAF expectations, appropriate course corrections must be made and this is done with the various tools at the disposal of the military justice system.

[51] I refer to a quote from M de Saxe, *Reveries on the art of war*, translated by Brig. General Thomas R. Phillips (Mineola, NY: Dover Publications, 2007), one of the earliest books on the art of war, which was heavily relied upon by Frederick the Great. It still holds true today:

[Translation]

[M]ilitary discipline [. . .] is the soul of armies. If it is not established with wisdom and maintained with unshakable resolution you will have no soldiers. Regiments and armies will be only contemptible, armed mobs, more dangerous to their own country than to the enemy.

[52] Discipline requires the willingness to put others' interests before our own, and to have respect for and compliance with the law. Corporal Reid, you failed that day in your actions and you must be held accountable.

[53] The prosecution recommended that I impose fifteen days of detention while defence recommended that I impose an absolute discharge.

[54] Upon reviewing the circumstances of this case, the Court cannot ignore that this was the abuse of someone more junior to you, and you engaged in an act that might have been, for what you believed to be, a laudable goal of helping him, but the way you executed it resulted in embarrassing and demeaning the victim.

[55] In the Court's opinion, none of the cases provided by counsel reflect sufficient parity to this case and many of them are quite dated. It is important that the sentence send a message of condemnation signaling that such conduct is wholly unacceptable.

[56] The Court has considered the extensive list of mitigating factors and, more importantly, the extensive progress that Corporal Reid has made to date in terms of his rehabilitation in the consideration of the sentence. The Court, therefore, finds that a reprimand and a significant fine are in order.

[57] Corporal Reid, the Court expects that you will move forward with your career and put this incident behind you. You have learned a great deal in the last two and a half years and your concentrated investment in your self-improvement is a reflection of this. The imposition of a reprimand will serve as a reminder of the consequences of your reprehensible conduct. It will stand out as a blemish on your career record and will not be subject to automatic removal from your conduct sheet after one year. This is important as we must never become complacent in upholding the value of respect that is fundamental to the work we do.

[58] In terms of a fine, the Court can impose a fine that is reflective of the seriousness of the offence, but that does not impair the rehabilitation process by providing flexibility in terms of payment.

[59] Hence, I impose a reprimand and a fine in the amount of \$1,500.

**FOR THESE REASONS, THE COURT:**

[60] **SENTENCES** you to a reprimand and a fine in the amount of \$1,500, payable in twelve instalments of \$125 per month, starting with the March 2022 pay period.

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**Counsel:**

The Director of Military Prosecutions as represented by Major G. Moorehead, Captain B. Richard and Captain S. Mulrain

Mr G. Rapson, Beresh Law, 2402 Bell Tower, 10104 – 103 Avenue, Edmonton, Alberta, Counsel for Corporal G. Reid