



## COURT MARTIAL

**Citation:** *R. v. Reis*, 2023 CM 2006

**Date:** 20230220

**Docket:** 202308

Standing Court Martial

Royal Military College Kingston  
Kingston, Ontario, Canada

**Between:**

**His Majesty the King**

- and -

**Officer Cadet I. Reis, Offender**

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

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### **REASONS FOR SENTENCE**

(Orally)

#### **Introduction**

[1] Today, Officer Cadet Reis pleaded guilty to three offences contrary to section 86 of the *National Defence Act (NDA)* for quarrelling with a person subject to the Code of Service Discipline.

[2] Having accepted and recorded his plea of guilty with respect to these charges, the Court must now determine, and pass sentence on the charges which read as follows:

“FIRST  
CHARGE  
*NDA* Section  
86

QUARRELLED WITH A  
PERSON SUBJECT TO THE  
CODE OF SERVICE  
DISCIPLINE

*Particulars:* In that he, on or about 10 February 2022, at Royal Military College, Kingston, Ontario, quarrelled with OCdt Y. Sun.

SECOND  
CHARGE  
NDA Section  
86

QUARRELLED WITH A  
PERSON SUBJECT TO THE  
CODE OF SERVICE  
DISCIPLINE

*Particulars:* In that he, on or about 10 February 2022, at Royal Military College, Kingston, Ontario, quarrelled with OCdt Y. Sun.

THIRD  
CHARGE  
NDA Section  
86

QUARRELLED WITH A  
PERSON SUBJECT TO THE  
CODE OF SERVICE  
DISCIPLINE

*Particulars:* In that he, between 11 and 21 February 2022, quarrelled with OCdt Y. Sun using a bayonet.”

[3] The Agreed Statement of Facts (ASOF) filed in court described the incidents as follows:

#### **“AGREED STATEMENT OF FACTS**

...

#### **Incidents**

4. OCdt Reis shared a room at RMC with OCdt Sun. They shared the same group of friends. Amongst their group of friends, pranking was a common occurrence. These pranks were always consensual and – more importantly – they were never violent.

5. On 10 February 2022, OCdt Reis took matters too far, and placed a shoelace around OCdt Sun’s neck while they were both in their dorm room. Despite OCdt Sun telling OCdt Reis that this was inappropriate,

OCdt Reis repeated the act a second time that same day, again using a shoelace. One of these incidents injured OCdt Sun, leaving a temporary red mark on his neck.

6. Later that same month, again in their dorm room, OCdt Reis pointed a bayonet dangerously close to OCdt Sun's face. It was unclear to OCdt Sun and another witness whether OCdt Reis was joking or serious.

7. In neither of the above incidents did OCdt Sun provoke or threaten OCdt Reis.

8. Following the incidents, OCdt Sun was concerned for his safety and reported the matter to his chain of command. As a result, the chain of command needed to relocate OCdt Reis to a different room in the middle of the semester.

9. Though not a defence, OCdt Sun repeatedly called OCdt Reis a pedophile in front of his peers. Despite telling OCdt Sun to stop, this behaviour continued.

10. During one of the incidents involving the shoelace, OCdt Sun was telling another Cadet that OCdt Reis was a pedophile.

11. OCdt Reis is not a pedophile.”

### **Joint submission**

[4] In a joint submission, the prosecution and defence counsel recommend that the Court impose a sentence of a reprimand, a fine in the amount of \$1,000, payable in monthly instalments of \$100, and twenty-one days of confinement to barracks. 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.

[5] Thus, in exchange for making a plea, Officer Cadet Reis 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 victim, the chain of command (CoC) 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 plea is a voluntary and informed choice, and unequivocally acknowledges his guilt. As members of the legal profession and accountable to their respective law societies, the Court relies heavily on their professionalism, honesty, judgment, as well as their duty to the Court.

### **Evidence**

[6] In this case, the prosecutor provided all those documents required under *Queen's Regulations and Orders for the Canadian Forces* (QR&O). A comprehensive ASOF was introduced on consent to inform the Court of the context of the incidents that led to the charges. It also highlights the circumstances underlying the offences, the personal circumstances relevant to Officer Cadet Reis and includes a military impact statement (MIS) and victim impact statement (VIS) which will be referred to below.

[7] 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**

[8] Officer Cadet Reis joined the Canadian Armed Forces (CAF) in June 2021. At all material times, Officer Cadet Reis was a member of the regular force. He is currently twenty-one years old, single with no dependents and was twenty years at the time of the alleged offences. He is currently a full-time student at the Royal Military College (RMC) in Kingston, Ontario in his second year of study.

[9] Officer Cadet Reis has no criminal record nor a CAF conduct sheet. He was raised in a loving military family. His grandfather served in the Portuguese military, as a battery commander, and Officer Cadet Reis has expressed the desire to follow in his footsteps with the CAF.

[10] Prior to joining the CAF, Officer Cadet Reis was involved in the Air Cadet Program at 166 Squadron in Toronto. He retired from the Air Cadets as a cadet warrant officer second class in 2020.

[11] Officer Cadet Reis is normally a quiet and likeable person both socially and while at RMC. He is studying Military and Strategic Studies (Bachelor of Arts) and expects to graduate in April 2025. He averages seventy to eighty percent in his courses and has received recognition from his peers through observational reports. These reports are student generated and they recognize the good deeds of other students. They are placed in the students' file and are expunged upon graduation.

[12] Officer Cadet Reis has also completed approximately 150 hours of community service since he was in high school. He continues to volunteer in his community. On 30 October 2021, he completed the Royal Canadian Chaplain Service Sentinel Program. This program is a peer support network made up of trained and supervised volunteers across all ranks. Sentinels play an important role in the prevention, detection, and support for colleagues in distress. Sentinels act as guides to resources, support programs, and tools available to CAF members and their families to facilitate identification and access. In

addition, he is a member in good standing with Resilience Plus – a mental health promotion club within RMC.

[13] At RMC, Officer Cadet Reis is a member of the drill team and a member of the RMC colour party. He joined these teams in December 2021 and continues to be a part of these teams.

[14] Following the incidents that led to the charges before the court, Officer Cadet Reis' mental health took a turn for the worse. This required him to engage social workers available at RMC. This assisted him tremendously in resolving underlying mental health issues before they got worse and has allowed Officer Cadet Reis to reintegrate with his RMC peers. This incident was out of character for Officer Cadet Reis. He is genuinely remorseful for his actions.

### **The victim**

[15] Firstly, as noted in the ASOF, the victim was a fellow officer cadet and the room-mate to Officer Cadet Reis during the material times.

[16] Although the victim did not wish to provide a VIS, the prosecution informed the Court that in speaking with Officer Cadet Sun over the phone, he advised the prosecution of the following:

- (a) he is very satisfied with both the proposed resolution and sentence;
- (b) he believes that Officer Cadet Reis has learned from his mistake; and
- (c) he has no animosity towards Officer Cadet Reis.

### **Military impact statement**

[17] Colonel Lockhart, the Director of Cadets provided a MIS on the impact of these incidents on RMC, and the CAF at large.

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

[18] The fundamental purpose of sentencing in a court martial is to maintain the discipline, efficiency, and morale of the CAF. This fundamental purpose is achieved by imposing sanctions that have one or more objectives that are delineated in the *NDA* at subsection 203.1(2).

[19] The prosecution highlighted for the Court that on the facts of this case, the objectives of sentencing considered to be the most important are general and specific deterrence. In addition, he argued that the principle of rehabilitation is also critical given the member's efforts invested to improve and educate himself. The Court agrees with this assessment, but I would add that denunciation is also important.

**Accounting for relevant aggravating and mitigating circumstances**

[20] Pursuant to section 203.3 of 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**

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

- (a) multiple incidents. As reflected in the charges before the Court, there were multiple incidents;
- (b) the victim was his room-mate. The conflict arose between two room-mates, who had become accustomed to playing pranks on one another, but the incidents before the Court went too far causing Officer Cadet Sun to be concerned for his safety and reporting the matter to his CoC. It required the CoC to relocate Officer Cadet Reis to a different room in the middle of the semester; and
- (c) effect on RMC and the CAF. As evidenced in the MIS signed by the Director of Cadets, Colonel Lockhart, this incident undermined the sense of safety and security within RMC making the cadets feel unsafe in their home. This had a significant impact on the discipline, morale and efficiency of the Cadet Wing and paints RMC as an unsafe working and learning environment which has contributed to recruitment issues.

**Mitigating factors**

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

- (a) guilty plea. Officer Cadet Reis's plea of guilty for the offences as described in the ASOF must be given its full weight. His guilty pleas have saved the Court, counsel and the unit supporting the Court considerable time, but most importantly, they acknowledge that he has assumed responsibility for his actions;
- (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) out of character. The evidence before the Court suggests that this outburst of anger demonstrated by Officer Cadet Reis was out of character. Defence counsel described it as a blemish which will be short-

lived. He described it as an aberration and not indicative of his character; and

- (d) his young age and positive potential for continued service in the CAF. He stepped forward and accepted responsibility for his conduct while investing considerably in his own personal rehabilitation by seeking assistance from social workers available at RMC. These efforts reflect his humility and a strong commitment for his required personal development. His effort towards self improvement is buttressed by a similarly strong commitment to service as shown by his Cadet Observation Reports, where he has demonstrated that notwithstanding the pending charges, he possesses the required character of the type of person who can redeem himself and continue service in the CAF.

### **Parity**

[23] Paragraph 203.3(b) of the *NDA* stipulates that a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.

[24] The prosecution and defence relied upon the following case law: *R. v. Baluyot*, 2017 CM 2013; *R. v. MacDonald*, 2021 CM 4002, and *R. v. Perry*, 2015 CM 3012.

### **Conclusion**

[25] As the Court often expresses to members who have likewise exercised poor judgment; we all make bad choices at one point in our lives, and it is how we deal with our mistakes that governs our success moving forward. Officer Cadet Reis, you conducted yourself in a manner that did not meet the standard expected of officer cadets attending the RMC or any member within the CAF. When this happens, we have three choices: we can let it define us, let it destroy us or let it strengthen us.

[26] It takes humility to admit when one has erred and even greater character to be willing to make amends. I commend you on having invested significant time and effort in rehabilitating yourself. The fact that you reached out to the social workers is evidence that you understand that you need help. This is to be applauded and provides the Court with confidence that you understand your personal responsibility to check your own actions against the standard expected of every member and officer serving in the CAF. We must all be open to changing our behaviour when we recognize that it is outside the standard expected of us.

[27] In short, you have assumed responsibility, and you have strengthened yourself as a person and as a future leader in the CAF. You must continue to stay on this path and learn from this incident. I can assure you that this is not the only time you will make mistakes or fall short. However, each time you falter, your character is defined by your ability to learn from your mistakes and positively move forward.

[28] Your counsel highlighted the stresses you have balanced in the last year, while facing these charges. My condolences on the loss of your father. Your efforts in helping your mother and your sisters are commendable. In addition, the other examples before the Court, including the few incidents recorded in your Cadet Observation Reports demonstrate that when things get tough, that you are willing to step up to help and that takes courage and selflessness. The evidence also suggests that you are willing to be the first one to step up to assist when others have failed.

[29] 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.

[30] Considering all the factors, the circumstances and gravity of the offence, the consequence of the finding and the sentence, the Court is indeed 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:**

[31] **FINDS** Officer Cadet Reis guilty of the first, second and third charges on the charge sheet, for quarrelling with a person subject to the Code of Service Discipline, an offence contrary to section 86 of the *NDA*.

[32] **SENTENCES** Officer Cadet Reis to a reprimand, a fine in the amount of \$1,000, payable in monthly instalments of \$100 commencing in the month of March 2023, and twenty-one days of confinement to barracks. In the event you are released from the CAF for any reason before the fine is paid in full, the then outstanding balance is to be paid the day prior to your release.

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**Counsel:**

The Director of Military Prosecutions as represented by Major B.J. Richard

Captain C.M. Da Cruz, Defence Counsel Services, Counsel for Officer Cadet I. Reis