



COURT MARTIAL

Citation: *R. v. Dondaneau*, 2023 CM 2014

Date: 20230727

Docket: 202227

Standing Court Martial

Canadian Forces Base Esquimalt
Victoria, British Columbia, Canada

Between:

His Majesty the King

- and -

Master Corporal S.L. Dondaneau, Offender

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

REASONS FOR SENTENCE

(Orally)

Introduction

[1] On 9 March 2023, at a Standing Court Martial (SCM), Master Corporal (MCpl) Dondaneau was convicted of four charges. The facts related to the case are set out in my decision on finding at *R. v. Dondaneau*, 2023 CM 2009.

[2] The charges read as follows:

“THIRD CHARGE

WILLFULLY MADE A FALSE ENTRY IN
A DOCUMENT SIGNED BY HER THAT
WAS REQUIRED FOR OFFICIAL
PURPOSES

Section 125(a)
National Defence Act

Particulars: In that she, between 30 July 2013
and 9 October 2020, at or near Canadian

Forces Base Esquimalt, British Columbia, submitted documentation in order to receive Commuting Assistance, knowing the documentation was false.

FOURTH CHARGE

WILFULLY MADE A FALSE ENTRY IN A DOCUMENT SIGNED BY HER THAT WAS REQUIRED FOR OFFICIAL PURPOSES

Section 125(a)
National Defence Act

Particulars: In that she, between 30 July 2013 and 9 October 2020, at or near Canadian Forces Base Esquimalt, British Columbia, submitted documentation for travel expenses, knowing the documentation was false.

FIFTH CHARGE
(Alternative to the first charge)

AN ACT OF A FRAUDULENT NATURE NOT PARTICULARLY SPECIFIED IN SECTIONS 73 TO 128 OF THE NATIONAL DEFENCE ACT

Section 117(f)
National Defence Act

Particulars: In that she, between 30 July 2013 and 9 October 2020, at or near CFB Esquimalt, British Columbia with intent to defraud, claimed financial benefits and allowances to which she was not entitled.

SIXTH CHARGE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND DISCIPLINE

Section 129
National Defence Act

Particulars: In that she, between 30 July 2013 and 9 October 2020, at or near Canadian Forces Base Esquimalt, British Columbia, did not inform her commanding officer that she had changed her address, as required by article 26.02 of the Queen's Regulations and Orders for the Canadian Forces."

Evidence

[3] In this case, the prosecutor provided the documents required under *Queen's Regulations and Orders for the Canadian Forces* (QR&O) article 112.51 that were supplied by the chain of command. In addition, the following evidence was adduced at the sentencing hearing in the court martial:

- (a) Military Impact Statement - 1000-1 (CO 443 Sqn) 20 July 2023 signed by Kevin Leblond, Lieutenant Colonel, Commanding Officer 443 Military Helicopter (MH) Squadron; and
- (b) testimonies of the following defence witnesses, in order of appearance:
 - i. based on the agreement of both counsel, Mr Perfect's testimony from the court martial was imported into the sentencing hearing for consideration;
 - ii. Mr Dondaneau;
 - iii. Major Bryan, the Senior Aircraft Maintenance and Engineering Officer for 443 Squadron;
 - iv. Major Karnes; and
 - v. MCpl Dondaneau.

Positions on sentencing

Prosecution

[4] The prosecution suggested that the Court should impose a severe reprimand, forfeiture of seniority, extra work and drill, and restitution for the fraud.

Defence

[5] The defence submits that based on the circumstances of this case, a just and appropriate sentence is that of a severe reprimand.

Circumstances of the offender

[6] MCpl Dondaneau is thirty-nine years old. She enrolled in the Canadian Armed Forces (CAF) on 6 March 2009 and has served with the CAF for over fourteen years. Aside from her posting to 443 MH Squadron, she has been posted to three different ships, being His Majesty's Canadian Ship (HMCS) *Vancouver*, HMCS *Charlottetown* and HMCS *Protecteur* and deployed on Operation REASSURANCE. She is a recipient of the North Atlantic Treaty Organization (NATO) – Operation ACTIVE ENDEAVOUR, Special Service Medal-NATO and the Canadian Forces Decoration. She is currently one of six women serving in the aviation technician role out of approximately 160 technicians at 443 MH Squadron.

Evidence

[7] The evidence in support of MCpl Corporal Dondaneau reflects her excellent commitment to military service and the CAF community. Here are a few of the

commendations and/or certificates of recognition or achievement that highlight her strengths:

- (a) 27 June 2023 – 443 Squadron Chief Warrant Officer Certificate of Appreciation awarded in recognition of outstanding performance:

“MCpl Stephanie Dondaneau, a Positive Space Ambassador, engaged 443 (MH) Sqn to create a Positive Space area. Her vision was to afford members a less formal but comfortable environment to discuss sensitive or personal matters. With squadron funding for furniture and effects, MCpl Dondaneau established and received permission to change room 2009, outside the Sqn gym. MCpl Dondaneau’s dedication and care for Sqn members well-being and mental health clearly warrant recognition of a Squadron Chief Warrant Officer’s Appreciation.”

- (b) 24 April 2015 - Maritime Forces Pacific Bravo Zulu CERTIFICATE OF ACHIEVEMENT signed by Rear-Admiral W.S. Truelove, Commander Maritime Forces Pacific:

AWARDED TO Corporal Stephanie Dondaneau for “Tireless effort and inspiration, Corporal Stephanie Dondaneau uplifted the spirits of her crewmates during the major engine room fire at sea in HMCS PROTECTEUR on 27 February 2014. She demonstrated outstanding dedication to improving morale and assisting her shipmates through an extremely stressful event.”

- (c) 22 March 2013 – 423 Squadron Wing Commander’s Commendation awarded in recognition of outstanding performance signed off by Colonel I. Lightbody, CD. It reads:

“Pte (T) Stephanie Dondaneau is commended for her outstanding level of professionalism and steadfast approach to the repairs on the fuel system of AC 405. After the completion of extensive maintenance to AC405, she identified another fuel leak. Though she was told that the leak was likely a result of residual fuel from previous repairs, she took decisive action to isolate the cause of the leak in the face of organizational pressures to deliver serviceable aircraft during a busy operational tempo. Her actions demonstrate a higher level of dedication and technical expertise than is typically found at her rank. Her outstanding professionalism and commitment to the aircraft maintenance profession is an excellent example for others and supports the fulfillment of 12 Wings’ mission.”

Unit impact statement

- [8] In the unit impact statement, Lieutenant Colonel Leblond wrote as follows:

“2. First and foremost, it is important to highlight that the impact of the SCM on the Squadron’s morale has been minimal. We believe the element of deterrence has been met and we have not seen a negative operational impact from the SCM. MCpl Dondaneau continues to be a valued member of the Squadron and it is apparent that her professional reputation has not been compromised nor her social standing and overall position as a positive leader at the unit. The only true impact the unit has seen is on the allocation of resources dedicated to the SCM.

3. Moreover, it is my opinion that detention or confinement to barracks would have a negative impact on the Squadron’s ability to deliver core operation as it would detract key resources from an already over committed operational output.”

Analysis

[9] When crafting a sentence, the main goal is to impose a sentence that will maintain discipline, efficiency, and morale within the CAF. This is achieved by imposing a just punishment aligned with the objectives stated in the *National Defence Act (NDA)*, which are consistent with Canadian values, but tailored to the unique circumstances of military service.

[10] The principle of proportionality has always been important in Canadian sentencing, and it is specifically codified in section 203.2 of the *NDA*.

[11] A just sentence considers the seriousness of the crime and the individual circumstances of the accused, following the principles outlined in section 203.3 of the *NDA*.

[12] The Supreme Court of Canada described sentencing as “one of the most delicate stages of the criminal justice system.” (*R. v. Parranto*, 2021 SCC 46). It is an important discretionary exercise requiring judges to consider and balance several factors.

[13] Parliament provides military judges with nine sentencing objectives to follow, with the discretion to prioritize them and consider how much weight to be afforded to secondary sentencing principles.

[14] Based on the facts underlying the charges, the Court must consider denunciation and deterrence as the primary objectives of sentencing, as emphasized by both the prosecution and defence.

[15] One objective of sentencing is to denounce unlawful conduct and its impact on victims and the CAF community. Sentences should align with the communal values expressed in the *NDA*.

[16] When aiming to deter similar conduct, the Court considers the objective factors such as the gravity of the offence, its frequency within the military community, and the harm caused to individuals and the CAF's reputation.

Rehabilitation

[17] In addition, the Court always considers and weighs the objective of rehabilitation. During these proceedings, the Court learned that MCpl Dondaneau has been proactive in reaching out and pursuing her own rehabilitation by seeking assistance with her mental health. She has successfully completed twenty-five sessions with a psychologist and will continue to seek assistance. During her sentencing, MCpl Dondaneau took responsibility for her actions and expressed regret for her decision. The Court also learned that she has since come to terms with her actions during her personal rehabilitation sessions with her psychologist.

Gravity of offence and degree of responsibility

[18] It is a fundamental principle of sentencing that the military judge must impose a proportionate sentence based on the gravity of the offence and the offender's responsibility in the specific case.

[19] In the decision on finding, the Court found the following:

[14] From the whole of the evidence, I find that although Master Corporal Dondaneau did not reside in Duncan, she relied upon Mr Perfect's Duncan, BC address when completing her travel claims and submitting requests for Commuting Assistance Allowance (CAA) in the CAF. She was consistent in declaring the Duncan address within all her military correspondence while residing further away in Nanaimo, BC. The Duncan address was located within the geographical boundaries of CFB Esquimalt while the Nanaimo address was not.

[15] However, the evidence also confirmed that with respect to her personal matters, such as her interactions with ICBC for obtaining car insurance, selling her vehicles, reporting accidents or renewing her license, Master Corporal Dondaneau relied almost exclusively upon her address in Nanaimo.

[20] The guidance set out in the Canadian Forces Administrative Orders (CFAO) confirms that geographical boundaries are established by local commanders based on their operational needs and their impact on their member's lives. Referring to the guidance provided in CFAO 209-28(3) to commanding officers, in detailing "the boundaries, there should be realistic limits to permit members to live where they choose, in due consideration of their duties, provided they can commute to and from their place of work on a daily basis without undue hardship, or without affecting the performance of their duties." Members seeking to live outside of the geographical boundaries may ask for permission to do so, however, the evidence at trial suggested that at the time that MCpl Dondaneau made her decision to use the Duncan address rather than rely upon her actual address in Nanaimo, the procedure for seeking such approval was neither clear nor well known.

[21] The Court noted that MCpl Dondaneau's daily commute to work would have been very significant and time consuming and not something that the average member could endure over an extended period as she did. Nonetheless, the evidence of Major Bryan was to the effect that at no time did he ever hear of any problems or concerns that arose from MCpl Dondaneau's lack of timeliness or ability to report for work nor problems arising from her travel from her place of residence to work that affected the performance of her duties.

[22] MCpl Dondaneau explained that when she used her former father-in-law's address, she was a young private and admits now that she should have done the necessary research to seek the appropriate approval to live in Nanaimo. She explained she simply wanted to live with her ex-partner on his large property in the Nanaimo area which was just outside the place of duty boundaries. She told the court that her use of her father-in-law's address was not done to further her financial interests, but simply to permit her to live with her partner in his home, as a family.

[23] However, MCpl Dondaneau acknowledged that she did benefit financially from her decision to use the Duncan address for all her military correspondence, and it is that financial benefit which underpins three of the four charges for which she was found guilty. In my finding, I found that based on two different travel claims, the difference between the actual mileage driven and that claimed, there was a total amount of \$119.25 for which she received to which she was not entitled.

[24] The final charge for which she was found guilty relates to the specific breach of her obligation to ensure that her unit was aware of her proper address. The Court found that she "did not inform her commanding officer that she had changed her address, as required by article 26.02 of the Queen's Regulations and Orders for the Canadian Forces."

[25] The most significant financial benefit that flowed from MCpl Dondaneau's address in Duncan was her continued collection of Post Living Differential (PLD) over a period of approximately seven years. I did not find her guilty of the first charge of fraud based on the failure of the evidence to meet the required criminal standard, however, administratively, her unit has commenced recovery of the amount of the overpayment that she received for which she was not entitled. She is currently in the process of repaying the amount assessed which was approximately \$70,000.

Parity

[26] To determine the appropriate sentence for MCpl Dondaneau, I must first identify the objective range of sentences for similar offences. This assessment considers typical offence characteristics, assuming the accused has good character and no criminal record.

[27] The sentencing process requires military judges to closely examine past precedents and compare the facts of the case with similar situations. Treating similar conduct with parity is crucial for maintaining discipline in the military context.

[28] In his submissions, the prosecution relied upon the following precedents from the military justice system:

- (a) *R. v. Harding*, 2016 CM 1007. Sergeant (Sgt) Harding admitted his guilt to one count of a fraudulent nature under paragraph 117(f); two counts for having willfully made a false entry in a document made by him for official purposes under section 125; and one count for having used vehicles of the CAF for an unauthorized purpose under paragraph 112(a) of the *NDA*. Sgt Harding had five children and was separated from his wife. His vehicle had been repossessed because of missed payments and he used a Department of National Defence (DND) vehicle for personal use, specifically to transport himself to and from home to personal appointments, and to run errands in Winnipeg and Traverse Bay. He was diagnosed with major depression by a psychiatrist and the psychiatrist felt that in his expert opinion there was a link between Sgt Harding's depression and the offences. The offender expressed sincere and genuine remorse and accepted responsibility for his actions. He explained how he was going through a difficult separation and how financially distraught he was, being the sole income provider for his family. He did not sleep for three years between 2011 and 2014 and was totally physically, mentally, and financially exhausted. He felt desperate. Four of his five children suffer from autism, two of whom require full-time care, twenty-four hours a day, seven days a week. He testified that his financial situation was so catastrophic at the time, that he was overwhelmed and saw no way out of his situation. Squatting in the barracks, using DND vehicles and fraudulently obtaining fuel allowed him, according to this testimony, to put food on the table for his family during that sad period. He worked two full-time jobs: one, in the CAF, at 17 Wing as the Wing Force Protection Coordinator; and he also worked full-time during the evenings and weekends as a security officer at Garda World. It is only with these two salaries combined that he could pay his debts and take care of his family. He was sentenced to a severe reprimand and a fine of \$1,000, payable in twenty equal monthly instalments of \$50;
- (b) *R. v. Ruttan*, 2014 CM 1023. Bombardier (Bdr) Ruttan pleaded guilty to two counts of stealing, contrary to section 114 of the *NDA*, and six counts of an act of a fraudulent nature not particularly specified in sections 73 to 128 of the *NDA*, contrary to paragraph 117(f) of the *NDA*. Bdr Ruttan obtained possession of the St-Jean Charity Fund debit card from the Chaplain's office that was under the control of a civilian employee and used it without any authority to withdraw \$200 from the account. Approximately one month later, using the St-Jean Charity Fund

debit card, Bdr Ruttan withdrew another \$400 from the Charity Fund account. A \$1.50 transaction fee was charged to the account. In both cases, the banks where the money was withdrawn provided a picture of Bdr Ruttan withdrawing the money. Shortly thereafter, the civilian employee noticed that the card was missing and that withdrawals had been made from their account. The military police were called. Later when posted on Imposed Restriction, he fraudulently submitted claims for parking expenses which was a cost that he did not incur. Further, it was confirmed that he was separated and paying child support. He was sentenced to a reprimand and a fine in the amount of \$600 payable in twelve equal and consecutive monthly instalments of \$50;

- (c) *R. v. Blackman*, 2015 CM 3009. Petty Officer 2nd Class (PO2) Blackman was found guilty of seven charges: one charge of fraud contrary to subsection 380(1) of the *Criminal Code*, three charges for forgery contrary to section 367 of the *Criminal Code* and three charges for uttering a forged document contrary to subsection 368(1) of the *Criminal Code*. Between October 2009 and April 2010, PO2 Blackman submitted six family care assistance claims for a total amount \$12,460 for which the court martial found him guilty of fraud. He claimed having paid someone to care for his daughter while he was away for training when he did not. In addition, he forged and submitted a family care assistance declaration in support of monthly claims for which he was found guilty of forgery and uttering a forged document. The statement made by the caregiver in each document was forged. The degree of premeditation was very high. He also claimed the allowance monthly over a period of six months. PO2 Blackman was sentenced to imprisonment for a term of forty-five days;
- (d) *R. v. Beemer*, 2019 CM 2031. The Court found Warrant Officer (WO) Beemer guilty of one offence under paragraph 117(f) of the *NDA*, for an act of a fraudulent nature not particularly specified in sections 73 to 128 of the *NDA*. When WO Beemer first applied for PLD, he was entitled to collect it; however, when he moved from the address which he had declared to be his principal residence, he failed to report the change which was his duty. His obligations were set out in local instructions, and he attended briefings which made his obligations very clear. In this case, his failure to report the change led to his fraudulent collection of PLD for over a year. After the allegations arose, WO Beemer was promoted to warrant officer and posted to the Royal Canadian Dragoons in Petawawa, Ontario, where he originally filled the position of troop production warrant officer and at sentencing, held the position of maintenance control officer. He was assessed by his chain of command as having the potential to advance to the next rank level as a master warrant officer within the Corps of the Royal Canadian Electrical and Mechanical Engineering, and to be an asset to any maintenance

organization. The Court sentenced WO Beemer to a forfeiture of seniority of a period of one year in his current acting/lacking rank of warrant officer, and a fine in the amount of \$4,000. Because WO Beemer was making restitution of the defrauded amount, which was expected to be completed in November 2020, the fine was to be paid in monthly instalments of \$200 per month, commencing on 1 December 2019, and once full restitution had been obtained, the monthly instalments of \$200 were to increase to the amount of \$600 until the fine was paid in full; and

- (e) *R. v. Berlasty*, 2019 CM 2032. The Court found Corporal (Cpl) Berlasty guilty of one offence under paragraph 117(f) of the *NDA*, for an act of a fraudulent nature not particularly specified in sections 73 to 128 of the *NDA*. Cpl Berlasty was collecting Reserve Force Compensation (RFC) for two consecutive periods of incapacitation. RFC is available for members of the reserve force on Class A, B or C service who are incapable of performing their duties due to an injury, disease or illness attributable to their military service. The Court found that Cpl Berlasty engaged in paid work doing manual labour on a construction site for which he specifically requested to be paid in cash. The evidence accepted at trial was that he worked from mid-August 2014 until the end of September 2014, and then again for approximately two weeks in October 2014 before he was fired. The Court accepted that Cpl Berlasty received as much as \$2,500 during the period in which he was also receiving his full RFC entitlement. The Court found that a custodial sentence of ten days was appropriate and a fine of \$4,000, payable at \$200 per month. The Court suspended the carrying into effect of the punishment of imprisonment.

[29] The defence provided the following precedents to support its position on sentencing:

- (a) *R v Keenan*, 2013 CM 4011. The Court found Cpl Keenan guilty of uttering a forged document and of an act of a fraudulent nature not particularly specified in sections 73 to 128 of the *NDA*. He had submitted an itinerary and claim worksheet that did not truly reflect the reasons for a change in hotel rooms when he travelled on duty to Ottawa. As such, he claimed an amount of \$135.60 that exceeded what he had been authorized. The Court sentenced him to a reprimand and a fine in the amount of \$300; and
- (b) *R. v. Downer*, 2016 CM 4006. MCpl Downer, a member of the military police was found guilty of three charges under the Code of Service Discipline (CSD) in relation to false statements he made in attempting to finalize a claim for Leave Travel Assistance (LTA) for which he obtained an advance of \$600 from public funds. He was found guilty of one charge under paragraph 117(f) of the *NDA* for an act of a fraudulent

nature in attempting to obtain payment of LTA and of two charges under paragraph 125(a) of the *NDA* for wilfully making two false statements in a statutory declaration signed by him, submitted to obtain the finalization of his claim. In finalizing his LTA claim, he did not have in his possession either a leave pass stamped by an official at the destination location nor receipts indicating he had travelled to Newfoundland and Labrador. He did not travel to Newfoundland and Labrador as planned but told the administrative staff that he had lost all documentation related to the trip when a friend cleaned up his truck after he had returned home. In efforts to assist the member, he was encouraged to sign a statutory declaration to that effect. He signed the statutory declaration knowing that it was false. This case involved one transaction of false statements reduced to a written statutory declaration. He was sentenced to a severe reprimand and a fine of \$1,500, payable in ten monthly instalments of \$150.

[30] After thoroughly reviewing all the case law presented by both the prosecution and defence, I find that for findings of guilt for offences similar to which MCpl Dondaneau has been found guilty fall within the range of a severe reprimand, reprimand and a small nominal fine to a larger fine. I note that in the case of *Blackman* the sentence did include detention, however, I find that the facts in *Blackman* are much more serious than those of MCpl Dondaneau.

Accounting for relevant aggravating or mitigating circumstances

[31] Once that the range of sentences is established, the judge's role involves adjusting the sentence upward or downward, considering relevant aggravating or mitigating factors. This includes personal circumstances of the accused, as well as the actual consequences of the offence.

Aggravating factors

[32] After hearing the submissions of counsel, the Court notes the following aggravating factors that should be considered:

- (a) scope of the offences. MCpl Dondaneau's use of the alternate address continued over a period of seven years and continued without interruption until the matter was discovered;
- (b) personal gain. Although I accept that MCpl Dondaneau used the alternate address for her personal family reasons, it is undeniable that she derived financial gain from the use of this address on claims etc.; and
- (c) involuntary end. Rather than voluntarily stopping the use of the wrong address, she continued to use it for all her military correspondence until the matter was discovered which I note also closely coincided with her

ending the relationship with her ex-partner and moving back into the Victoria area.

Mitigating factors

[33] After hearing the submissions of counsel, the Court has determined that the following mitigating factors must be considered:

- (a) MCpl Dondaneau does not have a criminal record or a conduct sheet and is a first-time offender;
- (b) ongoing restitution to repay the PLD she received by relying upon the alternate address to which he was not entitled. Based on the evidence of Captain Karnes, MCpl Dondaneau is currently in the process of repaying the PLD overpayment and at the time of sentencing, I note that in her pay records, she has approximately \$63,000 left to be recovered. After her consultation with SISIP financial advisers and liaison with the pay authorities in National Defence Headquarters, it is expected that this money will be recovered over a period of years;
- (c) excellent work performance. Major Bryan, the Senior Aircraft Maintenance and Engineering Officer for 443 MH Squadron testified on behalf of MCpl Dondaneau who is one of approximately 160 senior aviation technicians within the Squadron and one of six women currently serving as aviation technicians. He provided the Court with the following examples:
 - i. upon learning of the nature of the charges against MCpl Dondaneau, in consultation with the other supervisors etc., they decided that the impending charges did not affect her trustworthiness around the aircraft, her ability to execute maintenance, correctly document, and perform her duties;
 - ii. in consideration of honours and awards for members in their Squadron on the morale and welfare aspect, he learned that she recently raised funds to buy welfare items to send care packages to our technicians who were deployed on ship;
 - iii. last summer, 2022, due to postings, promotions, releases, he and MCpl Dondaneau had to work closely together on a couple of aircraft maintenance issues given those individuals at the captain/warrant level that would normally carry out those functions were unavailable, so he was the only other person who had the necessary signing authority. He described how with her qualifications, Master Corporal Dondaneau works above what's normally expected of someone of the rank of master corporal. He

described that in all his interactions with MCpl Dondaneau, she was professional, deferential and respectful to the chain of command;

- iv. last winter, after working nights all week, and two weeks before her court martial, on a Friday evening, they received an urgent requirement to launch a crew the very next morning (Saturday) on an urgent mission to the Yukon. MCpl Dondaneau deployed with that crew as the aircraft releaser. She did so, with little regard to her personal situation, as she prioritized the requirements of the mission, and, by all accounts from those who were on site, she discharged her duties admirably; and
 - v. he referred to the grassroots initiative she spearheaded to create a safe space within the 443 MP Squadron hangar for people who are undergoing stressful moments to take a break and relax. The safe space is an environment where members can take time alone, away from their peers or the source of the stress, which in a high operational tempo unit such as theirs, is quite important. He explained that it is an initiative that not only gained visibility within their Squadron, but also the Wing and the larger Air Force.
- (d) age and potential. The evidence suggests that MCpl Dondaneau has excellent potential to continue to serve and progress within the CAF. She is currently serving in a more senior role than her rank would otherwise require. Despite the findings of guilt, both the commanding officer and the senior aircraft maintenance and engineering officer were unanimous in their continued support for MCpl Dondaneau confirming that “her professional reputation has not been compromised nor her social standing and overall position as a positive leader at the unit.”; and
 - (e) remorse. When MCpl Dondaneau was given the opportunity to address the Court, she apologized to everyone, including her chain of command for putting them through these proceedings. She confirmed her passion for her work as an aircraft technician, serving with her unit, having the opportunity to deploy onboard ships in the future and her desire to continue serving in the CAF.

[34] When I compare the significant mitigating factors present in the case of MCpl Dondaneau’s case with the precedents mentioned earlier, her case sets her apart. She did make a critical mistake, but her performance and commitment to the CAF has not wavered.

Any indirect consequences of the finding of guilt or the sentence should be taken into consideration

[35] Pursuant to paragraph 203.3(e) of the *NDA*, defence counsel requested that the Court consider the indirect consequences of the finding and the sentence.

[36] Importantly, it was acknowledged that considering the overpayment of PLD, MCpl Dondaneau will likely be repaying the amount of money owed to the Crown over the course of the rest of her career.

Consideration of sentence

[37] The imposition of a sentence must be individualized to MCpl Dondaneau while promoting the operational effectiveness of the CAF by contributing to the maintenance, efficiency, and morale of the unit. The Commanding Officer of the unit, Lieutenant-Colonel Leblond made it clear that, but for the support to the court martial, the unit has been minimally affected by the court martial and that the imposition of detention or confinement “would have a negative impact on the Squadron’s ability to deliver core operation as it would detract key resources from an already over committed operational output.”

[38] With respect to her individual circumstances, MCpl Dondaneau is a single parent to two adolescents with a third young adult expected to join her. She faces the challenge of finding a new place to live in the Victoria/Esquimalt area due to circumstances beyond her control. Considering her current pay, the ongoing recovery, and her expected expenses, imposing a fine would be counter productive.

[39] The prosecution very astutely recognized that neither a fine nor detention were appropriate in this case and invited the Court to consider the imposition of other punishments available under section 139 of the *NDA*. One of the recommended punishments he asked the Court to consider is that of forfeiture of seniority. As I recognized in *Beemer* at paragraph 99, “Although forfeiture of seniority in rank does not carry the same visible stigma as a reduction in rank, its impact on pay and promotion prospects can be significant and its mere imposition is not without its own set of consequences.”

[40] After reviewing the sentencing options in section 139 of the *NDA*, I notice that forfeiture of seniority falls higher on the punishment scale than a severe reprimand, but lower than rank reduction. Given that appropriate punishments for this case range from a severe reprimand to a fine, I do not see the need to impose a punishment higher on the scale.

[41] Both the prosecution and defence suggested that it was appropriate for the Court to impose a severe reprimand. Based on the scale of punishments set out within the *NDA*, the imposition of a severe reprimand is reserved for serious offences. A severe reprimand is intended to send a message to the larger community and the unit that conduct for which the offender has been found guilty is unacceptable and will be punished. It is intended to be a stain that stays on the member’s record for the foreseeable future. I agree with both counsel that there is merit to the imposition of such

a punishment to ensure that the objectives of denunciation, general and specific deterrence are met.

[42] Among the available sentencing options is a minor punishment of extra work, discussed thoroughly with counsel on the record. This punishment allows an offender to contribute meaningfully to their unit, and it was agreed that it can be positively incorporated into the unit's routine. Given the need for individualized sentencing for MCpl Dondaneau, this punishment appears to be appropriate.

[43] The prosecution seeks a restitution order of \$119.25 to recover the discrepancy in mileage claimed by MCpl Dondaneau on two different travel claims. However, the prosecution's request does not comply with article 112.582 QR&O, which the defence objects to. To determine if the Crown can receive restitution under the *NDA*, we must establish if it qualifies as a "person" under the *NDA*. Additionally, the request form needs to be signed by an authorized officer to ascertain and certify the sought-after amount.

[44] In this case, analyzing whether restitution orders in the *NDA* apply to the Crown as a victim is unnecessary. Since MCpl Dondaneau serves as a military member and Crown servant, the Crown does not require a restitution order to recover the money owed, like the recovery of the PLD. Using a restitution order in this scenario might only complicate the recoveries.

[45] Restitution orders were introduced in the *NDA* to compensate "victims" who lack leverage to recover their losses. However, in this case, the Crown can efficiently recover the funds under Part IX of the *Financial Administration Act*, including through set-off on amounts owed by the Crown to the offender. This process is applicable to most members liable under the CSD who are still serving, as they often receive payments from the Crown, such as pay or pension. Pursuing a restitution order in this case might not be cost-effective, given the significant ongoing financial recovery.

[46] Finally, the defence presented intriguing arguments regarding the presumption against tautology in relation to subsection 139(2) of the *NDA*. However, given the current focus on the potential punishments to be imposed by this Court, I do not find it necessary to address the arguments and it might be more appropriate to set them aside for future consideration in another case.

Final comments

[47] MCpl Dondaneau, you have been convicted of several offences stemming from very poor judgement and a mistake you made many years ago. We all make errors in life, and it is essential to acknowledge and learn from them. I want you to know that everyone deserves a chance to move forward and start anew. From the comments of your commanding officer and Major Bryan, it appears that you have maintained their confidence and that despite your health issues and these proceedings, you continue to earn their utmost respect and admiration. That is not something I see every day.

[48] Integrity and honesty are fundamental values that we must all guard and cherish dearly. While your past actions may have compromised these principles, it is crucial to recognize that the journey towards growth and positive change begins with self-awareness and acceptance. I am inspired by the fact that you have taken proactive action to protect your mental health. The step you have taken by assuming responsibility for what you did is crucial, and it is a very important milestone.

[49] Now you must move forward and embrace a new chapter in your life. Learn from the past and let it be a catalyst for transformation. Focus on building a future filled with integrity, honesty, and making amends where necessary. It is never too late to become a better version of yourself, and I believe in your capacity to do so. The evidence tells me so.

[50] Now, moving forward, you need to surround yourself with supportive and understanding individuals who can either help or accompany you on your journey. You need to be the leading actor in your life. Take small steps every day towards filling your life with purpose and positivity. Remember that we all stumble, but it is the ability to rise and learn from our mistakes that define us.

[51] I am confident that you will continue to channel your energy into constructive endeavours and find ways to positively contribute to 443 MH Squadron and the lives of others just as you have done with the safe-space room and leading the squadron in supporting members who are deployed.

[52] I personally wish you strength, resilience, and the determination to make the most of this opportunity for personal transformation in your career and family life. The future is yours and there really is no limit.

FOR THESE REASONS, THE COURT:

[53] **SENTENCES** you to a severe reprimand and the minor punishment of fourteen days of extra work.

Counsel:

The Director of Military Prosecutions as represented by Major D. Moffat

Major É. Carrier, Defence Counsel Services, Counsel for Master Corporal S.L. Dondaneau