



COURT MARTIAL

Citation: *R. v. Farrokh*, 2025 CM 7008

Date: 20250826
Docket: 202508

Standing Court Martial

Brigadier Jefferson Armouries
Edmonton, Alberta, Canada

Between:

His Majesty the King

- and -

Lieutenant R. Farrokh, Offender

Before: Colonel S.S. Strickey, M.J.

REASONS FOR SENTENCE

(Orally)

Introduction

[1] Lieutenant (Lt) Farrokh, the Court has accepted and recorded your plea of guilty in respect of the only remaining charge on the charge sheet; namely, an offence punishable under section 95 of the *National Defence Act (NDA)* striking a subordinate. The Court, therefore, finds you guilty of this charge. The prosecution has withdrawn the first charge on the charge sheet; therefore, the Court does not have to deal with this charge.

[2] Having accepted and recorded the plea of guilty with respect to the remaining charge on the charge sheet, the Court must now determine and pass sentence.

Joint submission made to the Court

[3] It is now the Court's responsibility to impose the sentence. I note that prosecution and defence counsel have made a joint submission to the Court and

recommend that the Court imposes a sentence of a reprimand and fine in the amount of \$3,000.

[4] As noted by Pelletier M.J. in *R. v. White*, 2024 CM 4002 at paragraph 3, a joint submission on sentence severely limits the Court's discretion in the determination of an appropriate sentence. The Supreme Court of Canada (SCC) in the case of *R. v. Anthony-Cook*, 2016 SCC 43 at paragraph 32, has stated that "a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest."

[5] In *R. v. Mentel*, 2023 CM 5003 at paragraph 11, Deschênes M.J. (as she then was) succinctly outlines the benefit of a joint submission for the accused, the participants of the court martial, the unit and the military justice system. In sum, they save resources and time while providing certainty for an accused and saving the witnesses the emotional cost of participating at trial.

[6] In addition, Deschênes M.J. stated that when the Court is considering a joint submission, trial judges recognize that counsel were mindful of the statutory sentencing principles when agreeing on a joint submission. This includes that counsel took into consideration all the relevant facts when mutually agreeing upon an appropriate sentence. Submissions by counsel should provide confirmation that they did in fact consider critical aspects of the case, including aggravating factors and the offender's personal situation (see *Mentel* at paragraph 12).

[7] Therefore, it is with these considerations in mind that the Court will move forward with sentencing.

Purpose of sentencing in the military justice system

[8] As noted by the SCC in *R. v. Edwards*, 2024 SCC 15 at paragraph 59 citing an earlier SCC decision in *R. v. Stillman*, 2019 SCC 40, "Canada's separate system of military justice is designed to 'foster discipline, efficiency, and morale in the military'". This purpose is codified through section 55 of the *NDA*. Similarly, the purposes and principles of sentencing in the military justice system differ from that of the civilian justice system as noted at subsection 203.1(1) of the *NDA* that states, "the fundamental purpose of sentencing is to maintain the discipline, efficiency and morale of the Canadian Forces."

[9] These fundamental purposes of sentencing are achieved by imposing a just punishment that takes into account one or more of the enumerated objectives outlined at subsection 203.1(2) of the *NDA* that include such things as: "to promote a habit of obedience to lawful commands and orders" (paragraph 203.1(2)(a)); "to maintain public trust in the Canadian Forces as a disciplined armed force" (paragraph 203.1(2)(b)); and, "to denounce unlawful conduct and the harm done to victims or to the community that is caused by [the] unlawful conduct" (paragraph 203.1(2)(c)), among others.

[10] Section 203.2 of the *NDA* outlines the fundamental principle of sentencing that “a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender”.

[11] There are a number of other sentencing principles stated at *NDA* section 203.3 that include, for example: “a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender” (paragraph 203.3(a)); “a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances” (paragraph 203.3(b)) and that “a sentence should be the least severe sentence required to maintain the discipline, efficiency and morale of the Canadian Forces” (paragraph 203.3(d)).

[12] In this case, even when a joint submission is being made, the Court imposing punishment should ensure, at a minimum, that the circumstances of the offence, the offender and the joint submission are considered and outlined in a sentencing decision that may not be required in the civilian criminal justice system (see *R. v. Gillis*, 2022 CM 4019 at paragraph 6). Taken globally, the Court has considered all the factors outlined at Division 7.1 of the *NDA* (Sentencing) in coming to my sentencing decision today.

Matters considered

[13] In this case, the prosecutor read a Statement of Circumstances which was formally admitted as accurate by Lt Farrokh. It was entered in evidence as an exhibit, along with other documents provided by the prosecution as required in *Queen's Regulations and Orders for the Canadian Forces* (QR&O) article 111.17. Prosecution called no witnesses. The victim in this case, ex-Private (Pte) Butt, submitted a victim impact statement (VIS) pursuant to *NDA* subsection 203.6(1) and the unit submitted a military impact statement (MIS) pursuant to *NDA* subsection 203.71(2), completed by the Commanding Officer (CO) of the Loyal Edmonton Regiment (LER), Lieutenant-Colonel (LCol) Wright.

[14] For its part, defence counsel produced an agreed statement of facts for the Court to consider along with a letter from Major (Maj) Nettleton, Chaplin of 41 Canadian Brigade Group Headquarters (41 CBG HQ). Defence counsel called no witnesses. Lt Farrokh, when provided the opportunity at the sentencing hearing, apologized for his actions.

[15] In addition to this evidence, counsel then made submissions to support their position on sentence based on the facts and considerations relevant to this case, to assist the Court to adequately apply the purposes and principles of sentencing to the circumstances of both the individual offender and the offence committed.

The circumstances of the offence

[16] The Statement of Circumstances was entered as an exhibit and reveal the following:

- (a) At all material times, Lt Farrokh was a member of the reserve force, on duty and parading with the LER at Jefferson Armoury in Edmonton Alberta;
- (b) At the time of the incident, Lt Farrokh was employed as an infantry platoon commander with the LER;
- (c) On 18 September 2024, while parading with the LER, while in an agitated state, Lt Farrokh approached Pte. S. Butt in the drill hall and slapped the right side of his face with an open left hand in front of approximately thirty to forty other members of the unit;
- (d) The slap caused Pte Butt's glasses to fall to the ground and were then kicked by Lt Farrokh who continued to berate Pte Butt loudly with his face approximately twelve inches away;
- (e) As Pte Butt was attempting to leave the scene, Lt Farrokh re-approached Pte Butt and pushed him with moderate force on the front of his body;
- (f) Pte Butt reported having difficulty hearing in the aftermath;
- (g) Lt Farrokh knew that Pte Butt was a subordinate;
- (h) Lt Farrokh struck Pte Butt out of anger following an alleged intimate relationship between Pte Butt and Lt Farrokh's partner. Pte Butt did not consent to being struck. There was no provocation or justification for the slap, the push, nor the berating;
- (i) Pte Butt has since left the Canadian Armed Forces (CAF);

The circumstances of the offender

[17] The offenders' particulars of service reveal the following information relevant to the offender:

- (a) Lt Farrokh is thirty-three years old, and his date of commissioning was 11 December 2019;
- (b) he was promoted to Lt on 14 August 2024; and
- (c) there is no conduct sheet;

[18] The Agreed Statement of Facts outlines the following:

- (a) Lt Farrokh joined the CAF as a reserve member while living in Toronto to ‘give back’ to Canada;
- (b) Lt Farrokh and his common law spouse, who is also a reserve member of the CAF, relocated to Edmonton for a new start and both transferred to the LER;
- (c) shortly prior to the incident leading to the charges at bar, Lt Farrokh became aware that his common law spouse was involved in an intimate relationship with Pte Butt;
- (d) on the day of the incident, when Lt Farrokh came across Pte Butt while parading in the unit drill hall, he lost his composure and approached Pte Butt to confront him regarding the intimate relationship. This resulted in Lt Farrokh slapping, shoving and berating Pte Butt;
- (e) immediately after the incident, Lt Farrokh realized his behaviour was improper and unacceptable. He cooperated fully in the ensuing investigation and is pleading guilty at the earliest opportunity;
- (f) after the incident, Lt Farrokh was directed by his chain of command to parade with another unit at a different armoury pending the outcome of this court martial;
- (g) the breakdown in the relationship with his common law spouse caused significant financial and emotional strain on Lt Farrokh. He has sought out both financial counselling through the Service Income Security Insurance Plan (SISIP) and mental health counselling with a social worker;
- (h) Lt Farrokh’s civilian employment contract ended in early 2025. He has been seeking other civilian employment opportunities and, in the interim, has accepted class “B” employment as a course officer during the reserve summer training program at Canadian Forces Base Wainwright, Alberta. This employment will end at the end of August 2025;
- (i) the promulgation of Lt Farrokh’s promotion from second lieutenant to Lt was delayed for almost one year;
- (j) Lt Farrokh would like to continue his service to Canada and is seeking a component transfer to the regular force.

Seriousness of the offence

[19] The Court has considered the objective gravity of the offence in this case. Section 95 of the *NDA* carries a maximum punishment of imprisonment for less than

two years or to less punishment. Therefore, objectively, the offence can be considered one of the less serious offences in the Code of Service Discipline.

[20] However, in my view that does not deter from the serious impact this offence can have on unit discipline. I echo the comments of Sukstorf, M.J. (as she then was) at paragraph 22 of *R. v. Euper*, 2018 CM 2012 on the principles underlying offences under *NDA* section 95:

[22] [...] 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

[21] In addition, in *R v Murphy*, 2014 CM 3021 at paragraph 45, d'Auteuil, M.J. emphasized that *NDA* section 95 titled “Abuse of subordinates” demonstrates Parliament’s intent to prevent any abuse by CAF members in a position of authority towards any subordinate:

[45] It must be noted that title of section 95 of the *National Defence Act* is "Abuse of subordinates". It appears to the court that Parliament enacted such provision in order to prevent any abusive behaviour by Canadian Forces members in position of authority which would result in striking or using any other kind of violence toward any subordinate by reason of the existence of a ranking system in a military context.

[22] Gleaning the rationale from my colleagues, this offence directly impacts the core trust and responsibility that senior members of the CAF have over their junior members. Simply put, this offence clearly touches upon the discipline, efficiency and morale of the CAF and is therefore an offence this Court takes seriously.

[23] In this case, the subjective gravity of the offence is significant. This incident had a significant impact upon the victim (now) ex-Pte Butt. He described the physical and emotional harm he suffered because of Lt Farrokh’s actions. He described experiencing physical pain and discomfort that he suffers to this date. The incident also caused him physiological and emotional harm, disruption in his well-being, isolation and unfortunately, was one of the reasons that contributed to him leaving the CAF. As he put in his statement “the incident has left a lasting mark on me and it has severed my peace [of] mind and ultimately having to let go of a job which I was determined to be in and fulfil my dream of serving in the CAF”. The Court acknowledges the courage for ex-Pte Butt to submit this statement, and it was duly considered in rendering my sentence today (see *NDA* subsection 203.6(1)).

[24] Lt Farrokh’s actions not only have a significant detrimental impact upon ex-Pte Butt, but also upon the entirety of the LER. The Court places significant emphasis on the MIS submitted by the CO of the unit. Simply put, LCol Wright’s statement that “this act of violence by an officer against a non-commissioned member is not only unacceptable, but corrosive to the very fabric of military order and discipline” is fully endorsed by this Court. LCol Wright aptly summarized how the incident eroded command integrity, undermined the trust and authority of Lt Farrokh to his

subordinates, peers and senior officers and damaged the reputation of not only the offender but the regiment and the broader CAF. I have considered the comments by LCol Wright in rendering sentence and thank him for providing to the Court a very helpful statement in how this incident has impacted discipline, efficiency and morale in the unit.

[25] In all, the Court finds that both the objective and subjective gravity of the offence in this case are serious.

Sentencing objectives considered in this case

[26] The fundamental purpose of sentencing at section 203.1 of the *NDA* is the maintenance of “discipline, efficiency and morale of the Canadian Forces”. This fundamental purpose of sentencing is to be achieved by imposing a just punishment that has one or more of several objectives outlined at *NDA* subsection 203.1(2) (see *NDA* subparagraphs 203.1(2)(a) to (i)).

[27] I agree with the submission of counsel that denunciation, deterrence and restoring the public trust are paramount. In this case, the recommendation of a sentence of a reprimand and fine in the amount of \$3,000 would serve the sentencing objectives of denouncing Lt Farrokh’s conduct and the harm done to the victim, deterring him and other CAF members from committing such offences while maintaining public trust in the CAF as a disciplined armed force.

Aggravating and mitigating factors

[28] The circumstances of the offence reveal the following aggravating factors:

- (a) the circumstances of the offence. As I stated earlier, they are serious. For an officer of Lt Farrokh’s rank to strike and push ex- Pte Butt is clearly unacceptable. Regardless of the circumstances, it is inconceivable that a platoon commander would resort to such violence against anyone, let alone a junior member such as Pte Butt. I note that this incident took place while parading with the LER;
- (b) the rank of the offender. I agree with the prosecution that a core duty of an officer – as set forth at QR&O subparagraph 4.02 (1)(c) - is to “promote the welfare, efficiency and good discipline of all subordinates”. Clearly, Lt Farrokh breached his duty in this regard; and
- (c) premeditation. I agree with the prosecution that Lt Farrokh took matters into his own hands and attacked ex-Pte Butt displaying a lack of self-control.

[29] That said, the Court acknowledges the following mitigating factors:

- (a) Lt Farrokh's guilty plea today avoids the expense and energy of running a trial and demonstrates that he is taking responsibility for his actions in public, in the presence of members of his unit and of the broader military community;
- (b) the absence of a criminal record and conduct sheet revealing precedents of similar misbehaviour;
- (c) the personal circumstances leading to the incident. Lt Farrokh was dealing with a stressful and emotional personal situation; which I emphasize can never excuse the use of violence;
- (d) his potential in the CAF. He was recently promoted to Lt showing confidence from his chain of command that he has learned from this incident and can contribute positively to the CAF. The Court takes note of the letter provided by Maj Nettleton that states, among other things, that Lt Farrokh's leadership as a Couse Officer in Wainwright has been exemplary;
- (e) his remorse. Lt Farrokh spoke openly to the Court and apologized to the unit for his actions stating that he will do better and be better in the future. I also note the letter from Maj Nettleton who states that Lt Farrokh had sought the help of professionals to learn from his mistake and grow in his character.

Assessing the joint submission

Parity

[30] Turning now to the parity principle (see *NDA* paragraph 203.3(b)), the Court examined precedents for similar offences to determine whether the joint submission is like sentences imposed on similar offenders. Sentences imposed by military tribunals in similar cases are useful to appreciate the kind of punishment that would be appropriate in this case.

[31] In the context of submissions to demonstrate that the joint submission was within a range of similar sentences for similar offences, the prosecution and defence counsel brought several cases to my attention, showing that the proposed sentence fits in an acceptable range for similar cases, although no case is the same. The Court has considered the following cases:

- (a) *R v Hanson*, 2013 CM 3021. Warrant Officer (WO) Hanson pleaded guilty to two charges: one contrary to section 95 and the second contrary to section 97 of the *NDA* (drunkenness). During an exercise at the unit but when the offender was off-duty, WO Hanson pressed a knife against the throat of a corporal while uttering some derogatory remarks.

Following a joint submission, the offender was sentenced to a severe reprimand and a fine in the amount of \$4,000;

- (b) *R. v. Carrier*, 2009 CM 4019. Master Warrant Officer Carrier pleaded guilty to two charges contrary to section 95 of the *NDA*. During an appreciation dinner at the mess, the offender inappropriately touched the genitals of two members at a mess. Following a joint submission, the offender was sentenced to a severe reprimand and a fine in the amount of \$3,000;
- (c) *R. v. Reid*, 2022 CM 2004. Corporal (Cpl) Reid was found guilty of one charge contrary to section 95 of the *NDA*. The offender ordered the Pte victim to shower after a physical training session and then watched him without justification. The Court noted that the offender was acutely aware of the sensitivity of the Pte as they were uncomfortable showering in a communal area. The Court sentences the offender to a reprimand and a fine in the amount of \$1,500;
- (d) *R. v. Snow*, 2015 CM 4003. Master Corporal (MCpl) Snow pleaded guilty to one charge contrary to section 95 of the *NDA*; striking a subordinate. The offender was an infantryman and was made aware that a subordinate was involved in an intimate relationship with his wife. The MCpl approached and blocked the Cpl's vehicle in a parking lot, knocked him down and had to be pulled off by other unit members. Following a joint submission, the Court sentenced the offender to detention for a period of seven days and a fine in the amount of \$1,000; and
- (e) *R. v. Whitten*, 2012 CM 4004. The ex-Master Seaman pleaded guilty to two charges contrary to section 95 of the *NDA*. The offender inappropriately touched an ordinary seaman and struck an able seaman with a broomstick. Following a joint submission, the Court sentenced the offender to a severe reprimand and a fine in the amount of \$3,000.

[32] In reviewing the joint submission before the Court, the issue to assess is not whether I agree with the joint submission being proposed or whether the Court could render a more appropriate sentence. As stated earlier, the Court may depart from the joint submission of counsel only if I consider that the proposed sentence would bring the administration of military justice into disrepute or would otherwise be contrary to the public interest.

[33] Having considered the caselaw and submissions from the prosecution and defence, the proposed sentence is not so markedly out of line with the expectations of reasonable persons aware of the circumstances that they would view it as a breakdown in the proper functioning of the military justice system. In this case, the proposed sentence meets the sentencing objectives of maintaining public trust in the CAF as a disciplined armed force, denunciation and deterrence.

[34] As recognized by the SCC in *Anthony-Cook*, trial judges must refrain from tinkering with joint submissions if their benefit can be maximized. Prosecution and defence counsel are well placed to arrive at joint submissions that reflect the interests of both the public and the accused. In addition, trial judges should approach the joint submission on as “as is” basis (see *Anthony-Cook* at paragraphs 42 and 44).

[35] Counsel are highly knowledgeable about the circumstances of the offender and the offence and, as stated during submissions, have taken the interests of the offender, the chain of command and the broader public into consideration in arriving at their agreement on the proposed sentence. I trust that they are entirely capable of arriving at resolutions that are fair and consistent with the public interest.

[36] During submissions by counsel, the prosecutor confirmed that in the circumstances of this case, the Court does not need to make a weapons prohibition order under subparagraph 147.1(1)(a) of the *NDA*, even though Lt Farrokh was convicted of an offence “in the commission of which violence against a person was used”. In addition, there has been no application made by the prosecution for forensic DNA analysis under subsection 196.14(3) of the *NDA* as Lt Farrokh is convicted of a secondary designated offence pursuant to paragraph 196.11 (b)(v) of the *NDA*. The Court is mindful of the guidance from the SCC in *Anthony-Cook* at paragraph 51 that states “if the parties have not asked for a particular order, the trial judge should assume that it was considered and excluded from the joint submission”.

[37] In summary, considering the circumstances of the offence and of the offender, the applicable sentencing principles, and the aggravating and mitigating factors mentioned previously, I cannot conclude that the sentence being jointly proposed would bring the administration of military justice into disrepute or would otherwise be contrary to the public interest. I must, therefore, accept it.

[38] Lt Farrokh, you have demonstrated that you accept responsibility for this offence with your guilty plea. This offence is very serious. The trust and authority that is vested in officers in the CAF is an important cornerstone of a disciplined armed force. As an officer, one of your fundamental duties is the welfare of your subordinates and you clearly breached that duty in this instance. You experienced a challenging time in your life, but it can never excuse the use of violence. Your actions have negatively impacted not only ex-Pte Butt, but the LER and the CAF.

[39] However, the joint submission suggests that you have the potential to learn from this incident and contribute positively to the CAF in the future. I agree with counsel’s submission and I note your sincere apology before the Court. I believe this is an isolated incident and hope that you learn from it. I wish you luck moving forward.

FOR THESE REASONS, THE COURT:

[40] **SENTENCES** Lt Farrokh to a reprimand and a fine in the amount of \$3,000, to be paid in twelve monthly installments of \$250 beginning on 1 September 2025. Should he be

released from the CAF before the fine is fully paid, the balance would be payable in full upon release.

Counsel:

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

Lieutenant-Colonel A.H. Bolik, Defence Counsel Services, Counsel for Lieutenant Farrokh