COURT MARTIAL

Citation: *R. v. Michalopoulos*, 2025 CM 6006

Date: 20250915
Docket: 202517

Standing Court Martial

8 Wing Trenton
Trenton, Ontario, Canada

Between:

His Majesty the King

- and -

Corporal J. Michalopoulos, Offender

Before: Colonel N.K. Isenor, M.J.

REASONS FOR SENTENCE

(Orally)

I. Overview

[1] Corporal (Cpl) Michalopoulos was facing one charge of fraud contrary to section 130 of the *National Defence Act* (*NDA*) (section 380 of the *Criminal Code*); and one charge of willfully or negligently made a false statement in a document made by him that was required for official purposes contrary to section 125 of the *NDA*. The charges related to allegations that Cpl Michalopoulos made false entries on the Canadian Armed Forces (CAF) Brookfield Global Relocation Services (BGRS) member secure website and fraudulently claimed expenses related to moves between Trenton, Ontario (ON) and Bagotville, Québec (QC) to which he was not entitled. The Court accepted and recorded his plea of guilty in respect of the charge of willfully or negligently making a false statement in a document, and the prosecution elected to not call any evidence with respect to the charge of fraud, and accordingly, the Court found Cpl Michalopoulos not guilty of that charge. As part of the sentencing hearing, counsel

proposed a joint submission, recommending that the Court impose a punishment of a reprimand and a fine in the amount of $7,000.

[2] The Court must therefore determine whether imposing the sentence jointly recommended by counsel is contrary to the public interest in the circumstances of this case. For the reasons that follow, the Court accepts and imposed the sentence recommended by counsel.

Context

[3] The relevant facts surrounding the commission of the offence were summarized in the Statement of Circumstances, to which Cpl Michalopoulos admitted as true, and read as follows:

> "AGREED STATEMENT OF CIRCUMSTANCES
>
> 1. Cpl Michalopoulos (ret'd) was at all relevant times a member of the CAF.
> 2. Between 2021 and 2024, Cpl Michalopoulos was posted multiple times.
> 3. The three relevant postings were:
>   a. To CFB Trenton, ON in June 2021;
>   b. To Bagotville, QC in May 2022; and
>   c. Attached posting to Trenton, ON in December 2022, followed by a full posting to CFB Trenton in February-March 2023.
>
> *Per diem* and incidentals for his children
>
> 4. For each of the three postings, Cpl Michalopoulos (ret'd) was entitled to be reimbursed for expenses related to both house hunting trips (HHT) and the actual move to the location (TNL).
> 5. Cpl Michalopoulos (ret'd) submitted claims to the CAF, through BGRS, to be reimbursed for allowable expenses incurred during the HHT.
> 6. He was entitled to a daily per diem of $95.95 per dependent for HHT and TNL trips, plus $17 per day for incidentals.
> 7. The dollar value of the *per diem* and incidentals claimed for his three children was $1200 per HHT/TNL move.
> 8. Following *two* of those moves, Cpl Michalopoulos (ret'd) negligently completed official documents to claim reimbursement of the daily *per diem* and incidentals for his dependant children, knowing the children did not meet the CAF moving policy's definition of dependents or being reckless as to whether the children met the definition of dependents.

Moving company 111844857 Canada Inc

9. In preparation for one moves, Cpl Michalopoulos (ret'd) contacted BGRS in order to secure an approved mover for his upcoming posting. BGRS was unable to find any movers that could accomplish the move in the time framed prior to the start date at his new posting.
10. Following one TNL, during his approved move from Trenton, ON to Bagotville, QC, Cpl Michalopoulos (ret'd) submitted a receipt dated 08 June 2021 for reimbursement from the 111844857 Canada Inc moving company.
11. 111844857 Canada Inc is owned by Cpl Michalopoulos (ret'd).
12. At the time Cpl Michalopoulos (ret'd) willfully completed the official documents to claim for reimbursement for the 111844857 Canada Inc, knowing at the time he completed and submitted the document the company did not meet the arm's-length criteria and was therefore ineligible for reimbursement.
13. The claim supported by the 111844857 Canada Inc receipt was never paid out by the CAF.
14. Cpl Michalopoulos (ret'd) was never reimbursed for that claim of $2, 519.90.

Monetary Value

15. The combined total of both the 111844857 Canada Inc receipt and two trips worth of children's *per diem* and incidentals improperly claimed is $4,919.90."

II. Whether imposing a reprimand and a fine in the amount of $7,000 would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

Positions of the parties

Prosecution

[4] The prosecution contends that a reprimand and a $7,000 fine, jointly recommended by counsel, is the appropriate punishment in the circumstances of this case. The prosecution acknowledges that a $7,000 fine is on the high side for an offence under section 125 of the *NDA*. However they explained that counsel jointly agreed that $2,400 of the $7,000 fine represents the $2,400 that the offender gained by being paid out for the children's per diems, to which he was not entitled to, and the fine takes into account the collection of this money.

[5] The prosecution considered the fact that the offence was committed over a significant period of time aggravating. The prosecution points to the fact that the offender committed the offence regarding the false entries of the children's per diems

over multiple moves between Trenton, ON and Bagotville, QC and over an extended period, that being between the years 2021 and 2024.

[6] Also aggravating, the prosecution considered the fact that the offender made a false entry attempting to claim costs for a move he conducted himself personally under the name of a numbered company he personally owned as an egregious breach of trust by a member of the CAF. The prosecution highlighted the fact that thousands of CAF members are posted each year, each being required to make multiple entries on the BGRS member secure website, and that the CAF must be able to trust its members to conduct themselves honestly.

[7] The prosecution considered as mitigating, the offender's lack of a conduct sheet, as well as his guilty plea, which saved over a week of court time, and multiple witnesses travelling. The prosecution also highlighted that an indirect consequence of the sentence will be that Cpl Michalopoulos will now have a criminal record, and given his outside employment, this will impact on his ability to earn an income. As a result of these factors, the prosecution contends that deterrence, rehabilitation and reparations should be the most important objectives for this case.

[8] The prosecution is of the view that a sentence of a reprimand and a fine in the amount of $7,000 will deter the conduct, and rehabilitate the member by repaying the lost funds, and that reparations that are implicit in the repayment of the funds will promote a sense of responsibility in the offender. Both the prosecution and defence counsel agreed that should part of Cpl Michalopoulos' sentence include a fine, terms directing Cpl Michalopoulos to pay the fine in monthly instalments of $1,000, commencing on 15 September 2025, and payable on the 15th of each month until the fine is fully paid, would be appropriate.

Defence

[9] Counsel for the defence provided additional information in relation to the personal situation of the offender. After his release from the CAF, the offender found civilian employment in car sales and as a mortgage agent. After notifying the Financial Services Regulatory Authority of Ontario (FSRA), and Capital Mortgages about the charges against him, he was immediately dismissed and his request to cancel his release from the CAF was denied.

[10] Defence counsel submitted that with respect to the false entries regarding the children's per diems, to which the offender was not entitled, the offender acted negligently, and there was no falsification of documents involved in this aspect of the offence.

[11] With respect to the false entry regarding the claim for moving expenses, counsel admits that Cpl Michalopoulos could have done better, however, points out that the offender found himself in a difficult situation and made poor choices. BGRS could not facilitate the offender's move, the offender only had a short time available prior to his

reporting date, which fell in late December, and ultimately had no choice but to move himself. Defence counsel submits that he should have done better and made different choices, however Cpl Michalopoulos found himself under pressure from these extenuating circumstances, and that Cpl Michalopoulos is extremely remorseful for his actions.

[12] Defence counsel submits that a criminal record will be a significant impediment to seeking gainful employment in the car sales and mortgage industry, and that although Cpl Michalopoulos currently has significant financial constraints, he does have the ability to pay $1,000 per month until the fine of $7,000 is repaid. As such, counsel submitted that the jointly proposed sentence of a reprimand and a fine in the amount of $7,000 is the appropriate sentence in these circumstances.

Sentencing principles

[13] When determining a sentence, the Court must be guided by the sentencing principles contained in the *NDA*. In this context, subsection 203.1(1) of the *NDA* provides that "the fundamental purpose of sentencing is to maintain the discipline, efficiency and morale of the Canadian Forces."

[14] This is to be achieved by imposing punishments that have one or more of the objectives outlined at subsection 203.1(2) of the *NDA*. These objectives include such things as "to promote a habit of obedience to lawful commands and orders", "to maintain public trust in the Canadian Forces as a disciplined armed force" and "to denounce unlawful conduct and the harm done to victims or to the community that is caused by the unlawful conduct".

[15] The fundamental principle of sentencing is found at section 203.2 of the *NDA*. It states "[a] sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender."

[16] There are a number of other sentencing principles outlined in section 203.3 of the *NDA*, that a sentencing judge must also take into consideration when imposing a sentence. They include that "a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances", and that "a sentence should be the least severe sentence required to maintain the discipline, efficiency and morale of the Canadian Forces".

[17] One or more of these objectives will inevitably predominate in the crafting of a fit sentence in an individual case, yet it must be kept in mind that each of these goals calls for the attention of the sentencing court, and a fit sentence should reflect an appropriate blending of these goals, tailored to the particular circumstances of the case.

[18] As recognized by the Supreme Court of Canada (SCC), courts martial allow the military to enforce internal discipline effectively and efficiently.

[19] Punishment is the ultimate outcome once a breach of the Code of Service Discipline has been recognized following either a trial or a guilty plea and it is the only opportunity for the Court to deal with the disciplinary requirements brought about by the conduct of the offender, on a military establishment, in public, and in the presence of members of the offender's unit.

[20] The imposition of a sentence at court martial proceedings, therefore, performs an important disciplinary function, making this process different from the sentencing usually performed in civilian criminal justice courts.

[21] Even when a joint submission is made, the military judge imposing punishment should ensure, at a minimum, that the circumstances of the offence, and the offender are not only considered, but also adequately laid out in the sentencing decision to an extent that may not always be necessary in other courts.

[22] As this Court informed the accused when he entered his plea of guilty, section 139 of the *NDA* prescribes the possible punishments that may be imposed at courts martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment.

[23] Only one sentence is imposed upon an offender whether the offender is found guilty of one or more different offences, but the sentence may consist of more than one punishment.

The public interest test

[24] The 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."

[25] The public interest test requires that the joint submission be rejected only when it is so unhinged from the circumstances of the offence and the offender, that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This means that a sentencing judge may only depart from a joint submission where the joint submission is so lenient, or so severe, as the case may be, when viewed in light of the circumstances of the case and the offender, that accepting it would bring the administration of the military justice system into disrepute. Consequently, this recommendation severely limits the Court's discretion in the determination of an appropriate sentence.

[26] The threshold to depart from the joint submission being made is high as joint submissions respond to important public interest considerations. The prosecution agrees to recommend a sentence that the accused is prepared to accept, avoiding the stress and

expense of a trial and allowing efforts to be channelled into other matters. Furthermore, offenders who are remorseful may take advantage of a guilty plea to begin making amends. The most important benefit of joint submissions is the certainty they bring to all participants in the administration of justice.

Circumstances of the offender

[27] As for the offender's personal situation, the documentary evidence listed at article 111.17 of the *Queen's Regulations and Orders* (QR&O) for the Canadian Forces, as well as the Agreed Statement of Facts reveals the following:

(a) Cpl Michalopoulos is forty-six years old. He joined the CAF in 1998 as an armoured soldier and in 2002, became an avionics technician. He released in 2006 and had a civilian career in automobile sales with an Ontario Motor Vehicle Industry Council (OMVIC) license and as a mortgage agent with an FSRA license;

(b) Cpl Michalopoulos has three children with his ex-wife that are currently eleven, fourteen, and fifteen years old;

(c) Cpl Michalopoulos re-enrolled in 2021 in an attempt to be closer to his family as his ex-wife was a regular force member, and he subsequently released in May 2024;

(d) upon notifying FSRA and Capital Mortgages about the charges against him, he was immediately dismissed and his request to cancel his release from the CAF was denied;

(e) a criminal record is a major impediment to seeking gainful employment in the car sales or mortgage industry and Cpl Michalopoulos currently has significant financial constraints;

(f) the conviction may be used in considering whether to grant or refuse his OMVIC and FSRA licence upon self-disclosing the outcome of this matter to those regulatory bodies; and

(g) Cpl Michalopoulos has no conduct sheet or civilian criminal record.

Circumstances of the offence – aggravating and mitigating factors

[28] As part of my analysis to decide whether I would accept the joint submission, I have considered the objective gravity of the offence. The offence in section 125 of the *NDA,* attracts a maximum punishment of imprisonment for a term not exceeding three years, which makes this a serious offence.

[29] The Court must also consider aggravating and mitigating factors that may justify a higher or lower punishment. The Court considered the following factors to be aggravating in this case:

(a) first is the fact that the offence was committed over a significant period of time, between 2021 and 2024 involving making false entries with respect to two moves; and

(b) second is the fact that the offender made a false entry attempting to claim costs for a move he conducted himself personally under the name of a numbered company he personally owned. This act depicts a level of calculated wrongdoing that the court finds aggravating.

[30] The unit chose not to prepare a military impact statement. The Court assesses this factor as neutral.

[31] However, the Court also identified the following mitigating factors:

(a) first, the absence of a conduct sheet or criminal record, showing that Cpl Michalopoulos is a first-time offender; and

(b) second, Cpl Michalopoulos's guilty plea, which avoided the expense and energy of running a trial and demonstrates that he is taking responsibility for his actions in this public trial in the presence of members of his former unit and the military community. There is no doubt that this had a significant deterrent effect on Cpl Michalopoulos and on the members of his former unit. The message is that this kind of conduct will not be tolerated in any way and will be dealt with accordingly.

Parity

[32] To determine the appropriate sentence for Cpl Michalopoulos, the Court 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. 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.

[33] In terms of assessing the joint submission, in the context of arguments to demonstrate that the joint submission was within a range of similar sentences for similar offences, counsel brought three cases to the Court's attention.

[34] The cases referred to by counsel include:

(a) *R. v. Buckley*, 2016 CM 1001, a case involving two counts under section 125 of the *NDA*, where a master warrant officer made false entries in her

Force Program documents, and in the Human Resources Management System indicating that she has passed her Force Program evaluation. After a contested sentencing hearing, the offender was sentenced to a severe reprimand and a fine in the amount of $3,000;

(b) *R v. Lewis*, 2012 CM 2006, a colonel who pled guilty to one charge under section 125 of the *NDA*, for falsifying the CF EXPRES test form intending to deceive his military superior, his chain of command, and the administrative support staff. After a contested sentencing hearing, the offender was sentenced to a fine in the amount of $5,000; and

(c) *R. v. Dondaneau*, 2023 CM 2014, a master corporal who was found guilty of charges under subparagraph 117(f), section 129, as well as two charges under section 125 of the *NDA*, for submitting false documentation for travel expenses and commuting assistance, which required the repayment of approximately $70,000. After a contested sentencing hearing, the offender was sentenced to a severe reprimand and the minor punishment of fourteen days of extra work.

[35] Although this is a relatively small sample, these cases show that the sentence jointly proposed by the prosecution and defence counsel in this case, of a reprimand and a fine in the amount of $7,000, although high, falls within the range of sentences imposed for similar conduct in the past.

Principles of sentencing deserving greatest emphasis/priority of objectives

[36] Regarding the objectives of sentencing to be emphasized in this case; in the Court's view, the circumstances of this case require that the focus be placed on the objectives of denunciation, general deterrence and reparations in sentencing the offender.

[37] In terms of the main purpose of sentencing in section 203.1 of the *NDA*, namely "to maintain the discipline, efficiency and morale of the Canadian Forces", the sentence proposed must be sufficient to denounce Cpl Michalopoulos' conduct in the military community, and to act as a deterrent to others who may be tempted to engage in a similar type of unacceptable behaviour, specifically making false entries with respect to moving expenses on the CAF BGRS member secure website, as well ensure appropriate reparations are made.

Sentence to impose

[38] In arriving at the sentence in this case, the Court has considered the direct and indirect consequences for the offender of the finding of guilt and the sentence the Court is about to pronounce.

[39] Ultimately, the issue for me to assess as military judge is not whether I like the sentence being jointly proposed or whether I would have come up with something better.

[40] 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 justice into disrepute or would otherwise be contrary to the public interest.

[41] In determining whether that is so, I must ask myself whether the joint submission is 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.

[42] Having said this, in this case, I do believe that a reasonable person aware of the circumstances would expect the offender to receive a punishment which expresses disapprobation for the failure in discipline involved and have a direct impact on the offender.

[43] The proposed sentence of a reprimand and a fine in the amount of $7,000 is aligned with these expectations. It meets the objectives of denunciation, deterrence, and reparations without having a lasting effect detrimental to the rehabilitation of the offender.

[44] As recognized by the SCC, trial judges must refrain from tinkering with joint submissions if their benefits can be maximized.

[45] Prosecution and defence counsel are well placed to arrive at joint submissions that reflect the interests of both the public and the accused. They are highly knowledgeable about the circumstances of the offender and the offence, as they are with the strengths and weaknesses of their respective positions.

[46] The prosecutor who proposes the sentence is in contact with the chain of command and victims. They are aware of the needs of the military and civilian communities and is charged with representing the community’s interest in seeing that justice be done.

[47] Defence counsel is required to act in the accused’s best interests, including ensuring that the accused’s plea is voluntary and informed.

[48] Both counsel are bound professionally and ethically not to mislead the Court. In short, they are entirely capable of arriving at resolutions that are fair and consistent with the public interest, as they have demonstrated in this case.

[49] Considering all the circumstances of the case, 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 justice into disrepute or would otherwise be contrary to the public interest and the Court therefore accepts the joint submission.

III. Conclusion

[50] Cpl Michalopoulos, you have demonstrated that you accept responsibility for your offence with your guilty plea today. The punishment in this case is significant. It is reflective of how seriously the CAF views offences that include making entries and false claims for funds you were not entitled to. I realize that the sentence carries with it the consequence of a criminal record. I know you recognize that you may have ended up in much greater trouble, including certain loss of your career, and the inability to support your children with potential imprisonment. I accept your counsel's submissions that you are quite remorseful for and regret your actions.

[51] Integrity and honesty are fundamental moral principles that all CAF members are required to possess. It means doing the right thing even when it's difficult or when no one is watching, and it is truly the foundation from which we build trust and ultimately deliver on the tasks and objectives required of us all. In my view, your future path to success can be guided by adherence to these values.

[52] It is clear that in this next chapter of your life, you may encounter some challenges that will require work and dedication on your part, and may even require a new career path. I believe that this can be viewed as an opportunity to turn the page, learn from this experience and endeavour to do better in the future. I wish you good luck for what will come next for you.

FOR THESE REASONS, THE COURT:

[53] **SENTENCES** Cpl Michalopoulos to a reprimand and a fine in the amount of $7,000 payable in seven monthly instalments of $1,000 dollars, commencing on 15 September 2025. The fine must be fully paid on 15 March 2026 at the latest.

Counsel:

The Director of Military Prosecutions as represented by Major D.G. Moffat and Major L.J.G. Carignan

Major E.L. Rioux and Major C.M. Da Cruz, Defence Counsel Services, Counsel for Corporal J. Michalopoulos