

**Citation:** *R. v. Chief Petty Officer 2nd Class C.T. Jackson*, 2009 CM 2020

**Docket:** 200932

**STANDING COURT MARTIAL  
CANADA  
NOVA SCOTIA  
CANADIAN FORCES BASE HALIFAX**

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**Date:** 7 December 2009

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**PRESIDING: COMMANDER P.J. LAMONT, M.J.**

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**HER MAJESTY THE QUEEN**

**v.**

**CHIEF PETTY OFFICER 2ND CLASS C.T. JACKSON  
(Offender)**

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**SENTENCE**

**(Rendered Orally)**

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[1] Chief Petty Officer Jackson, having accepted and recorded your pleas of guilty to the three charges in the charge sheet; that is, two charges of drunkenness and one charge of conduct to the prejudice of good order and discipline, this court now finds you guilty on charges one to three.

[2] It now falls to me to determine and to pass a sentence upon you. In so doing I have considered the principles of sentencing that apply in the ordinary courts of criminal jurisdiction in Canada and at courts martial. I have as well considered the facts of the case as described in the statement of circumstances, Exhibit 8, and the other materials submitted during the course of this hearing, as well as the submissions of counsel, both for the prosecution and for the defence.

[3] The principles of sentencing guide the court in the exercise of its discretion in determining a fit and proper sentence in an individual case. The sentence should be broadly commensurate with the gravity of the offence and the blameworthiness or degree of responsibility and character of the offender. The court is guided by the sentences imposed by other courts in previous similar cases, not out of a slavish adherence to precedent, but because it appeals to our common sense of justice that like cases should be treated in similar ways. Nevertheless, the court takes account of the many factors that distinguish the particular case it is dealing with, both the aggravating

factors that may call for a more severe punishment and the mitigating circumstances that may reduce a sentence.

[4] The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society, which includes, of course, the Canadian Forces, by fostering and maintaining a just, a peaceful, a safe, and a law-abiding community. Importantly, in the context of the Canadian Forces, these objectives include the maintenance of discipline, that habit of obedience that is so vital to the effectiveness of an armed force. The goals and objectives also include deterrence of the individual so that the conduct of the offender is not repeated, and general deterrence so that others will not be led to follow the example of the offender. Other goals include the rehabilitation of the offender, the promotion of a sense of responsibility in the offender, and the denunciation of unlawful behaviour. One or more of these objectives will inevitably predominate in crafting a fit and just sentence in an individual case, yet it should not be lost sight of that each of these goals calls for the attention of the sentencing court, and a fit and just sentence should reflect a wise blending of these goals tailored to the particular circumstances of the case.

[5] As I told you when you tendered your pleas of guilty, section 139 of the *National Defence Act* prescribes the possible punishments that may be imposed at court martial. Those possible punishments are limited by the provision of the law that creates the offence and provides for a maximum punishment. 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. It is an important principle that the court should impose the least severe punishment that will maintain discipline.

[6] In arriving at the sentence in this case, I have considered the direct and indirect consequences for the offender of the findings of guilt and the sentence I am about to impose.

[7] The facts of the offences are set out in Exhibit 8. In brief, on 30 April 2008 the offender drank alcohol to the point of drunkenness before and during a social occasion in San Juan, Puerto Rico while deployed there for approximately a week in support of a small fleet of Canadian ships. As a result of his consumption of alcohol he was drunk and unfit for duty. Then, on 1 September 2008, the offender flew from Thailand to Dubai in the company of Captain Mombourquette and another senior non-commissioned member of the Canadian Forces. He began drinking alcohol during the flight and continued during a four-hour layover in Singapore. It is clear he became intoxicated and almost missed the flight. Once aboard the plane he spoke loudly and in an insulting manner towards Captain Mombourquette and made a gesture towards Captain Mombourquette with his fist.

[8] In this case counsel for the prosecution and the defence jointly recommend a sentence of a severe reprimand and a fine in the amount of \$5,000. The sentence to be pronounced is, of course, a matter for the court, but where both parties agree on a recommended disposition, that recommendation carries considerable weight with the court. The courts of appeal across Canada, including the Court Martial Appeal Court in the case of *Private Chadwick Taylor*, 2008 CMAAC 1, decided 15 January 2008, have held that the joint submission of counsel as to sentence should be accepted by the court unless the recommended sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

[9] As a senior non-commissioned member of the Canadian Forces with almost 27 years of service, the offender is aware of the seriousness of these offences. Effectively causing a disturbance on a civilian aircraft is not a minor matter. To do so while on active service is reprehensible.

[10] The offender was diagnosed with post-traumatic stress disorder in March of 2006 as a result of his duties in the aftermath of the Swissair disaster off Nova Scotia in 1998.

[11] It is clear to me that the offender has had a long-standing battle with alcohol dependancy dating back to at least the late 1980s. I infer that the entries on the offender's conduct sheet refer to incidents in which the consumption of alcohol was no doubt a factor. According to the letter from his treating psychiatrist, the offender's drinking was under control in April of 2007, but within a month he had relapsed. By February of 2008, shortly before the first of the offences before the court, his ability to cope with daily stresses and anxieties began to break down. This appears to have been prompted by the extensive international travel he undertook as part of his duties, and his fear of flying that is attributed to his involvement in the Swissair disaster, he again turned to the excessive use of alcohol.

[12] I consider that individual deterrence is not a major concern in a case such as this. I agree with the submission of defence counsel that the focus of the court should be the general deterrence of others and the rehabilitation of the offender.

[13] In this respect I attach considerable importance to the plea of guilty as a demonstration of remorse. As well, I note that the offender will likely be released from the Canadian Forces for medical reasons.

[14] In my view the disposition jointly recommended by counsel is within the range for these kinds of offences. On all the circumstances, both of the offences and of the offender, I cannot say that the suggested disposition would either bring the administration of justice into disrepute or is otherwise contrary to the public interest, and I therefore accept the joint submission.

[15] Chief Petty Officer 2nd Class Jackson, you are sentenced to a severe reprimand and a fine in the amount of \$5,000. The fine is to be paid in monthly installments of \$500 each commencing 15 January 2010, and continuing for the following nine months. In the event you are released from the Canadian Forces for any reason before the fine is paid in full, the then outstanding balance is to be paid the day prior to your release.

COMMANDER P.J. LAMONT, M.J.

COUNSEL:

Major S. A. MacLeod, Canadian Military Prosecution Service  
Counsel for Her Majesty the Queen

Lieutenant-Commander J. McMunagle, Directorate of Defence Counsel Services  
Counsel for Chief Petty Officer 2nd Class Jackson