

**Citation:** *R. v. Private E.J.G. Courcy*, 2007 CM 4011

**Docket:** 2006102

**STANDING COURT MARTIAL  
4th MILITARY POLICE COMPANY  
SAINT-MALO ARMOURY  
QUEBEC**

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**Date:** April 23, 2007

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**PRESIDING: LIEUTENANT-COLONEL J-G PERRON**

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**HER MAJESTY THE QUEEN**

**v.**

**PRIVATE E.J.G. COURCY  
(Offender)**

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**SENTENCE**

**(Rendered orally)**

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**OFFICIAL ENGLISH TRANSLATION**

[1] Private Courcy, having accepted and recorded your admission of guilt to the 2nd charge, I now find you guilty of the 2nd charge, namely having harassed Private Longpré contrary to Defence Administration Order and Directive 5012-0. When you were a candidate on a level 3 occupational qualification course in Borden, you acted as the leader in a series of events targeting Private Longpré. More specifically, on July 22 and 23, 2005, you handcuffed Private Longpré to his bed while he was intoxicated and you hit him in the leg saying “prisoner of war.” A few minutes later, you instigated a plan to enter Private Longpré’s room simulating a *Stand to*; you again hit Private Longpré on the leg. Private Longpré, despite being under the influence of alcohol, protested many times during these events. You were fully aware of the content of DAOD 5012-0 at the time of this offence.

[2] Counsel for the prosecution and your counsel presented me with a joint sentencing submission and recommended imposing a fine of \$400 payable over a period of four months at \$100 a month. The final decision in sentence determination lies with the judge, who has the right to dismiss counsel’s joint submission. However, I must accept the joint submission unless it is found to be inadequate or unreasonable, contrary to public order or would bring the administration of justice into disrepute.

[3] To determine the appropriate sentence in this case, I took into consideration the circumstances surrounding the offence as indicated in the summary of the circumstances, the truth of which you have admitted. I also considered the documentary evidence that was filed and the submissions by counsel. I analyzed these elements in light of the objectives and principles that apply in sentence determination. As indicated at paragraph 2 of article 112.48 of the Queen's Regulations and Orders for the Canadian Forces, I also considered all indirect consequences of the finding and sentence and the need to impose a sentence that is proportionate to the gravity of the offence and the offender's prior history.

[4] It is recognized that in order to contribute to one of the essential objectives of military discipline, the purposes and principles of sentencing are:

first, the protection of the public, including the Canadian Forces;

second, the punishment and denunciation of the offender;

third, the specific and collective deterrence of the offender and whoever else would consider committing the same offences;

fourth, the fact that it is sometimes important to isolate the offender from society;

fifth, the rehabilitation and reform of the offender;

sixth, the proportionality of the seriousness of the offences and the offender's degree of responsibility;

seventh, consistency in sentencing;

eighth, the imposition of a custodial sentence, either detention or imprisonment, only when the Court is satisfied that it is necessary as a last resort; and

last, the court the Court will take into account aggravating and mitigating circumstances relating to the offender's situation and to the commission of the offences.

In this case, public protection would be achieved by a sentence that emphasizes collective deterrence. It is also important to stress punishing the offender and denouncing the offender's act.

[5] When considering the appropriate sentence, I took into consideration the following aggravating and mitigating factors. I consider the following as aggravating:

The nature of the offence and the sentence prescribed by Parliament. You are guilty of conduct to the prejudice of good order and discipline punishable by dismissal with disgrace from her Majesty's service. This is an objectively serious offence.

Moreover, the nature of the directive that was violated, which is to prevent harassment, also adds an objectively aggravating element. This directive aims to codify the reprehension our organization feels towards harassment. There can be no place for any form of harassment within an armed force because we must all be able to trust our colleagues in order to ensure the success of every mission that is given to us and to be assured that our individual and collective safety is in good hands.

The use of the handcuffs that are one of your work tools as a military police officer and the fact you yelled "prisoner of war" while you were hitting Private Longpré are also aggravating factors. While I am ready to accept that these actions and words were errors in judgement, that were probably brought on by the consumption of alcohol, I strongly recommend that you think long and hard about what you did. You wish to have a career as a police officer and there is no place in that profession for people who think it is acceptable to abuse their position and the powers that society has granted them. There is nothing funny about play-acting and simulating the abuse of prisoners, whether they are prisoners of war or civilian prisoners. The laws that aim to protect the physical and psychological integrity of individuals must not be violated by the people who have the responsibility of ensuring that these laws are respected. We cannot accept that members of the Canadian forces believe that prisoner abuse is acceptable behaviour or even a source for jokes. There is no place for this type of behaviour. I repeat: think seriously about it.

Thirdly, you abused a situation where your colleague was clearly at a disadvantage due to his advanced state of intoxication. I must state, however, that subjectively it is not necessarily one of the worst forms of harassment that has come before our courts. On the other hand, my comments on your actions and words remain unchanged.

[6] As for the mitigating factors:

You admitted your guilt. This admission of guilt shows remorse. You do not have a conduct sheet and you admitted the facts of this offence during the military police investigation.

The timing, approximately 20 months after the date of the offence, also works in your favour.

Although during the period from February 7 to September 2006, your unit seems not to have given you much attention, it appears that since September 2006 your unit has taken some action that indicates that your unit is ready to have some trust in you and is taking action to ensure your advancement. Moreover, you will soon be beginning your studies at the École de Police du Québec in Nicolet. You therefore show some potential to become a person who could contribute to the Canadian Forces and to Canadian society in a positive way.

**Private Courcy, please rise.**

[6] I must repeat that the acts you committed against Private Longpré are not acceptable in the Canadian Forces. Moreover, you must realize that there is nothing funny about hitting a person while they are handcuffed and yelling “prisoner of war.” The Canadian Forces went through a most difficult period because some individuals did not see the harm in mistreating people under their control; I will repeat again: there is nothing funny about these actions and what they represent. I strongly recommend that you think about this because there is no latitude in this area.

A fair and adequate sentence in such a case as the violation of a directive that is so well known to all members of the Canadian Forces must reflect the seriousness of this type of offence. However, having reviewed the joint submission, I feel that it adequately incorporates sentencing principles and is the minimal sentence that will ensure the protection of the public and the maintenance of discipline under the circumstances.

[7] Private Courcy, I sentence you to a \$400 dollar fine to be paid in four monthly payments of \$100. The first payment shall be made on the first day of May 2007 .

LIEUTENANT-COLONEL J-G PERRON, JM

Counsel:

Major J. Caron, Regional Military Prosecutor, Eastern Region

Counsel for the prosecutor

Lieutenant-Commander J.C.P. Lévesque, Directorate of Defence Counsel Services  
Counsel for Private E.J.G. Courcy