

**Citation:** *R. v. Warrant Officer G. Charest*, 2007 CM 4010

**Docket:** 200703

**STANDING COURT MARTIAL  
NAVAL RESERVE  
AREA SUPPORT UNIT VALCARTIER  
COURCELETTE, QUEBEC**

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**Date:** 28 March 2007

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**PRESIDING: LIEUTENANT-COLONEL J-G PERRON, M.J.**

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**HER MAJESTY THE QUEEN  
v.  
WARRANT OFFICER G. CHAREST  
(Offender)**

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**SENTENCE  
(Rendered orally)**

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**OFFICIAL ENGLISH TRANSLATION**

[1] Warrant Officer Charest, having accepted and recorded your plea of guilty to the second and fourth charges, I now find you guilty of these charges. Counsel for the prosecution and your counsel have made a joint submission to me on sentencing and recommend that I impose a reprimand with a fine of \$1,500. The judge has the ultimate responsibility for deciding on an appropriate sentence and is entitled to reject the joint submission made by counsel. However, I must accept the joint submission unless it is found by me to be inappropriate or unreasonable, contrary to public order, or likely to bring the administration of justice into disrepute.

[2] To determine what the appropriate sentence is in this case, I have taken into account the circumstances surrounding the commission of the offences as revealed in the statement of circumstances, which you accepted as true. I also considered the documentary evidence tendered and the submissions by counsel. I have analysed these various factors in the light of the objectives and principles applicable in sentencing. As indicated in subsection (2) of section 112.48 of The Queen's Regulations and Orders for the Canadian Forces, I also took into consideration any indirect consequence of the

finding or of the sentence and the need to impose a sentence commensurate with the seriousness of the offence and the previous character of the offender.

[3] It is recognized that, in order to contribute to one of the key objectives of military discipline, the sentencing objectives and principles are the following:

firstly, the protection of the public, and the public in this case includes the Canadian Forces;

secondly, the punishment and denunciation of the offender;

thirdly, the deterrent effect of the punishment, not only on the offender but also upon others who might be tempted to commit such offences;

fourthly, the separation of the offender from society, including members of the Canadian Forces;

fifthly, the rehabilitation and reform of the offender;

sixthly, the proportionality of the sentence to the seriousness of the offences and the degree of responsibility of the offender;

seventhly, consistency in sentencing;

eighthly, the imposition of a custodial sentence, either detention or imprisonment, only once the court is satisfied that this is in fact the sentence of last resort applicable in the circumstances of the case; and

finally, the court shall consider any relevant aggravating or mitigating circumstances in the circumstances relating to the offence and the personal situation of the offender.

In this case, the protection of the public will be ensured by a sentence that primarily focuses on collective deterrence. It is also important to emphasize the punishment of the offender and the denunciation of the offender's act.

[4] Therefore, in considering what sentence would be appropriate, I took into consideration the aggravating and mitigating factors that follow. I consider the following as aggravating factors:

The nature of the offence and the punishment provided for by Parliament. You are guilty of an act prejudicial to good order and discipline and punishable by dismissal with disgrace from Her Majesty's service. Objectively, this is a very serious offence.

Second, I consider as an aggravating factor your rank and the fact that you held a position of authority at the time of the offences. You had been asked as supervisor to explain to your subordinates the Canadian Forces policy that is central to the charges brought against you. You were supposed to set an example, but you decided to do the exact opposite.

Third, the lengthy period of time over which this conduct took place and the considerable number of sites visited, i.e., 275, illustrate the premeditated and repetitive aspect of the conduct. It should also be noted that the evidence does not reveal the number of images that were viewed on these sites.

Although counsel for the prosecution indicated that these offences appear to have been committed while you were on duty, I am not aware of any evidence in this case that would show that fact. On the other hand, the evidence in paragraph 7 of the statement of circumstances shows that you admitted to Master Warrant Officer Marcoux that you visited pornographic sites the evening of April 4 and that you had done the same in Petawawa. Therefore, I do not include that statement, namely, that you appear to have committed these offences during working hours, in the aggravating factors.

[5] As for mitigating factors, I note the following:

You have admitted your guilt. The admission of guilt shows your remorse. Furthermore, this plea allows the state to save significant amounts of money and avoids disrupting the work schedules of the witnesses.

Although it was unexplained, the time between your being charged and the present denotes a certain lack of celerity on the part of many of those

in charge of administering military justice. You were also the subject of certain administrative measures associated with the actions to which these charges pertain, the most severe of which is your release from the Canadian Forces.

Finally, the fact that you have no conduct sheet, that your service records contain numerous deployments and that you rose through the ranks to reach your current rank over the last 25 years are factors that militate in your favour.

[6] Warrant Officer Charest, please stand up. A fair and appropriate sentence in a case like this for the breach of a regulation so well known by all the members of the Canadian Forces must reflect the seriousness of these offences. Having carefully reviewed the joint submission, I am of the opinion that it adequately incorporates the sentencing principles and is the lightest possible sentence in the circumstances to ensure the protection of the public and the maintenance of discipline.

[7] Warrant Officer Charest, I sentence you to a reprimand and a fine of \$1,500 that will be paid in five installments of \$300, the first installment on April 1, 2007.

LIEUTENANT-COLONEL J-G PERRON, M.J.

Counsel:

Major B. McMahon, Regional Military Prosecutions, Central  
Counsel for Her Majesty the Queen

Lieutenant-Commander J.C.P. Lévesque, Directorate of Defence Counsel Services  
Counsel for Warrant Officer G. Charest