

Citation: *R. v. Private S.M. Fletcher*, 2007 CM 4001

Docket: 200637

**STANDING COURT MARTIAL
CANADA
ONTARIO
CANADIAN FORCES BASE BORDEN**

Date: 11 January 2007

PRESIDING: Lieutenant-Colonel J.-G. Perron, M.J.

**HER MAJESTY THE QUEEN
v.
PRIVATE S.M. FLETCHER
(Offender)**

**SENTENCE
(Rendered orally)**

[1] Private Fletcher, having accepted and recorded your plea of guilty to charge No. 3, the court now finds you guilty of this charge.

[2] The Statement of Circumstances to which you formally admitted the facts as conclusive evidence of your guilt, provides this court with the circumstances surrounding the commission of this offence.

[3] The principles of sentencing, which are common to both courts martial and civilian criminal courts in Canada, have been expressed in various ways. Generally, they are founded on the need to protect the public, and the public includes the Canadian Forces. The primary objectives and principles are the principles of deterrence, that includes specific deterrence in the sense of deterrent effect on you personally, as well as general deterrence; that is to say, deterrence for others who might be tempted to commit similar offences. The principles also include the principle of denunciation of the conduct and, last but not least, the principle of reformation and rehabilitation of the

offender. The court must determine if protection of the public would best be served by deterrence, rehabilitation, denunciation, or a combination of those factors.

[4] The court has also considered the guidance set out in sections 718 to 718.2 of the *Criminal Code of Canada*. Those purposes are to denounce unlawful conduct, to deter the offender and other persons from committing offences, to separate the offender from society where necessary, to assist in rehabilitating offenders, to provide reparations for harm done to victims or to the community, and to promote a sense of responsibility in offenders in acknowledgement of the harm done to victims and to the community.

[5] The court is also required, in imposing a sentence, to follow the directions set out in QR&O 112.48, which obliges it, in determining a sentence, to take into account any indirect consequences of the finding, or of the sentence, and impose a sentence commensurate with the gravity of the offence and the previous character of the offender. The court has also given consideration to the fact that sentences of offenders who commit similar offences in similar circumstances should not be disproportionately different. The court must also impose a sentence that should be the minimum necessary sentence to maintain discipline.

[6] The Court Martial Appeal Court decision in *R. v. Paquette* (1998) CMAc-418, stated clearly that the sentencing judge should not depart from a joint submission unless the proposed sentence would bring the administration of justice into disrepute, or unless the sentence is otherwise not in the public interest. The prosecution and your defence counsel have jointly proposed a sentence of a fine in the amount of \$600. The court must also remember that the ultimate aim of sentencing is the restoration of discipline in the offender and in the military society.

[7] Discipline is the quality that every CF member must have which allows him or her to put the interests of Canada and the interests of the Canadian Forces before personal interests. This is necessary because Canadian Forces members must willingly and promptly obey lawful orders that may have very devastating personal consequences such as injury and death. Although discipline is a quality that is developed and encouraged by the Canadian Forces through instruction, training, and practice, it is ultimately an internal quality that is one of the fundamental prerequisites that ensure the operational efficiency of any armed force.

[8] The prosecution has commented favourably on your willingness to accept responsibility for your actions. You cooperated immediately with the military police, and your early guilty plea reduced considerably the amount of work and expense required to prepare for a trial. Your plea of guilty is also a tangible reflection of the acceptance of responsibility for your actions. You are a first-time offender, and had little experience in the Canadian Forces at the time of the offence, although you were

fully aware of the Canadian Forces strict policy on the unauthorized use of drugs. Use of illegal drugs is a serious breach of the Code of Service Discipline.

[9] The documentation provided by your counsel reflects very favourably on your efforts to deal with your dependence on alcohol and drugs. The letter from Ms Poulin depicts an individual who wants to take control of her life and carry on in the right direction. Today you have demonstrated to this court that you can take responsibility for your actions, and that you are willing to live with the consequences of your actions. You have been released from the Canadian Forces as being unsuitable for further service because of your involvement with illegal drugs. This decision, a consequence of your involvement with illegal drugs while serving in the Canadian Forces, surely seems harsh to you. Life could be much harsher for you if you had chosen to keep living in a world of drugs. But this is not the end of the road for you, you have made mistakes, you have stood up and taken responsibility for your mistakes, and now you must endure the consequences that flow from these mistakes. Your life is not ending because you are being released from the Canadian Forces, it is starting anew.

[10] It appears that you made these mistakes because you became friends with the wrong type of people. You have since invested a lot of efforts to deal with your addictions. You will soon be a mother and will live with Master Corporal Fortin. I do not possess a magic crystal ball, but it appears to me that life can only improve if you keep the attitude that I see reflected in the documents presented by your defence counsel. You appear to have good potential to succeed in life if you keep this positive attitude, continue your efforts to beat your addiction, and you keep working hard.

[11] You have clearly made every effort to rehabilitate yourself, and your efforts to deal with your addictions and your plea of guilty indicate that there is no need for specific deterrence in this matter. While this offence is a serious breach of the Code of Service Discipline, your actions and efforts since the time of the offence are noteworthy. As I said previously, life does not end because you are being released from the Canadian Forces. Your counsel quoted wise words from a great general, heed the advice provided by General Bradley and never quit in your efforts to better yourself and become a role model for your child.

[12] The court believes this sentence must focus primarily on general deterrence and denunciation. Considering the strong mitigating circumstances of this case, the administrative release that has already been decided, and keeping in mind the direction given by the Court Martial Appeal Court in *Paquette*, I concur with the joint submission.

[14] Private Fletcher, please stand up. I sentence you to a fine in the amount of \$600. As I have been informed that you are to be released from the Canadian Forces no later than 9 February 2007, the fine shall be paid the day before your effective date of

release from the Canadian Forces. Should that decision to release you from the Canadian Forces be cancelled, this fine is to be paid in monthly installments of \$50 commencing on the first day of March, 2007.

[15] The proceedings of this court martial in respect of Private Fletcher are terminated.

Lieutenant-Colonel J.-G. Perron, M.J.

Counsel:

Major J.J.L.G. Caron, Directorate of Military Prosecutions

Counsel for Her Majesty The Queen

Lieutenant Commander J.C.P. Levesque, Directorate of Defence Counsel Services

Counsel for Private Fletcher