



## COURT MARTIAL

**Citation:** *R. v. Clark*, 2010 CM 4013

**Date:** 20101125

**Docket:** 201015

Standing Court Martial

17 Wing Winnipeg Detachment Dundurn  
Dundurn, Saskatchewan, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Master Corporal A. Clark, Offender**

**Before:** Lieutenant-Colonel J-G Perron, M.J.

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### **REASONS FOR SENTENCE**

(Orally)

1. Master Corporal Clark, having accepted and recorded your plea of guilty to charge number 1, the court now finds you guilty of this charge. The court must now determine a just and appropriate sentence in this case.
2. The statement of circumstances, to which you formally admitted the facts as conclusive evidence of your guilt, and your testimony provide this court with the circumstances surrounding the commission of this offence. Major Arndt, your present Commanding Officer, testified for the prosecution. PO2 Fogarty, Warrant Officer Young, Major Barrett, and Ms Rain testified for the defence. Your counsel has also presented 19 exhibits and the prosecutor has presented 6 exhibits during the sentencing phase of this trial.
3. The statement of circumstances provides this court with the following information. At the time of the offence, you were employed as the 17 Wing Dundurn de-

tachment orderly room sub-cashier. As such, you were entrusted with a \$50,000 advance of public funds. You were informed in November 2008 that you might be posted to the United Kingdom and a posting message was sent by D Mil C6 on 2 March 2009 (Exhibit 23). On 3 April 2009, your immediate supervisor performed a cashier count of the funds in preparation for the handover of your responsibilities. He noticed that a deposit of \$27,000 had been made to the unit's bank account on 1 April 2009. You told him it was a cash deposit and that you had made that deposit to make counting and balancing of the changeover easier.

4. Your supervisor also noticed there was an unusually large amount of cash in the cashier's safe and you explained that you had not been able to make deposits at the bank account because of the stress associated with your upcoming posting. On 4 and 5 April, your supervisor noticed many irregularities pertaining to cash withdrawals from Automatic Teller Machines. There had been numerous withdrawals for amounts of \$100 to \$800 during the month of March 2009. On 6 April 2009, your supervisor called the bank and was informed the \$27,000 deposit had been a cheque and not cash. He informed the acting CO of Dundurn and they met you on that day to clarify the situation. You admitted to using the public funds for personal use and that the \$27,000 deposit was a cheque and not cash.

5. On 7 April, while driving to the bank with your supervisor, you told him that \$21,000 would also be missing from the bank account. The bank statement obtained on that day confirmed that you had withdrawn \$21,000 on 1 April after having deposited the \$27,000. Your posting to the UK was cancelled on 9 April 2009 (Exhibit 23).

6. You were interviewed by the CFNIS on 23 July 2009 and you provided a statement to the CFNIS. You admitted to stealing \$48,000 of public funds while acting as sub-cashier. The CFNIS investigation revealed that you used the public funds for your personal use between December 2008 and April 2009. You would take amounts of \$200 to \$1,000 each time. You reconciled the bank statements with the daily balance sheets thus ensuring the daily paperwork would balance. The \$27,000 cheque you deposited on 1 April was the posting loan you had obtained for your posting to the United Kingdom. An audit performed after the offence revealed there were discrepancies between the balance sheets compiled by you and the bank records. The total amount stolen was \$48,000.

7. You were posted to Dundurn in March 2004 and worked in the orderly room as a cell clerk until you were deployed to Camp Mirage in June 2006. You were assigned as a sub-cashier in June 2007. You were the only person who had access to the funds. You testified you started gambling at Video Lottery Terminals (VLTs) when you were 19 years old. It would appear that you began gambling around the same time you enrolled in the Canadian Forces. Your mother is also a gambler who gambles at VLTs about twice a week. You testified you do not see your mother much anymore. You testified your gambling became a problem at the end of 2007 or the beginning of 2008. You could spend your whole pay during one week and once you even spent that amount during one day. But usually you would gamble twice a week and spend from \$20 to

\$120. You started taking money from the public funds in December 2008. At first, you took funds once a week but that frequency increased to once a day. You used this money to repay debts and to gamble.

8. You applied for a posting loan of \$27,000 on 3 March 2009 (Exhibit 24). You received this loan on 30 March 2009 and you stated you wanted to use this money to repay the money you owed and to pay certain expenses associated with the posting. You testified you only found out how much you had taken from the public funds about two to three weeks before the handover of the sub-cashier position and had not attempted to find out before because you were afraid to know the amount. You tried to obtain personal loans from financial institutions to repay these funds but you were refused because of your poor credit rating.

9. You testified you are presently bankrupt and should be discharged from bankruptcy in February 2012. You presently pay approximately \$261 per month under the bankruptcy agreement (Exhibit 15). You started making payments of \$591.68 per month on 1 April 2009 and will do so until 31 March 2013 to repay your posting loan (Exhibit 24).

10. You were arrested for driving while impaired on 5 June 2010 and were convicted on 15 June 2010. You were sentenced to a fine in the amount of \$1,200 and a one year driving prohibition (Exhibit 22). You testified you were not represented by a lawyer because you could not afford one and that you did not ask for legal aid. You also testified that you knew you were guilty and proceeded with a plea of guilty to that charge. You have not paid that fine because you do not have the money to pay it.

11. In July 2010 you went to see a social worker on base and you were referred to a psychologist. You meet this psychologist every two weeks concerning your stress and your marital difficulties. You were married in March 2009 and you informed your husband of the offence in April 2009. You and your husband separated in June 2010, but are now living together. Your psychologist referred you to the Saskatchewan Mental Health and Addiction Services and you began seeing Ms Rain every two weeks since August 2010.

12. During your cross-examination you agreed that throughout your numerous encounters with your superiors since the offence has come to light, you have never told anyone in your chain of command that you stole the money because you had a gambling problem. You stated you were ashamed of it and embarrassed and thus did not reveal it to your chain of command. You did not reveal it during your interview with the CFNIS. When asked what you had done with the stolen funds, you said some of the money was to pay for a fridge, a trip to Halifax, and for other purchases.

13. You stated you were hoping you could find the money to repay the funds you had taken before you were to transfer your responsibilities in early April 2009.

14. During his sentencing address, defence counsel asked the court to take into consideration for the purposes of sentencing the theft of \$3,055.25 from the government issued AMEX card (Exhibit 16). He stated this offence could have been prosecuted as a theft while entrusted. He also stated the prosecutor was not aware of this possible offence until it was brought to his attention by defence counsel. He stated this request is made by Master Corporal Clark under section 194 of the *National Defence Act* because she wants to deal with every issue and then move on with her life. The prosecutor did not object to this request.

15. You began withdrawing money for personal reasons from your AMEX card on 26 April 2009 and continued until July 2009 (Exhibit 16). Your card was suspended in early August 2009 and you returned it to your supervisor on 10 August 2009 (Exhibit 19). You stopped taking money from your AMEX card when you reached the card's limit. You knew you could not use those funds for personal reasons. You admitted to your supervisor you had used the money for personal reasons. You testified you used that money to pay for the gas you used to commute to HMCS UNICORN located in Saskatoon, for personal expenses, and for gambling. During your cross-examination you testified you did not use that money only for gambling, but also to pay for groceries, pay bills, buy clothing, and go out with friends.

16. The court will grant this request and will consider this offence when determining the appropriate sentence in this matter. Therefore, the court will now consider two offences of theft while entrusted for a total amount of \$51,055.25 when sentencing Master Corporal Clark.

17. The prosecutor has recommended a sentence of three to six months of imprisonment. He argued that the sentencing principles of general deterrence and denunciation are the most important principles in this case. He also stated that a sentence of reduction in rank would be appropriate should the court disagree with his initial submission. Your counsel agrees that the sentencing principles of general deterrence and denunciation are the most important principles in this case, but he suggests imprisonment is not required to answer the need for deterrence. He has made two recommendations: a reduction in rank and a severe reprimand or that the punishment of imprisonment be suspended if the court concludes that imprisonment is the appropriate sentence.

18. As indicated by the Court Martial Appeal Court, sentencing is a fundamentally subjective and individualized process where the trial judge has the advantage of having seen and heard all of the witnesses and it is one of the most difficult tasks confronting a trial judge (See *R. v. Tupper*, 2009 CMAAC 5, para13).

19. The Court Martial Appeal Court also clearly stated in *Tupper*, at paragraph 30, that the fundamental purposes and goals of sentencing as found in the *Criminal Code of Canada*<sup>1</sup> apply in the context of the military justice system and a military judge must consider these purposes and goals when determining a sentence. The fundamental purpose of sentencing is to contribute to respect for the law and the protection of society,

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<sup>1</sup> R.S., 1985, c. C-46.

and this includes the Canadian Forces, by imposing just sanctions that have one or more of the following objectives:

- a. to denounce unlawful conduct;
- b. to deter the offender and other persons from committing offences;
- c. to separate offenders from society, where necessary;
- d. to assist and rehabilitate offenders;
- e. to provide reparations for harm done to victims or to the community; and
- f. to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.

20. The sentencing provisions of the *Criminal Code*, found at ss. 718 to 718.2, provide for an individualized sentencing process in which the court must take into account not only the circumstances of the offence, but also the specific circumstances of the offender (See *R. v. Angelillo*, 2006 SCC 55, at para 22). A sentence must also be similar to other sentences imposed in similar circumstances (See *R. v. L.M.*, 2008 31, at para 17). The principle of proportionality is at the heart of any sentencing (See *R. v. Nasogaluak*, 2010 SCC 6, at para 41). At paragraph 42 of *R. v. Nasogaluak*, the Supreme Court of Canada tells us that proportionality means a sentence must not exceed what is just and appropriate in light of the moral blameworthiness of the offender and the gravity of the offence.

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

22. An offender should not be deprived of liberty, if less restrictive sanctions other than imprisonment may be appropriate in the circumstances. This general rule of sentencing created by Canadian jurisprudence is now found in section 718.2 of the *Criminal Code*. But the Court Martial Appeal Court also indicated that the particular context of military justice may, in appropriate circumstances, justify and, at times, require a sentence that will promote military objectives (See *R. v. Tupper*, 2009 CMAC 5, paras 33 and 34).

23. There is much Canadian jurisprudence on the subject of offenders stealing from their employers and thus abusing their position of trust. This jurisprudence is helpful in determining which sentencing principles apply in the present case. Courts of appeal throughout Canada have clearly stated that general deterrence and denunciation are the most important principles in such cases. They have also indicated that absent exceptional circumstances, a fit sentence is one that includes incarceration (See *R. v. Miller*, 2010 ABPC 37, at para 35; *R. v. Harding*, 2006 SKCA 118, at para 21; *R. v. Steeves*, 2005 NBCA 85, at para 1). Numerous cases have dealt with the question of imposing a

conditional sentence instead of actual incarceration. But the underlying rationale remains that imprisonment is deemed the fit sentence unless exceptional circumstances warrant a different sentence.

24. Courts martial may not impose a conditional sentence because it is not a punishment found at section 139 of the *National Defence Act*. The suspension of a sentence of imprisonment does not have the same effect as a conditional sentence. When one serves a conditional sentence one's freedom is restricted by the conditions imposed by the sentencing judge. Such sentences are often referred to as house arrest. The suspension of a sentence of detention or of imprisonment means that the offender does not have to serve the sentence unless a specific order is made pursuant to the *National Defence Act* and the Queen's Regulations and Orders. I do not agree with defence counsel's submission that normal military life accompanied with the possible conditions that could be imposed by your commanding officer in a Counselling and Probation (C&P) period amount to a conditional sentence. Administrative measures such as C&P are means to assist the military member in salvaging his or her career and as such they are remedial and not punitive in nature.

25. The court must also impose a sentence that should be the minimum necessary sentence to maintain discipline. The ultimate aim of sentencing is the restoration of discipline in the offender and in military society. Discipline is one of the fundamental prerequisites to operational efficiency in any armed force.

26. I will now set out the aggravating circumstances and the mitigating circumstances that I have considered in determining the appropriate sentence in this case. I consider the following to be aggravating:

- a. Your counsel has argued that the breach of trust must not be considered as an aggravating factor because it is an essential element of the offence of stealing while entrusted. His submission has some merit. The offence of stealing while entrusted is found at section 114 of the *National Defence Act*. The maximum punishment for this offence is imprisonment for 14 years. The offence of stealing is also found at section 114 of the *National Defence Act* and it provides for a maximum punishment of imprisonment for 7 years. One can clearly see that Parliament wanted to convey that stealing while entrusted is a much more serious offence than stealing. The offence of theft under section 334 of the *Criminal Code of Canada* does not concern itself whether there was an abuse of trust in the commission of the theft; it only concerns itself with the nature of the property stolen (a testamentary instrument) or whether the value of what is stolen exceeds \$5,000 to thus set the maximum sentence to imprisonment for 10 years or it sets as a maximum punishment a sentence of 2 years for any other type of theft. Evidence of abuse of trust or authority in relation to the victim is included as an aggravating circumstance in section 718.2 (a)(iii) of the sentencing portion of the *Criminal Code*;

- b. I will agree with defence counsel that the aggravating factor of abuse of trust should not be considered as an aggravating factor in this case since it is an essential element of the offence. This essential element of this specific offence is also the reason this offence is objectively one of the most serious offences found in the Code of Service Discipline. The Code of Service Discipline contains 60 offences from section 73 to section 129. These are often referred to as "military offences." Nineteen offences provide for imprisonment for life as a maximum punishment. Two offences, sections 80 (munity without violence) and 114 (stealing while entrusted), provide for imprisonment for 14 years as a maximum punishment. The 39 other service offences provide for a lesser maximum punishment. One can clearly see that Parliament considers stealing while abusing the trust put in the offender to be a very serious offence in the military community;
- c. Subjectively, these offences are also very serious. Dundurn is a small detachment. Major Arndt, the present CO, testified that individuals posted to Dundurn are given more responsibilities at a much junior rank than on other bases because of the size of unit. There is only one person per job and not much of any redundancy at the unit. Therefore, he has to trust people will do their jobs with minimal supervision;
- d. You tried to conceal the theft of money and avoid detection by falsifying the documents pertaining to the cashier's account. I cannot agree with your counsel that the amount stolen cannot be considered as an aggravating factor. The amount stolen, \$51,055.25, is a considerable amount of money. You stole varying amounts of money from the cashier's fund from \$200 to \$1000 during a four month period and only ceased stealing from this account because of the handover of responsibilities. You then stole more public money during a period of four months by using for personal reasons your government issued AMEX card. You only stopped taking money from this card when you reached its limit. It appears that having been caught by your superiors did not deter you from stealing more money from your AMEX card. You ultimately stopped stealing public funds when external factors prevented you from stealing;
- e. While it appears that your problem gambling is what caused you to steal, the court has not been provided with clear evidence as to how much of the first amount of \$48,000 was actually spent on gambling. This theft represents an average of \$12,000 per month and \$3,000 per week. You testified that you once spent your complete pay, \$1,200, in one day. You sometimes spent your complete pay in a week, but that you usually spent \$20 to \$120 twice a week. It would appear that the low end of the gambling spending spectrum would be approximately \$200 to \$250 per week, and the high end would be \$1,200. It is quite difficult to determine with any accuracy how much you would have actually spent on

gambling. While the evidence before me does not demonstrate that you would have lived a lifestyle one could describe as lavish, your evidence does not clearly indicate that you spent \$3,000 per week solely on gambling. Thus, I conclude from your evidence that you used the money you stole for gambling but also for other reasons, such as the trip to Halifax and the purchase of household items; and

- f. The theft of the money from the cashier's account has had a negative effect on the detachment. Major Barrett explained that the theft was one of the main reasons that led to the decision to cease having a cashier's fund at the detachment. Major Arndt described the negative impact this decision had on the Canadian Forces subsidized students that relied on that fund to receive cash advances for the payment of different university fees.

27. As to the mitigating factors, I note the following:

- a. Although you do have a conduct sheet, it only contains the civilian offence of driving while impaired that occurred in June 2010. Therefore, I will consider you a first time offender for the purposes of this sentencing. You admitted your offence to your superiors when they met with you in April 2009 and to the CFNIS investigators when they interviewed you in July 2009. You sent an email to Capt Kiteley on 6 April 2009 in which you admitted stealing \$48,000 (Exhibit 14). You also wrote a letter of apology to Warrant Officer Young when offered to do so by the CFNIS investigator. Warrant Officer Young believed your apology was sincere. It would appear from counsel's addresses that you expressed a desire to plead to this charge at the earliest occasion. You have also testified and you have expressed your remorse. Therefore, the court accepts that you do regret your actions and that you take full responsibility for this offence;
- b. I cannot agree with your counsel that the lack of sophistication involved in those thefts can be considered a mitigating factor. Although it appears from the evidence your attempts to hide your unlawful actions were not very sophisticated, the lack of supervision and audit controls cannot be used as an excuse or as a mitigating factor in this case. It is probably correct to say that such measures would probably have discovered the thefts before April 2009. But it would be perverse to consider the absence of such controls as a mitigating factor because you would have stolen less if you had been discovered earlier. Such an approach would relieve you of the responsibility of your actions and instead blame your superiors for not having caught you sooner. Warrant Officer Young explained why there had been a temporary absence of controls and he also explained why the cashier position was not rotated on a six month basis in accordance with normal procedure. This rotation was not done be-



cause of the lack of personnel at the unit. This lack of sophistication may only be considered a neutral factor;

- c. I accept that you have a problem with gambling. Ms Rain was qualified as an expert in problem gambling and she provided the court with much information on the topic of problem gambling and on your specific situation. She has been working with you since August 2010 to help you conquer this problem. I have reviewed the letter prepared by Ms Rain (Exhibit 27). She states that you do not currently have a problem related to gambling. She also indicates that based on your answers to the questions found in the *Diagnostic and Statistical Manual*, 4th Edition Revised, it appears that you meet the criteria for pathological gambling as described in that manual. Problems with gambling or an addiction to gambling have generally not been accepted as a mitigating factor by most courts. While it may explain why you stole some of the money, it cannot be used to mitigate your sentence;
- d. You testified you had not gambled since early September 2010. You are presently working with Ms Rain to develop a plan that will assist you in controlling your gambling problem. She estimates she needs to work with you for a short period of time and that you should be able to follow that plan without outside support such as Gambler's Anonymous or further counselling. She cannot predict your success with this plan;
- e. It would appear that you have taken all the means within your control to improve your personal and financial situations. You obtained financial counselling from the SISIP financial counsellor. You also attempted to rectify your financial situation through different means but were unsuccessful and you then declared bankruptcy;
- f. I have reviewed your Personnel Evaluation Reports found at Exhibit 10, the Personnel Development Reviews found at Exhibits 11 and 12, the email from the XO of HMCS UNICORN found at Exhibit 8, and the letter from Sergeant Ross found at Exhibit 9. These documents consistently describe a hard working intelligent person that appears to have a bright future in the RMS occupation and in the Canadian Forces;
- g. It would appear these offences could be considered out of character based on your work performance evaluations. Yet, most of the case law surrounding thefts where the offender abuses his or her position involves offenders who had excellent reputations;
- h. You have paid the money owed to American Express through a monthly allotment initiated by the Canadian Forces. \$550 per month is being recovered by the Canadian Forces to pay of the \$21,000 you stole from the cashier's funds (Exhibit 21) and as mentioned earlier you are repaying

your posting loan. This restitution of the \$48,000 is not deemed to be done voluntarily since these payments are either part of the loan agreement or part of an internal CF process. In the present case, you have returned or are in the process of retuning the amounts you stole through internal systems that are independent of your willingness to repay these amounts. While it is a mitigating factor, it does not carry as much weight as it would if the offender had willingly provided restitution; and

- i. Your counsel argued that the five and half months of delay between the date you were charged, 7 October 2009, and the date the charge was referred to DMP, 23 February 2010, should be considered a mitigating factor. I have not been provided any evidence to explain this delay. Unexplained delays too often also mean unacceptable delays. I say unacceptable because if we wish to maintain discipline in the Canadian Forces, every actor in the discipline chain must perform his or her duty efficiently and in a timely manner. While any delay is not beneficial to the proper administration of discipline, it does not necessarily mean the delay was prejudicial to the offender. Therefore, absent such evidence, I will consider this delay as a mitigating factor, but I will give it little weight.

28. I have reviewed the cases presented by counsel. I will now review in more detail the military case law provided by defence counsel.

29. In the first *Roche* decision being *R. v. Master Corporal K.M. Roche*, 2008 CM 1001, the accused was an RMS clerk who was found guilty of fraud. She had abused her position of trust to defraud the non-public funds of \$8,700. The money had been spent mostly on gambling. A delay of two years which was considered an exceptional mitigating factor and other mitigating factors led the court to impose a sentence of imprisonment for 14 days, accompanied with a fine in the amount of \$2,000. The sentence of imprisonment was suspended. In the second *Roche* trial, being *Her Majesty and ex-Master Corporal K.M. Roche*, 2010 CM 4001, *ex-Master Corporal Roche* had taken \$885 on a Friday. Her supervisor realized the money was missing on the following Monday and *Master Corporal Roche* ultimately admitted to him she had taken the money. She returned the full amount stolen within 24 hours. She had been released under item 5F before the trial. The joint submission of imprisonment for 60 days suspended and a fine of \$5,000 was accepted by the sentencing judge and imposed on the offender.

30. In *Her Majesty the Queen v. ex-Master Corporal Dickson*, 2009 CM 1007, the offender had pled guilty to fraud in the amount of \$20,474.59. Although the sentencing judge was of the opinion that the appropriate sentence would normally be imprisonment for a period of 30 to 60 days, he concluded that the interest of justice did not require the offender to serve a firm sentence of incarceration. He based this decision on the fact that the offender had been released from the Canadian Forces for almost two years and had made numerous efforts to improve his life. He was sentenced to imprisonment for

21 days, a reduction in rank to private, and a fine in the amount of \$8,000. The carrying into effect of the imprisonment was suspended.

31. In *Her Majesty the Queen v. Master Corporal Poirier*, 2007 CM 1023, the offender had pleaded guilty to fraud in the amount of \$31,109.15. She was an RMS clerk and had abused her position of trust to submit and process false requests. The sentencing judge was of the opinion that an appropriate sentence would be imprisonment for a period of three to six months. He imposed a sentence of imprisonment for 30 days because the prosecution had asked for a sentence of detention for 30 days.

32. In *Her Majesty the Queen v. Lt(N) Price*, 2009 CM 4009, the offender had pled guilty to stealing while entrusted and had stolen approximately \$10,000. He was the XO of a reserve naval unit and had stolen the money to pay for gambling losses. There was much evidence in mitigation on the measures the offender had taken to cease gambling and to assist others in their gambling problems. A voluntarily restitution plan had been set up to return the stolen money. He was sentenced to a reduction in rank to sub-lieutenant, a severe reprimand, and a fine in the amount of \$2,500.

33. I agree with counsel that the sentence must reflect primarily the principle of general deterrence and of denunciation. You are being sentenced for two offences of stealing while entrusted. You stole \$51,055.25. I agree with your counsel that this case is somewhat similar to the *Price* Standing Court Martial, but I disagree with him when he asserts this case would be less serious than the *Price* matter if you were not also being sentenced for the second offence.

34. The amount stolen is considerable. You did not stop stealing when you were initially caught and only stopped when external factors prevented you from stealing. The evidence before the court does not demonstrate that you only stole to feed your gambling problem. Although the evidence is not clear as to how much was used for gambling and how much was used for other purposes, you did admit you used these funds for other purposes.

35. The facts of this case make it a more serious matter than the *Roche*, *Price*, *Dickson*, and *Poirier* Standing Courts Martial.

36. I find the case before me has more in common with the *Captain Loughrey* Standing Court Martial that is described in the *Price* sentencing decision. *Captain Loughrey* was an officer and a member of the military police, he was found guilty of six charges of stealing while entrusted and he stole \$52,181.88 over a period of 23 months. He was sentenced to imprisonment for four months and the sentence was upheld on appeal.

37. I find that the aggravating factors in this case and the Canadian jurisprudence clearly indicate that a sentence of incarceration of three to six months is the appropriate sentence, but I find myself faced with a fairly unusual situation. I am sentencing you for two offences of stealing while entrusted because you requested the second offence

be included in accordance with section 194 of the *National Defence Act*. Based on the scant evidence heard by this court on this subject, it would appear the second offence would not have otherwise been the subject of disciplinary proceedings.

38. Taking into account the explanation given for this request, I accept that you truly take full responsibility for your actions. You have also demonstrated this approach in pleading guilty to the charge of driving while impaired. I will thus lessen the weight I would normally have given to the fact that you continued stealing after being discovered in April 2009. You are still young and you appear to be a person who can learn from this sad episode in your life. While the facts of this case justify a custodial sentence to serve the need for deterrence and denunciation, I also believe the facts warrant the imposition of a sentence that will also incorporate a punishment that will assist in your rehabilitation and possible reintegration in the Canadian Forces.

39. Master Corporal Clark, having considered the specific circumstances of these offences and of the offender as well as the mitigating and aggravating factors, I conclude that the minimum necessary sentence in the present case is detention for 90 days.

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**Counsel:**

Major B. McMahon, Canadian Military Prosecution Service  
Counsel for Her Majesty the Queen

Lieutenant-Commander B. Walden, Directorate Defence Counsel Services  
Counsel for Master Corporal A. Clark