



## COURT MARTIAL

**Citation:** *R v Parent*, 2011 CM 4015

**Date:** 20110606

**Docket:** 201122

Standing Court Martial

Canadian Forces Base Petawawa  
Petawawa, Ontario, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Bombardier J.J.C.D. Parent, Offender**

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

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### OFFICIAL ENGLISH TRANSLATION

#### REASONS FOR SENTENCE

(Orally)

[1] Bombardier Parent, having accepted and recorded your plea of guilty to charge number 15, I now find you guilty of this charge. In accordance with subparagraph (8)(a) of the *Queen's Regulations and Orders for the Canadian Forces*, proceedings must be stayed on charges 1, 2, 3, 5, 6, 9, 10, 11, 12, 13 and 14 since your plea of guilty to charge number 15 was accepted by the Court. I must now impose an appropriate sentence, which must be the minimum required sentence in the circumstances of the case to serve the purposes of discipline.

[2] The Court Martial Appeal Court of Canada tells us at paragraphs 30 to 33 of its decision in *R v R.J. Tupper*, 2009 CMAC 5 that a military judge must consider the fundamental purposes and goals of sentencing set out at sections 718 and following of the *Criminal Code* of Canada.<sup>1</sup> The sentence must also be “proportionate to the gravity

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

of the offence and the degree of responsibility of the offender”<sup>2</sup> and should be “similar to sentences imposed on similar offenders for similar offences committed in similar circumstances”.<sup>3</sup> An offender should not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances.

[3] Section 718 of the *Criminal Code* states that the fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a just, peaceful and safe society 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 in rehabilitating 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 acknowledgment of the harm done to victims and to the community.

[4] Counsel for the prosecution and your counsel have presented me with a joint submission on sentencing and are recommending that I impose a fine of \$2,500 payable monthly as follows: \$300 for the first month and \$200 for each following month. The final decision in determining an appropriate sentence lies with the judge, who has the right to dismiss counsel’s joint submission. However, I must accept counsel’s joint submission unless it is found to be inadequate, unreasonable or contrary to public order, or would bring the administration of justice into disrepute.

[5] To determine what constitutes the appropriate sentence in this case, I took into account the circumstances surrounding the commission of the offence as revealed in the statement of circumstances, which you have acknowledged to be true. I also considered the evidence that was filed, the case law and the submissions by counsel. I analyzed these various factors in light of the objectives and principles applicable to sentencing.

[6] You have pleaded guilty to negligence to the prejudice of good order and discipline, that is, of having failed on 11 occasions to inform the medical authorities that you would not be reporting for your medical appointments. You were to report to the base’s Medical Centre for appointments on 15 January 2010, 2 February 2010, 7 April 2010, 11 May 2010, 16 June 2010 and 13 July 2010. You were also to report to the physiotherapy department of the base’s Medical Centre for appointments on 12 April 2010, 18 June 2010, 27 July 2010, 4 August 2010 and 6 August 2010.

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<sup>2</sup> Ibid, s 718.1.

<sup>3</sup> Ibid, para. 718(b).

[7] Having summarized the main facts of this case, I will now concentrate on sentencing. Therefore, in considering what sentence would be appropriate, I took into consideration the mitigating and aggravating factors that follow. I will begin with the factors mitigating the sentence. You have admitted your guilt. An admission of guilt, usually, is a sign of some remorse. You will be released from the Canadian Forces under item (b) of paragraph 15.01(3) of the QR&Os. It appears that you suffer from major depression, which was diagnosed in July 2010. Your depression may in part explain your failure to report for the medical appointments, but it does not excuse it. That being said, no evidence was submitted to me on the cause of your major depression or the consequences of this illness. The letter of evaluation for Operation PLATEAU is very positive and states that your performance was very good during this difficult deployment (see Exhibit 9).

[8] I will now discuss the aggravating factors. The nature of the offence and the punishment provided for by Parliament. You are guilty of an act of negligence to the prejudice of good order and discipline, which is punishable by dismissal with disgrace from Her Majesty's service. Objectively, this is a serious offence. Over a period of approximately seven months, you failed 11 times to notify the medical authorities that you would not be reporting for your medical appointments. This conduct is unacceptable and was repeated many times. With six years of service, you had enough experience in the Canadian Forces to know that this was not acceptable.

[9] You have a conduct sheet, but it only contains three offences under the *Firearms Act*. Those offences are unrelated to the offences before this Court. Therefore, although this is an aggravating factor, I give it much less weight than if the offences had been of a similar nature.

**Bombardier Parent, stand up.**

[10] I agree with counsel for the prosecution that the principle of general deterrence is important in this case. Having closely examined the parties' joint submission, I am of the opinion, given the particular facts of this case, that it adequately incorporates the sentencing principles and that the choice of sentence is the minimum possible intervention to ensure the protection of the public and the maintenance of discipline in the circumstances.

**FOR THESE REASONS, THE COURT:**

[11] **PRONOUNCES** a finding of guilty on charge number 15.

**AND**

[12] **SENTENCES** Bombardier Parent to a fine of \$2,500. This fine will be paid as follows: \$300 on 15 June 2011 and \$200 on the fifteenth day of the 11 following

months. The fine must be paid in full the day of Bombardier Parent's release if he is released from the Canadian Forces before this fine is paid in full.

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**Counsel:**

Major E. Carrier, Canadian Military Prosecution Service  
Counsel for the Her Majesty the Queen

Lieutenant-Commander P. Desbiens, Directorate Defence Counsel Services  
Counsel for Bombardier J.J.C.D. Parent