

Citation: *R. v. Captain J.B. Blacquier*, 2007 CM 4032

Docket: 200727

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

Date: 20 December 2007

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

HER MAJESTY THE QUEEN

v.

**CAPTAIN J. B. BLACQUIER
(Offender)**

**SENTENCE
(Rendered orally)**

[1] Captain Blacquier, following a complete trial you have been found guilty of forgery, of having uttered a forged document, and of fraud. You have made a false bursary application and have submitted this false document with the intent of obtaining a bursary from the University of Western Ontario.

[2] The principles of sentencing, which are common to both courts martial and civilian criminal trials in Canada, have been expressed in various ways. Generally, they are founded on the need to protect the public, and the public, of course, includes the Canadian Forces. The primary 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, 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.

[3] The court must determine if protection of the public would best be served by deterrence, rehabilitation, denunciation, or a combination of those factors. The purposes of sentencing 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 and acknowledgement of the harm done to victims and to the community.

[4] The court is also required, in imposing a sentence, to follow the directions set out in article 112.48 of the Queen's Regulations and Orders which obliges it, in determining a sentence, to take into account any indirect consequences of the finding or of the sentence and to impose a sentence commensurate with the gravity of the offence and the previous character of the offender. The court must also give consideration to the fact that sentences of offenders who commit similar offences in similar circumstances should not be disproportionately different.

[5] 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.

[6] The prosecution has recommended a sentence of a severe reprimand and fine in the range of 4,000 to 6,000 dollars. Your defence counsel has suggested that a sentence of a reprimand and a fine of \$1,000 is appropriate in the circumstances.

[7] The prosecutor suggests that the principle of general deterrence is the most important sentencing principle in this case, closely followed by specific deterrence.

[8] You are a first-time offender. The letters of recommendation are quite glowing in their description of your performance and of your potential as an officer and a dentist. Your personnel evaluation reports are also quite positive and demonstrate a consistent improvement in your performance and indicate that you are progressing more rapidly than your peers towards promotion and that you are ready for greater responsibilities.

[9] Although you were an officer at the time of the offence, I do not consider this factor as a serious aggravating factor since you were only in your first years in the Canadian Forces and had only completed your basic officer course. As I've mentioned previously in other cases, I hope that you understand that you are an officer in the Canadian Forces and as such are expected to respect the law and to promote the welfare, efficiency, and good discipline of all your subordinates. And I said previously in the *Captain Cooper* and *Captain Emons* cases, you may only accomplish that duty by being an example for your subordinates. Having said that, it appears from your personnel evaluation reports that you have strived to be a good officer since your arrival in Borden.

[10] Much was said by both counsel about a plea of guilty and its significance at the sentencing stage of a trial as well as about the concept of remorse. It is your constitutional right to plead not guilty. I fully agree with your counsel that it is your right, and that the exercise of this right cannot be viewed in a negative manner and that it cannot be considered as an aggravating factor.

[11] Canadian jurisprudence generally considers an early plea of guilty and cooperation with the police as tangible signs that the offender feels remorse for his or her actions and that he or she takes responsibility for his or her illegal actions and the harm done as a consequence of these actions. Therefore, such cooperation with police and an early plea of guilty will usually be considered as mitigating factors. Although the doctrine might be divided on this topic, this approach is generally not seen as a contradiction of the right to silence and of the right to have the Crown prove beyond a reasonable doubt the charges laid against the accused, but is seen as a means for the courts to impose a more lenient sentence because a plea of guilty usually means that the witnesses do not have to testify and that it greatly reduces the costs associated with a judicial proceeding. It is also usually interpreted to mean that the accused wants to take responsibility for his or her unlawful actions.

[12] Again, as I mentioned in the *Captain Cooper and Captain Emons* court martial, I will not comment at length on the issue of the time it took to take these charges to trial since the prosecution and your defence counsel have not provided me with any evidence on that issue. I do consider it as a mitigating factor, but may only give it little weight given the absence of any evidence on that issue.

[13] I also take note of the fact that you did not receive any money from the University of Western Ontario and that you answered truthfully to the questions asked by Mrs Peterson during your meeting in November 2003. Your actions, as well as those of your fellow DOTP students, have surely tarnished the reputation of the Canadian Forces or at least of the dental branch at the University of Western Ontario.

[14] I do not consider your case to be similar or identical to the *Captain Emons* case or that you share the same level of culpability as Captain Emons. Captain Emons pled guilty to and was found guilty of one offence of attempted fraud. These facts were considered when determining the appropriate sentence in the *Captain Emons* Standing Court Martial, as well as the fact that the prosecution and defence counsel provided the court with a joint submission of a sentence of a severe reprimand and a fine in the amount of \$1,500. You have been found guilty of three offences and there is no joint submission on sentencing.

[15] Although none of the other three cases involving dentists are identical to your case, I find that I may still use these cases to determine the adequate sentence in the present case. I am mindful that the court must also give consideration to the fact that

sentences of offenders who commit similar offences in similar circumstances should not be disproportionately different.

[16] I do not agree with the prosecution that the facts of this case along with the evidence presented during the sentencing phase of the trial should lead the court to impose a fine in the range of 4,000 to 6,000 dollars, but I also do not agree with your counsel that you deserve a lesser sentence than the other offenders.

[17] Captain Cooper, having considered all of the evidence accepted by the court during the trial and during the sentencing phase of your trial, and having considered the sentencing decisions involving the four other Standing Court Martials presented to me, I have come to the conclusion that the principles of general and specific deterrence, as well as the requirement to impose a sentence that should be the minimum necessary sentence to maintain discipline, will be met by the following sentence.

[18] Captain Blacquier, I sentence you to a severe reprimand and a fine in the amount of \$2,500. The fine is to be paid in two monthly payments. The first payment will occur on 15 January 2008 and the second payment on 15 February 2008.

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

Counsel:

Major B.J.A. McMahon, Regional Military Prosecutions Central
Counsel for Her Majesty The Queen

Major A. Tamburro, Regional Military Prosecutions Central
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