Citation: *R. v. Corporal T. LeBlanc,* 2010 CM 4002

Docket: 200963

GENERAL COURT MARTIAL
CANADA
ALBERTA
CANADIAN FORCES BASE EDMONTON

Date: 8 January 2010

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

HER MAJESTY THE QUEEN
v.
CORPORAL T. LEBLANC
(Offender)

Warning

Restriction on publication: By court order made under section 179 of the *National Defence Act* and section 486.4 of the *Criminal Code*, information that could disclose the identity of the person described in this judgement as the complainant shall not be published in any document or broadcast or transmitted in any way.

SENTENCE
(Rendered orally)

INTRODUCTION

[1] Corporal LeBlanc, the panel of this General Court Martial has found you guilty of sexual assault after a complete trial. I must now impose a fit and just sentence.

SENTENCING RECOMMENDATION TO THE COURT

[2] The prosecution submits that a sentence of imprisonment for a period of 30 to 36 months is the appropriate sentence in this case. The prosecutor relied on Canadian

criminal case law to support this submission. The prosecutor has also requested that an order under s. 196.14 of the *National Defence Act* for the taking of DNA samples of the offender be made. The prosecutor has requested the court make an order requiring Corporal LeBlanc to comply with the *Sex Offender Information Registration Act*. The prosecution has not requested the court make a weapons prohibition order in the present case.

[4] Your defence counsel suggests a sentence of imprisonment for a period of approximately 45 days. He relies mostly on the *Nystrom* Standing Court Martial to support this submission. Your counsel has also argued that an order under s. 227.02 of the *National Defence Act*, being an order to comply with the *Sex Offender Information Registration Act*, is not required in this case.

GENERAL PRINCIPLES OF SENTENCING

[5] Defence counsel argued that courts martial are not bound by the sentencing provisions of the *Criminal Code of Canada*, but it would appear that he has not read the Court Martial Appeal Court decision in *R. v. Tupper* 2009 CMAC 5 at paragraphs 30 to 34, where the Court Martial Appeal Court clearly states that the goals and principles of sentencing found in the *Criminal Code* apply in the context of the military justice system.

[6] The court has considered the guidance set out in ss. 718 to 718.2 of the *Criminal Code of Canada*. The fundamental purpose of sentencing is to contribute to respect of the law and the maintenance of a just, peaceful and safe society by imposing just sanctions. These sanctions have one or more of the following objectives: to denounce the 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 acknowledgment of the harm done to victims and to the community.

[7] The general principles of sentencing which are common to both courts martial and civilian 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. The court must determine if protection of the public would best be served by deterrence, rehabilitation, denunciation, or a combination of those factors.

[8] The court is required, in imposing sentence, to follow the direction set out in article 112.48 of 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 impose a sentence commensurate with the gravity of the offence and the previous character of the offender.

[9] The court is also guided by the provisions of ss. 130 and 139 of the *National Defence Act* and s. 271 of the *Criminal Code of Canada* in its determination of the lawfully permissible sentence in this case. A sentence may be composed of more than one punishment.

[10] A court should also consider 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. The ultimate aim of sentencing is the restoration of discipline in the offender and in military society.

REVIEW OF CASE LAW

[11] I have reviewed the cases presented by the prosecution and by your defence counsel. Firstly, the memorandum of law on sexual assault cases heard by courts martial presented by your defence counsel is of little use to me in this case. Only two cases involve sexual intercourse; namely, the *Nystrom* and *McDougall* cases. In *Nystrom*, the accused was ultimately found not guilty by the Court Martial Appeal Court. In *McDougall*, contrary to what is indicated in the memorandum of law, a second court martial has been held and the accused has been found not guilty.

[12] Defence counsel's lengthy submission can be condensed to three main submissions: a description of the offender and some mitigating factors to be considered by the court; that this court should not consider Canadian civilian case law, but only Canadian military case law when determining the sentence, because the prosecution chose to pursue this offence in the military justice system and not the civilian criminal system, and, lastly, he relied heavily on the *Nystrom* case to argue that the appropriate sentence in this case is 45 days of imprisonment.

[13] I will firstly examine defence counsel's argument that the facts in the *Nystrom* case are similar to the facts in the present case. I totally disagree with defence counsel. As described in the Court Martial Appeal Court decision, *R. v. Nystrom* 2005 CMAC 7, at paragraph 10, an intimate relationship had developed between the accused and the complainant. They were more than friends and were going out together. The alleged sexual assault occurred after the accused and the complainant had been dancing at a bar. They returned to the accused's room on base. Once in the room, they engaged in consensual sexual intercourse. There was no dispute that the complainant was a

consenting and active participant in the sexual activities, including the failed attempt at anal intercourse.

[14] At issue during the Standing Court Martial and the appeal was whether there had been non-consensual anal intercourse. The military judge found the accused guilty. At paragraph 19 of her sentencing decision, the military judge briefly reviewed the facts of the case. I will now read paragraph 19:

> [19] The facts of the commission of this offence are that it involved a military colleague from the same professional classification and speciality. The sexual assault took place in the context of consensual sexual activity that then led to non-consensual sexual activity. Although digital and anal penetration are some of the most egregious violations of personal sexual integrity, the circumstances, in this case, in which they occurred are not the most shocking or flagrant. It may well be a situation where misplaced notions of acceptable sexual behaviour played a role.

[15] It is abundantly clear from these excerpts of the Court Martial Appeal Court and of the sentencing decision that these two cases hardly have any common facts. In the present case, the only person who described consensual sexual relations is the accused. In *Nystrom*, the complainant did agree that the incident began as consensual sexual relations. Also, the sentencing judge, while faced with a joint submission of imprisonment for 45 days, also found that the circumstances of the case in which the digital and anal penetration occurred were not the most shocking or flagrant. She went on to say that, "It may well be a situation where misplaced notions of acceptable sexual behaviour played a role." This court is not presented with a joint submission on sentence and thus the underlying legal principles that instruct a court to accept a joint submission do not bind this court as was the case in *Nystrom*.

[16] Although this court concludes that the *Nystrom* case is of little use because it is so different on its facts and that a joint submission was presented to the sentencing judge in that case, I will nonetheless refer to it later in this decision. I also find the *McDougall* matter to be of little use since the accused was found not guilty at his second trial.

[17] I have reviewed the cases presented by the prosecutor as well as other Canadian cases of sexual assault involving sexual intercourse. This review indicates that imprisonment is the norm, but that the period of imprisonments varies greatly, from four months to four years, depending on the circumstances surrounding the commission of the offence and the circumstances of the offender. Contrary to the assertions of defence counsel, I find that I cannot just set aside Canadian jurisprudence just because this offence is prosecuted under the Code of Service Discipline. Military justice cannot operate in a vacuum and it has to reflect Canadian values while maintaining its basic objective, which is the maintenance of discipline.

[18] The number of charges, the exact facts of each case, the mitigating and aggravating factors of each case would thus have to be taken into account when

attempting to compare each case with the present case. The Court Martial Appeal Court has not yet been asked to provide courts martial with specific guidance pertaining to the sentencing of offenders who have committed sexual assault where sexual intercourse was forced upon the victim. I will thus rely on the general guidance pertaining to any sentencing that may be found in Supreme Court of Canada and appellate decisions and on general principles to determine the just and appropriate sentence in this case.

[19] As stated at paragraph 13 of the *Tupper* decision, the Court Martial Appeal Court reiterates that, "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 that, "It is certainly one of the hardest tasks confronting a trial judge."

[20] In *R. v. L.M.* 2008 SCC 31, the Supreme Court of Canada states, at paragraph 17, that:

> Far from being an exact science or an inflexible predetermined procedure, sentencing is primarily a matter for the trial judge's competence and expertise. The trial judge enjoys considerable discretion because of the individualized nature of the process .... To arrive at an appropriate sentence in light of the complexity of the factors related to the nature of the offence and the personal characteristics of the offender, the judge must weigh the normative principles set out by Parliament in the *Criminal Code*:

[21] The Supreme Court of Canada provides sentencing judges, in *R. v. Ferguson,* (2008) 228 C.C.C. (3d) 385, the following guidance at paragraphs 16 to 18 and 22:

> .... The sentencing judge therefore must do his or her best to determine the facts necessary for sentencing from the issues before the jury and from the jury's verdict. This may not require the sentencing judge to arrive at a complete theory of the facts; the sentencing judge is required to make only those factual determinations necessary for deciding the appropriate sentence in the case at hand.
>
> [17] Two principles govern the sentencing judge in this endeavour. First, the sentencing judge "is bound by the express and implied factual implications of the jury's verdict" .... The sentencing judge "shall accept as proven all facts, express or implied, that are essential to the jury's verdict of guilty" ... and must not accept as fact any evidence consistent only with a verdict rejected by the jury ....

[22] One also has to look at article 112.54 of QR&O. At paragraph 18, the Supreme Court continues:

> [18] Second, when the factual implications of the jury's verdict are ambiguous, the sentencing judge should not attempt to follow the logical process of the jury, but should come to his or her own independent determination of the relevant facts .... In so doing, the sentencing judge "may find any other relevant fact that was disclosed by evidence at the trial to be proven" .... To rely upon an aggravating fact or previous conviction, the sentencing judge must be convinced of the existence of that fact or conviction beyond a reasonable doubt; to rely upon any other relevant fact, the sentencing judge must be persuaded on a balance of probabilities .... It follows from the purpose of the exercise that

> the sentencing judge should find only those facts necessary to permit the proper sentence to be imposed in the case at hand.
>
> ...
>
> [22] [A] trial judge [must not attempt] to reconstruct the logical reasoning of the jury.... Jurors may arrive at a unanimous verdict for different reasons and on different theories of the case .... It is speculative and artificial to attribute a single set of factual findings to the jury, unless it is clear that the jury must unanimously have found those facts. Where any ambiguity on this exists, the trial judge should consider the evidence and make his or her own findings of fact consistent with the evidence and the jury's findings.

[23] I take from the verdict that the panel did not believe your account of the incident and that your evidence did not leave them with a reasonable doubt as to whether the sexual intercourse was consensual or that your honest but mistaken belief was reasonable.

[24] The Quebec Court of Appeal in *R. v. J.L.,* [1998] R.J.Q. 971 provides a list of factors to be considered when determining a sentence in a sexual assault trial. They are:

> 1. The nature and intrinsic gravity of the offences which is affected by threats, violence, and manipulation.
>
> 2. The frequency of the offences and the time period over which they were committed.
>
> 3. The abuse of trust and the abuse of authority which are involved in the relationship between the offender and the victim.
>
> 4. The disorders underlying the commission of the offence: the offender's psychological difficulties, disorders and deviancy, intoxication.
>
> 5. The offender's previous convictions, the proximity in time to the offence charged and the nature of the previous offences.
>
> 6. The offender's behaviour after the commission of the offences, confessions, collaboration in the investigation, immediate involvement in a treatment programme, potential for rehabilitation, financial assistance if necessary, compassion and empathy for the victim, remorse, regret.
>
> 7. The time between the commission of the offence and the guilty verdict as a mitigating factor depending upon the offender's behaviour, such as the offender's age, social integration and employment, commission of other offences.

> 8. The victim: the gravity of the attack on his or her physical or psychological integrity reflected, in particular, by the age, the nature and extent of the assault, the frequency and duration of the assault.

[25] This list is not exhaustive and other factors such as a timely plea of guilty, the failure to cease the behaviour when asked by the victim to do so, the background of the offender and the effect of adverse publicity on the offender may also be considered in sentencing.

MITIGATING FACTORS

[26] I consider as mitigating factors the following: You have a conduct sheet that contains one offence charged under s. 129 of the *National Defence Act* that occurred on 20 June, 2009. I do note that the present offence occurred before the offence on your conduct sheet; therefore, you are considered a first-time offender.

[27] You deployed twice to Afghanistan: the first time from August, 2007 to March, 2008; and the second time from April to October, 2009. You were a gunner during your first deployment and you were a loader during your second deployment. You were employed as a crewman in a Leopard tank during both deployments. During the second deployment, you were deployed in Sergeant Denson's tank and you were, in effect, his second in command. Major Cochrane, your squadron commander during your second deployment, and Sergeant Denson were called by your counsel. They described an excellent soldier who used his previous experience in Afghanistan to help his immediate supervisor and his peers during the deployment. You were involved in numerous engagements and you received the CO's coin for your initiative and leadership during an engagement where you had to take control of the tank and destroy an enemy that had engaged your position. They both praised your performance in a theatre of operations and thought that you have a promising future in the Army.

[28] You did not threaten the victim in this case. You were 25 years of age and had been a member of the Canadian Forces for three years at the time of the offence. Although you are considered a first-time offender, I do not consider you to be a youthful offender. You were 25 years old at the time of the offence and you had enough experience to know that your actions were very wrong. Therefore, your age is not considered a mitigating factor.

AGGRAVATING FACTORS

[29] I note the following aggravating factors. Sexual assault is a serious offence since the Parliament of Canada has deemed that a sentence of 10 years' imprisonment is the appropriate maximum sentence for this offence when charged as an indictable offence in a civilian criminal court. The Supreme Court of Canada has also commented on the

special nature of this offence. In *R. v. Osolin,* [1993] 4 S.C.R. 595 at paragraphs 165 and 166, Cory J. stated that:

> .... It cannot be forgotten that a sexual assault is very different from other assaults. It is true that it, like all the other forms of assault, is an act of violence. Yet it is something more than a simple act of violence. Sexual assault is in the vast majority of cases gender based. It is an assault upon human dignity and constitutes a denial of any concept of equality for women.
>
> The reality of the situation can be seen from the statistics which demonstrate that 99 percent of the offenders in sexual assault cases are men and 90 percent of the victims are women.

[30] In *R. v. Ewanchuk,* [1999] 1 S.C.R. 330 at paragraph 28, Major J. expanded on the notion of the security of one's integrity when he stated:

> 28 The rationale underlying the criminalization of assault explains this. Society is committed to protecting the personal integrity, both physical and psychological, of every individual. Having control over who touches one's body, and how, lies at the core of human dignity and autonomy. The inclusion of assault and sexual assault in the *Code* expresses society's determination to protect the security of the person from any non-consensual contact or threats of force. The common law has recognized for centuries that the individual's right to physical integrity is a fundamental principle, "every man's person being sacred, and no other having a right to meddle with it, in any the slightest manner" ... It follows that any intentional but unwanted touching is criminal.

[31] I see no reason why this guidance from the Supreme Court of Canada does not apply to any offence of sexual assault that would be prosecuted under the Code of Service Discipline. A person's personal integrity is as important in the Canadian military community as it is in Canadian society. The Ontario Court of Appeal has commented on the effect of intercourse in sentencing in *R. v. F.P.,* (2005) 198 C.C.C. (3d) 289, at paragraph 52 as follows:

> [52] .... However, where intercourse does occur, as it did in D.(D.), it is characterized as aggravating. It is so characterized because it likely results in additional physical and psychological trauma, and because it heightens the risks of disease and, where girls are victims, pregnancy.

[32] Although the victims in *R. v. F.P.* were young girls, I find this guidance may also apply to cases where the victim is an adult.

[33] Furthermore, DAOD 5019-5, Sexual Misconduct and Sexual Disorders, defines sexual misconduct as one or more acts that are either sexual in nature or committed with the intent to commit an act or acts that are sexual in nature; and constitutes an offence under the *Criminal Code* or Code of Service Discipline.

[34] This DAOD states that, "Sexual misconduct destroys basic social and military values and undermines security, morale, discipline and cohesion in the Canadian Forces." Judicial notice of the contents of this DAOD has been taken under MRE 15.

[35] Sexual assaults involving sexual intercourse must be denounced. As stated by the Supreme Court of Canada in *R. v. Stone,* [1999] 2 S.C.R. 290 at paragraph 239:

> It is incumbent on the judiciary to bring the law into harmony with prevailing social values. This is also true with regard to sentencing. To this end, in *M. (C.A.)*, supra, Lamer C.J. stated, at para. 81:
>
>> The objective of denunciation mandates that a sentence should also communicate society's condemnation of that particular offender's conduct. In short, a sentence with a denunciatory element represents a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law. . . . Our criminal law is also a system of values. A sentence which expresses denunciation is simply the means by which these values are communicated. In short, in addition to attaching negative consequences to undesirable behaviour, judicial sentences should also be imposed in a manner which positively instills the basic set of communal values shared by all Canadians as expressed by the *Criminal Code*.

[36] Taking into account the view of the Supreme Court of Canada on the offence of sexual assault as well as the contents of DAOD 5019-5, I find that members of the Canadian Forces must be made aware that they will face a considerable sentence of incarceration, except in rare cases of extremely mitigating circumstances, if they commit sexual assaults involving sexual intercourse on other CF members. CF members must be able to feel that they are safe from any attack on the physical and sexual integrity of their person when they are present in their quarters or in other locations on a defence establishment.

[37] While I do not find that you abused any trust or authority as is usually understood in such cases, I do find that you betrayed the trust that the victim had placed in you when she tried to help you during that day, by inviting you to come with her and when she took care of your injured hand. This betrayal attacks the fundamental military values and principles as expressed in DAOD 5019-5.

[38] Much was said by both counsel about a plea of guilty and its significance at the sentencing stage of a trial as well as 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. 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 those actions.

[39] Therefore, such cooperation with the 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 it is seen as a means for the courts to impose a more lenient sentence, because the plea of guilty usually means that witnesses do not have to testify and that it greatly reduces the costs associated with the judicial proceeding. It is also usually interpreted to mean that the accused wants to take responsibility for his or her unlawful actions.

[40] Remorse is also relevant to the accused's character and attitude and to his prospects of rehabilitation. During the trial, you were asked by your counsel if you had been charged or if you had a criminal record. The court finds your description of the charge of not wearing your helmet quite revealing. You explained that you had taken your helmet off your head because, "your brain was frying" in 60 to 70 degree heat and that you were on top of a mountain. While Major Cochrane describes it as a momentary lapse of judgement on your part and of complacency, you prefer to explain your actions in a manner that would justify your decision to disobey orders. Your explanation and your demeanour lead the court to conclude that your are not willing to accept responsibility for that breach of orders. This is quite consistent with your position in the present case. You have not shown this court that you are a good candidate for rehabilitation.

[41] There is no evidence that you suffer from any disorder or deviancy. You testified that you were not drunk during the evening even though you had consumed approximately 11 beers in a period of approximately 10 hours. You testified that you started drinking beer when you where approximately 13 or 14 years old and, as you said, "since I could steal them from my dad." This comment offers the court another glimpse of your character. You testified on the amount of beer that you have drunk with your friends and the amount of beer you would need to ingest before you could feel the effects of alcohol. You provided these explanations when you were answering the prosecutor and attempting to demonstrate that you were not drunk at the time of the offence. Your evidence demonstrates that you drank beer in a fairly consistent manner before and after your return from deployment and in fairly large amounts and that you had started drinking beer at a young age.

[42] A few hours before the assault, you had punched a cement wall because you were angry at your girlfriend. This demonstrates you either have a problem controlling your emotions or that you were under the influence of alcohol at the time. This court has not been provided with any evidence showing that you have made any attempts to rectify these issues.

[43] Although you did voluntarily participate in a police interview, your stated purpose was to give the police your version of events.

[44] The trial was delayed at your request so you could deploy for a second tour in Afghanistan. The court has not been provided with any evidence that would suggest this delay has caused you any problems. To the contrary, this delay has been beneficial to you as can be understood from the testimonies of Major Cochrane and of Sergeant Denson.

[45] The sexual assault has had serious repercussions on the victim. The nurse that performed the sexual assault examination testified that the victim has small lacerations at the bottom of her vagina that were caused by blunt force. She also testified the victim had redness in the inner lips of her vagina and that the tenderness made the victim withdraw when the nurse was touching her vagina. The victim testified that the pain in her vagina lasted four days.

[46] The victim testified that you initially had some difficulty penetrating her, but that you then tried with more force and that it hurt her vagina. You testified that you did have some problems the first time you attempted to penetrate her vagina because she was tight since it had been a while since she had slept with a man, but you then said that you succeeded because she was well lubricated. I find that the whole of the evidence does not support your version of events but supports the victim's version. She would have told you to stop, but you did not. I find that you did use force to penetrate her vagina and this force caused the injuries described by the victim and by the nurse.

[47] The victim has also suffered emotionally from the assault. It was clear from her testimony that it has had a devastating effect on her and she has been under the care of a psychologist for approximately 18 months.

[48] In *Nystrom*, the court accepted that the predominant principle of sentencing to be applied was general deterrence. Also, the evidence presented during the sentencing phase lead the court to believe that specific deterrence had been achieved in that case. This is another aspect of *Nystrom* that is quite different from our case.

[49] You do not appear to be a person that is willing to accept full responsibility for your actions. It seems that the qualities that make you an excellent soldier in a theatre of operations are not the ones that permit you to be introspective or to show any regret for your transgressions. Therefore, the court concludes there is a need for specific deterrence in this case.

CONCLUSION

[50] Corporal LeBlanc, stand up. In determining the appropriate sentence the court has considered the circumstances surrounding the commission of this offence, the evidence presented during the sentencing phase, the mitigating factors, the aggravating

circumstances, and the representations by the prosecution and by your defence counsel and also the applicable principles of sentencing.

[51] The principles of general and specific deterrence as well as the denunciation of the conduct are the main sentencing principles to be applied in this case.

[52] This court was not provided with any compelling mitigating evidence that would justify a sentence of imprisonment for 45 days. To the contrary, the court concludes that such a lenient sentence in light of the nature of the offence, of the circumstances surrounding the commission of the offence, and the circumstances of the offender would bring the administration of military justice into disrepute and would be seen as condoning such conduct.

[53] This court was presented with few mitigating factors. The aggravating factors, the circumstances surrounding the commission of the offence and the moral blameworthiness of the offender lead me to believe that the court must impose a sentence that will provide a clear message to you and to others and that will assist you in taking responsibility for this offence. I would have given you a harsher sentence had it not been for the testimonies of Major Cochrane and of Sergeant Denson.

[54] Corporal LeBlanc, the court sentences you to imprisonment for a period of 20 months. The sentence was passed at 1518 hours. I have carefully reviewed the provisions of s. 196.14 of the *National Defence Act*. I have come to the conclusion that it is in the best interest of the administration of military justice to order the taking of DNA samples of the offender. I will make this order.

[55] I have reviewed the provisions of s. 147.1 of the *National Defence Act*. Having considered the nature of the present offence and circumstances of its commission, I have come to the conclusion that an order prohibiting you from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things is not required in the interests of the safety of any person.

[56] Your defence counsel commented on the stigma attached to having one's name on the Sex Offender Information Registry when he was arguing against such order from the court. His submissions might have had some weight had you been found guilty of what could be considered a minor sexual assault, but his submissions carry no weight in the present case. You have been found guilty of having sexual intercourse with the victim against her will in her room in the single quarters at CFB Edmonton. I will make that order. You may sit down.

[57] I will now read the order made under 227.02:

"ORDER TO COMPLY WITH THE *SEX OFFENDER INFORMATION REGISTRATION ACT*

To: (Service Number) Corporal LeBlanc Timothy,

You have been convicted of an offence punishable under Section 130 of the *National Defence Act*, that is to say, Sexual Assault, contrary to Section 271 of the *Criminal Code*, a designated offence within the meaning of the definition "designated offence" in section 227 of the *National Defence Act*.

Therefore, it is ordered that:

1. You must report for the first time to the registration centre referred to in subsection 7.1 of the *Sex Offender Information Registration Act*, whenever required under subsection 4(1) of that *Act*.

2. You must subsequently report to the registration centre referred to in section 7.1 of the *Sex Offender Information Registration Act*, whenever required under section 4.1 or 4.3 of that *Act*, for a period of 20 years after this order is made.

3. Information relating to you will be collected under sections 5 and 6 of the *Sex Offender Information Registration Act* by a person who collects information at the registration centre.

4. Information relating to you will be registered in a database, and may be consulted, disclosed and used in the circumstances set out in the *Sex Offender Information Registration Act*.

5. If you believe that the information registered in the database contains an error or omission, you may ask a person who collects information at the registration centre referred to in section 7.1 of the *Sex Offender Information Registration Act* to correct the information.

6. You have the right to appeal this order.

7. You have the right to apply to a Court Martial or, if applicable, a court under section 490.015 of the *Criminal Code* to terminate this order, and the right to appeal any decision of a court martial that the Chief Military Judge causes to be convened to try the issue or any decision of the court.

8. If you are found to have contravened this order, you may be subject to punishment under the *National Defence Act* or the *Criminal Code*.

9. If you are found to have provided false or misleading information, you may be subject to punishment under the *National Defence Act* or the *Criminal Code*."

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

Counsel:

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

Major S. Turner, Directorate of Defence Counsel Services
Counsel for Corporal T. LeBlanc