

**Citation:** *R. v. Captain A.M. Cooper*, 2007 CM 4029

**Docket:** 200726

**STANDING COURT MARTIAL  
CANADA  
BRITISH COLUMBIA  
CANADIAN FORCES BASE ESQUIMALT**

---

**Date:** 6 November 2007

---

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

---

**HER MAJESTY THE QUEEN**

**v.**

**CAPTAIN A.M. COOPER  
(Offender)**

---

**SENTENCE  
(Rendered orally)**

---

[1] Captain Cooper, having accepted and recorded your pleas of guilty to charges No. 2, No. 5, and No. 7, the court now finds you guilty of these charges. More specifically, you have pled guilty to two charges of forgery laid under section 130 of the *National Defence Act*, contrary to section 367 of the *Criminal Code of Canada*, and to one charge of having committed an act to the prejudice of good order and discipline contrary to section 129 of the *National Defence Act*.

[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 these offences. You knowingly made a false document, specifically a bursary application, on two occasions in 2002 and in 2003 to obtain bursaries from the University of Western Ontario. You received the amount of \$4,300 on the first occasion, but were not granted the approved bursary of \$4,400 on the second occasion. You also pled guilty to having accepted a payment contrary to paragraph 29a of Canadian Forces Administrative Order 9-63.

[3] 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.

[4] 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.

[5] 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 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.

[6] 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.

[7] The prosecution and your defence counsel have jointly proposed a sentence of a severe reprimand and a fine in the amount of \$2,000. The Court Martial Appeal Court has stated clearly that a 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.

[8] The prosecutor suggests that the principles of specific and general deterrence are the most important sentencing principles in this case. Your defence counsel asserts that specific deterrence has been accomplished by the serious financial and career consequences of your unlawful acts. Your counsel agreed with the prosecutor's address as to the mitigating and aggravating factors in this case.

[9] The monetary amounts associated with the forgery charges are significant. There is a repetition of these forgeries over a two-year period. Although there was no evidence presented on this issue, your actions have probably somewhat tarnished the reputation of the Canadian Forces or at least the reputation of the dental

branch in the eyes of those responsible at the University of Western Ontario. Although you were an officer at the time of the offences, 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, from what I can understand, your basic officer course, and as such you were still a student at the time of the offences. Having said this, I hope that you now fully understand your role and responsibilities as an officer in the Canadian Forces. Your duty is to promote the welfare, efficiency, and good discipline of all subordinates. You must accomplish that duty by being an example for your subordinates.

[10] You are a first-time offender. Your plea of guilty and your testimony are usually considered a tangible demonstration of your remorse for your unlawful actions. Your apologies appear sincere and show a true feeling of remorse on your part. Although they cannot be described as early in the disciplinary process, your pleas of guilty have alleviated the prosecution's burden significantly.

[11] You have made full restitution, plus 6 per cent interest, to the University of Western Ontario, although I do note that this was as a result of a hearing under the Student Code of Conduct. As I had said in the *Captain Thornton* Standing Court Martial, one can surmise that this restitution was in your best interest if you wished to graduate from that school of dentistry or any such school. Nonetheless, restitution of the amount was made and must be considered as a mitigating factor, although I again indicate that I would give it less weight than in a case where such restitution was made where the offender was not practically forced to make restitution or had to make it for obvious self-serving reasons.

[12] I will not comment at length on the issue of the time it took to bring these charges to trial since the prosecution and your defence counsel have not provided me with any evidence on that issue, nor have they attempted to put any emphasis on it. As such, I will say no more on that topic, other than to say that I do consider it as a mitigating factor, but may only give it little weight in the present circumstances.

[13] I understand that you have suffered career and financial consequences as a direct consequence of the offences before this court. Although these consequences will probably have a deterrent effect on those individuals who will become aware of such consequences, again, as I said in the *Captain Thornton* Standing Court Martial, I do not believe that they can overtake or act as a substitute to the necessary deterrent effect that a disciplinary proceeding and its sentence have on the offender and on the military society.

[14] I have reviewed Exhibits 7, 8, and 9. These documents, a personnel evaluation report, a personnel development review, and a letter of assessment, are quite positive in their descriptions of your performance and of your potential to progress in the Canadian Forces.

[15] Captain Cooper, please stand up. Forgery and an act to the prejudice of good order and discipline are serious offences. A forgery may carry a maximum sentence of imprisonment for ten years under the *Criminal Code*. You made very unwise decisions while at the University of Western Ontario. You did not explain the reasons for these decisions nor have you tried to provide the court with excuses for them. I hope that these decisions can be described as out of character and that you have learned from these mistakes.

[16] After reviewing the case law presented by counsel and the totality of the evidence, I agree with the joint submission of the prosecutor and of your defence counsel.

[17] Captain Cooper, I sentence you to a severe reprimand and a fine in the amount of \$2,000. The fine is to be paid immediately. March out Captain Cooper. The proceedings of this Standing Court Martial in respect of Captain Cooper are terminated.

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

Counsel:

Major B.J.A. McMahon, Regional Military Prosecutions Central  
Counsel for Her Majesty The Queen  
Lieutenant(N) J.D.M. McKee, DJAG COS  
Co-counsel for Her Majesty The Queen  
Lieutenant-Commander J.M. McMunagle, Directorate of Defence Counsel Services  
Counsel for Captain Cooper