

**Citation:** *R. v. Corporal E.M. Vaillancourt-Allard*, 2006 CM 99

**Docket:** S200699

**STANDING COURT MARTIAL  
CANADA  
QUEBEC  
4<sup>TH</sup> MILITARY POLICE COMPANY  
SAINT-MALO ARMOURY, QUÉBEC**

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**Date:** 12 December 2006

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**PRESIDING: COLONEL M. DUTIL, C.M.J.**

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**HER MAJESTY THE QUEEN**

**(Prosecutor)**

**v.**

**CORPORAL E.M. VAILLANCOURT-ALLARD**

**(Offender)**

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**SENTENCE**

**(Rendered orally)**

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**OFFICIAL ENGLISH TRANSLATION**

[1] Corporal Vaillancourt-Allard, the court having accepted and recorded your admission of guilt to the 2nd charge, the court now finds you guilty of the 2nd charge and orders a stay of proceedings on the 1st charge.

[2] You have confessed to a charge brought under section 129 of the *National Defence Act* for conduct to the prejudice of good order and discipline, namely, having encouraged one of your colleagues, a military police recruit, to harass another person contrary to DAOD 5012-0. This offence was committed during your basic qualification course as a military police officer during the summer of 2005 at Borden, Ontario. The facts surrounding the commission of this offence result from the same incident as the one involving Private Fortin, whose standing court martial was held this morning. So it was while returning from a heavy drinking party, when Private Fortin was the designated driver, that the victim and another colleague were seated in the rear of the vehicle they had taken and jokingly started punching each other in the shoulder. At that point, you were sitting in the front

passenger seat. When you got to the base, you all got out of the vehicle and the game continued. The victim, who was inebriated, was then taken to his room by his colleagues, that is, by you and your friends who were in the vehicle shortly before that. At Private Fortin's suggestion, you then decided, jokingly, to handcuff the victim and Private Fortin used his own handcuffs to do so with the help of a colleague, and then you filmed the event. The victim asked twice to be released and that was when Private Fortin acquiesced in his request, using the key to his handcuffs to release him. About 30 minutes later, you and another colleague decided to continue the fun by letting yourself into the victim's room to make him think there was an alert and by hitting him on his leg so the victim, who was drunk, would react. Your involvement in this matter stems from the fact that you also filmed this second incident or second episode of this joke and, I would add, this bad joke. A few days later, the victim lodged a complaint with the military police and you — since then, of course, and more than once as you testified — have apologized to the victim. This victim is, you say, a very good personal friend, and a friend of your family with whom you continue to have, to this day, a good relationship. It appears as well that the investigation into this relatively simple affair was quickly concluded and you reported your intention to plead guilt at the first opportunity. Clearly, some 17 months have elapsed since the incident and the joint statement of facts mentions this and explains somewhat the reasons surrounding this delay.

[3] Consequently, counsel have presented a joint sentencing submission and they are recommending that the court impose a sentence in the form of a fine of 200 dollars. As I was saying this morning, it is the court's job to arrive at an appropriate sentence and I have the right to reject the joint submission of counsel. And, as I also said this morning, it is settled law that only the most compelling reasons can allow the court to override the joint submission. Therefore, the judge should accept the joint submission made by counsel unless it is held to be inappropriate or unreasonable, contrary to public order, or likely to bring the administration of justice into disrepute. This would be the case, for example, if it fell outside the range of sentences previously imposed for similar offences. In return, counsel are required to inform the judge of all the facts that support the joint submission, which they have done in this case. The court has no reservations, therefore, in accepting the joint submission of counsel in this case.

[4] The principles and factors that were adopted in the case of Private Fortin apply in this case and I refer to the reasons of this court that were delivered this morning on this matter. This case differs, however, from the preceding case in that the role of the offender is a lesser one here because his participation lies on the one hand in the fact that he filmed the treatment inflicted on the victim. But on the other hand, you participated in the second incident in the same way, the incident involving the false alarm, therefore, by filming the reaction and actions of the victim who was still under the influence. So on the one hand your role in relation to the

first was perhaps lesser, but the fact that you continued with the joking for the second incident means that for all practical purposes your degree of liability is, in the court's opinion, at the same degree, the same level as that of Private Fortin in the first case, and that is why the court has no reservations or no difficulty in accepting the joint submission of counsel in this case.

[5] Moreover, the mitigating facts peculiar to your personal circumstances are, in the opinion of the court, more favourable in this case than they were in the case of Private Fortin. So, once again, the court has no difficulty in adopting the joint submission of counsel and consequently the court sentences you to the fine in the amount of 200 dollars that it considers to be the minimum sentence for ensuring the protection of the public and the maintenance of discipline in the circumstances. Take Corporal Vaillancourt-Allard out.

COLONEL M. DUTIL, C.M.J.

Counsel:

Lieutenant-Commander M.D.M. Raymond, Regional Military Prosecutor Eastern  
Counsel for Her Majesty the Queen  
Lieutenant P. Desbiens, Director, Defence Counsel Services  
Counsel for Corporal E.M. Vaillancourt-Allard