



## COURT MARTIAL

**Citation:** *R. v. Wight*, 2014 CM 1021

**Date:** 20140915

**Docket:** 201418

Standing Court Martial

Canadian Forces Base Comox, Goose Spit Site  
Comox, British Columbia, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Corporal J.J. Wight, Offender**

**Before:** Colonel M. Dutil, C.M.J.

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### REASONS FOR SENTENCE

(Orally)

[1] Corporal Wight has pleaded guilty to one count of an act of a fraudulent nature not particularly specified in ss. 73 to 128 of the *National Defence Act*, that is, an offence under s. 117(f) of the *National Defence Act*.

Counsel for the prosecution and defence have made a joint submission on sentence. They recommend that the court impose a reprimand accompanied by a fine in the amount of \$900 payable in nine equal instalments of \$100. The Court is not bound by this joint proposal but it cannot reject it unless it is unfit, contrary to public interest or if it would and otherwise bring the administration of justice into disrepute. This is not one of those cases.

[2] The circumstances surrounding the commission of the offence reveal that between August 2012 and April 2013, Corporal Wight was a vehicle technician posted to CFB Comox in British Columbia. Although he is separated from his common law partner at this stage, they all resided together in Lazo, British Columbia at the time of the alleged offence. Then, on 10 occasions between 16 August 2012 and 7 April 2013,

Corporal Wight attended civilian medical clinics in Courtenay and Campbell River, in British Columbia, where he intentionally claimed to have difficulty sleeping and obtain associated medical service as well as prescription sleep medication in his own name although he didn't have any sleeping disorders but he did it for his common law partner. Corporal Wight knew at the time that the cost of the medication was being billed to the Department of National Defence. The total amount paid by the Department of National Defence for his attendance at the clinics and the cost of the prescribed medication was set \$913.32. It is noted that between the dates of the incidents, Corporal Wight's partner did not have any medical insurance coverage or was not a member of the BC Health Care Plan. This is the summary of the circumstances surrounding the commission of this offence.

[3] In sentencing an offender under the Code of Service Discipline, the Court is bound to follow the principles and the objectives and the purposes including those in the *Criminal Code* at ss. 718.1 and 718.2. And what does it say? It says simply in context that the fundamental purpose of sentencing at a court martial is to contribute to the respect of the law and the maintenance of military discipline. And to do that, we have to impose punishments that meet one or more of the following objectives:

- (a) the protection of the public, and that includes the Canadian Forces;
- (b) the denunciation of the unlawful conduct;
- (c) the deterrent effect of the punishment on the offender but also on others who might be tempted to commit such offences; and
- (d) finally, the objective is related to the reformation or what is referred to as the rehabilitation of the offender.

[4] It is also known that the sentence must take into consideration the following principles: it must be commensurate with the gravity of the offence, the previous character of the offender and his or her degree of responsibility; the sentence imposed should be similar to sentences that were imposed on similar offenders for similar offences committed in similar circumstances; finally, the sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence and also to the offender. As pointed out by the prosecution, the Court must act with restraint in determining sentence and imposing such punishment or punishments that constitute the minimum necessary intervention to maintain discipline. In this case, I agree with counsel that the minimum sentence must emphasize the objectives of denunciation, general deterrence and rehabilitation. The additional circumstances provided by counsel reveal that should the proper path had been followed by the offender, the offender's spouse would have been covered by provincial health care plan even if she was not yet covered by the British Columbia health regime. Although it appears that the spouse of the offender was not covered for the medical services in British Columbia she could have claimed all or some of it in order to be

reimbursed from her departing province which in this case was Alberta. In this particular case, these amounts represent \$765.80 out of the total amount of \$913.32.

[5] Counsel agree that the only aggravating factor in this case consists in the repetitive character of the fraudulent conduct whereas the mitigating factors are the acceptance of responsibility in pleading guilty at the earliest opportunity. I agree with that proposition. I also would add the absence of any disciplinary or criminal record.

[6] The prosecution and defence also submitted previous case law or jurisprudence such as the cases of *R. v. Kennedy*, 2010 CM 1011; *R. v. Leeworthy*, 2006 CM 52; and *R. v. Hentges*, 2007 CM 2017, and the Court is satisfied that these cases reflect the adequacy of their joint submission. This case is a perfect example of poor judgement by a member of the Canadian Forces who chooses the wrong path to serve a genuine personal problem. Unfortunately, this poor choice of actions aimed at assisting his spouse will not only cause him to have a conduct sheet, but also a criminal record that may have serious consequences on him in the near future. These are serious consequences for displaying such a poor judgement at the time. This case is also a perfect example of what not to do. A simple approach to this issue would have been to seek proper advice from Canadian Forces or DND personnel who deal with these types of issues on a routine basis, but he made the wrong choice and he is going to pay a hefty price for it.

[7] The Court finds that the proposed sentence is within the range applicable for this type of offence. It is adequate to meet the objectives sought, namely, denunciation, general deterrence, and it will assist the rehabilitation of the offender.

**FOR THESE REASONS, THE COURT:**

[8] **FINDS** the offender, Corporal Wight, guilty of one count of an act of a fraudulent nature not specified in ss. 73 to 128 of the *National Defence Act* under s. 117(f) of the *National Defence Act*.

AND

[9] **SENTENCES** the offender, Corporal Wight, to a reprimand and a fine in the amount of \$900 payable in nine equal and consecutive monthly instalments of \$100 beginning on 30 September 2014. Should the offender be released from the Canadian Forces prior to the full payment of the fine, the balance will be payable immediately prior to the effective date of release.

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**Counsel:**

Major J.A. Simpson, Canadian Military Prosecution Service, Counsel for Her Majesty the Queen

Lieutenant-Commander B.G. Walden, Directorate of Defence Counsel Services,  
Counsel for Corporal J.J. Wight