



COURT MARTIAL

Citation: *R. v. Meadus*, 2009 CM 1016

Date: 20091214

Docket: 200924

Standing Court Martial

Canadian Forces Base Esquimalt
Esquimalt, British Columbia, Canada

Between:

Her Majesty the Queen

- and -

Private A. Meadus, Offender

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

REASONS FOR SENTENCE

(Orally)

[1] Private Meadus, having accepted and recorded your plea of guilty in respect to the first charge for the offence of stealing contrary to s. 114 of the *National Defence Act*, the court finds you guilty of that charge. The facts surrounding the commission of the offence are straightforward and can be described as follows:

In early September 2008, Private Meadus stayed with her friend Mrs Druken whose husband was deployed at that time. This situation served them both as Mrs Druken, who was 8 months pregnant, did not wish to stay home alone, whereas Private Meadus found it to be advantageous as well since she had been recently released from the Edgewood Center for problems related to her addiction to prescription drugs. Private Meadus used her opportunity to steal from Mrs Druken, in her own house, a personal cheque. Private Meadus used the cheque by forging Mrs Druken signature in order to cash \$300. Shortly after, the offender admitted her theft, the forgery that ensued and the use of the forged document to the

military police. To date, Private Meadus did not retribute the money stolen, nor is there any evidence before the court that she intends to do so.

[2] The prosecution recommends that the court impose a sentence composed of a reprimand and a fine in the range of 800 to 1200 dollars. Counsel for the prosecution submits that such sentence would meet the need for general deterrence and specific deterrence in light of the aggravating factors of this case, including the breach of trust or confidence by the offender, the premeditation and the fact that there was no restitution. The defence suggests that a fit sentence would consist of a fine in the amount of \$600. In addition to the mitigating elements raised by the prosecution such as the plea of guilty, the offender's cooperation with the police authorities and her upcoming release from the Canadian Forces in April 2010 for mental health reasons, the defence asked the court to consider that Private Meadus is now on the right track as it appears from her current involvement with the Victoria Cool Aid Society — a community organization supporting homeless adults or in need of help — to become one of their counselors. Counsel for the defence submits that Private Meadus now desires to do good. In support of his submission, counsel for the defence indicated that the amount stolen was relatively small.

[3] The evidence provided to the court during the sentencing procedure was limited. The defence was offered the opportunity to expand in this matter in order to assist the court to determine an appropriate and fit sentence. Counsel for the defence, after consulting with the offender, declined to re-open its case.

[4] It has long been recognized that the purpose of a separate system of military justice is to allow the Armed Forces to deal with matters that pertain directly to discipline, efficiency, and the morale of the military. However, the punishment that is imposed by a court, whether it's a civilian court or a military court, should always constitute the minimum necessary intervention that is adequate in the particular circumstances of a case.

[5] The objectives and the principles to be used in considering what should be an appropriate punishment or sentence relates to one or more of the following:

Firstly, the protection of the public and this includes the Canadian Forces;

Secondly, the punishment and the denunciation of the unlawful conduct;

Thirdly, the deterrence of the offender and other persons from committing similar offences;

Fourthly, the separation of offenders from society, including from members of the Canadian Forces, where necessary;

Fifthly, the rehabilitation of offenders;

Sixthly, the proportionality to the gravity of the offence and the degree of responsibility of the offender;

Seventhly, the sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

Eighthly, an offender should not be deprived of liberty, if less restrictive punishment or combination of punishments may be appropriate in the circumstances; and,

Finally, the Court shall consider any relevant aggravating or mitigating circumstances relating to the offence or the offender.

[6] In this case, the protection of the public must be achieved by a sentence that will emphasize specific deterrence, general deterrence as well as the denunciation of the conduct. Rehabilitation is also factor that applies but to lesser degree. I consider the following factors to be aggravating in this case:

1. The objective gravity of the offence of stealing under s. 114 of the *Act* that is liable to imprisonment for a term not exceeding 7 years when the offender was not entrusted with the custody, control or distribution of the thing stolen by reason of his rank or employment. This is serious offence.
2. The second most aggravating factor is the violation of the trust and confidence vested in the offender by her victim, a service spouse, who accepted to have Private Meadus reside with her during Mrs Druken husband's absence on deployment. This fact is particularly disturbing and appalling. In the context of the Canadian Forces, this situation amounts to stealing members of your own family. There is no evidence before the court that would explain the motive of such action. Therefore, the court accepts the reasoning of the prosecution that the subsequent actions made by the offender after the theft provide a logical and reasonable support to the statement that the theft was premeditated.
3. The third aggravating factor is that no restitution or arrangements to pay back have been made yet in light of the small amount of the theft and the proximity of the victim who was a friend of the offender to the point to let her live with her.

[7] There are few significant mitigating factors in this case. The plea of guilty is positive because it saved the costs of long judicial proceedings. It is also coherent with the offender's cooperation with the police. However, the court does not consider this plea of guilty as a genuine expression of remorse towards the victim, in absence of restitution of such a small amount of money or evidence of arrangements to reimburse the amount stolen. However, your failure to express remorse cannot be considered as an

aggravating factor. Other mitigating factors include your relatively young age, financial and family situation, including being the mother of two young children.

[8] Your counsel has mentioned that your upcoming release should mitigate the sentence. I disagree. Your upcoming release from the Canadian Forces is unrelated to the events surrounding this case. If it is, no evidence has been put before the court in support of such proposition. In this context, I consider this future release as a neutral factor as much as your unrelated entry on your conduct sheet for an offence of being absent without leave is also neutral in the circumstances.

[9] Furthermore, there is no convincing evidence that would provide a reasonable connection between your mental health at the time of the offence and the reasons that would have explained the motive of your theft in order to consider your mental health as a mitigating factor in the circumstances. Therefore, the situation described in the letter from Edgewood filed as Exhibit 9 is acknowledged by the court, but its relevancy and weight is very limited in absence of further evidence.

[10] I shall say that I sincerely wish you the best possible success in becoming a counsellor with the Victoria Cool Aid Society and to fulfill your goal in helping the less fortunate people of this community, after your release from the Canadian Forces. But to be true to yourself in the process, you may first try to correct the damage that you have done in relation to this case and make the necessary arrangements with your victim if it has not been done before today. Otherwise, your current “on job training” with the Victoria Cool Aid Society may enjoy a sense of compassion, honesty and integrity incompatible so far with that demonstrated towards your friend victim.

[11] Private Meadus, stand up, for all these reasons, the court sentences you to a reprimand and a fine in the amount \$1000.

Counsel:

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

Lieutenant (N) M. Létourneau, Directorate of Defence Counsel Services
Counsel for Private A. Meadus