

Citation: *R. v. Master Corporal V.J. Morrell*, 2006CM49

Docket: S200649

**STANDING COURT MARTIAL
CANADA
ONTARIO
CANADIAN FORCES SCHOOL OF AEROSPACE TECHNOLOGY AND
ENGINEERING BORDEN**

Date: 6 September 2006

PRESIDING: LIEUTENANT-COLONEL L.-V. D'AUTEUIL, M.J.

HER MAJESTY THE QUEEN

v.

**MASTER CORPORAL V.J. MORRELL
(Accused)**

SENTENCE

(Rendered orally)

[1] Master Corporal Morrell, having accepted and recorded a plea of guilty in respect of the charge number one on facts that differ materially from the facts alleged in the statement of particulars in the charge sheet but are nevertheless sufficient to establish the offence for which you pleaded guilty and having accepted and recorded a plea of guilty in respect of the charge number three, the court finds you now guilty of these charges.

[2] It has been long recognized that the purpose of a separate system of military justice or tribunals is to allow the Armed Forces to deal with matters that pertain to the respect of the Code of Service Discipline and the maintenance of efficiency and morale among the Canadian Forces. That being said, the punishment imposed by any tribunal, military or civilian should constitute the minimum necessary intervention that is adequate in the particular circumstances. It goes directly to the duty imposed to the court to "impose a sentence commensurate with the gravity of the offences and the previous character of the offender" as stated at QR&O article 112.48(2)(b). Here, in this case, the prosecutor and the counsel for the defence have made a joint submission on sentence. They have recommended that this court sentences you to a reprimand and a fine in the amount of 700 dollars.

[3] Although this court is not bound by this joint recommendation, it is generally accepted that a joint submission should be departed from only where to accept

it would be contrary to public interest and would bring the administration of justice into disrepute.

[4] The Court has considered the joint submission in light of the relevant facts set out in the statement of circumstances and their significance and I've also considered the joint submission in light of the relevant sentencing principles that are the following: firstly, the protection of the public and the public includes the interest of the Canadian Forces; secondly, the punishment of the offender; thirdly, the deterrent effect of the punishment, not only on the offender but also upon others who might be tempted to commit such offences; and fourthly, the reformation and rehabilitation of the offender.

[5] I must say that I agree with the prosecutor when she expressed the view that the protection of the public must be answered by a sentence that would emphasize general and specific deterrence.

[6] This case is a prime example of lack of integrity and judgment. As a person specially appointed as a military police to exercise the special powers listed at section 156 of the *National Defence Act*, confidence has been put in you to support lawful authority. It is aggravated by the fact that this behaviour occurred on duty. In addition to the need to promote general and specific deterrence, I would also add that this sentence must nevertheless reflect the sentencing principles of denunciation of the unlawful conduct in the context of this case.

[7] The Court finds that the facts of this case are objectively serious in the context of an MP performing the basic job he was trained for and he taught to his peers, i.e. patrolling and investigating.

[8] Through the facts presented to this court, the Court also considers that this plea of guilty by Master Corporal Morrell is a genuine sign of remorse and that he is very sincere in his pursuit of becoming again a valid asset to the Canadian Forces and the Canadian community. The Court would not want to jeopardize his chances of success because rehabilitation is always a key element when sentencing a person. Moreover, the cooperative attitude on Master Corporal Morrell during the investigation process demonstrates a clear state of mind to accept responsibility for what he did.

[9] Except for these two incidents, your service in the Canadian Forces has been good. It looks like you're accepting the consequences of your acts and that you are trying to turn yourself to a different career in the Canadian Forces. As a member of the Canadian Forces wearing the appointment of master corporal, I suggest to you that you have to demonstrate a better sense of leadership in the future, whatever the trade you will be in.

[10] Article 112.48(2)(a) QR&O imposes to the Court the duty to consider any indirect consequences of the sentence. Considering that the MP credential review

board will take notice of the fact that you were found guilty of the two charges before this court and that you were on duty at the time of the offences, this Court cannot ignore the fact that your MP credentials may be revoked or suspended because of your conduct.

[11] The Court believes that the joint submission is not unreasonable in the circumstances.

[12] In consequence, the Court will accept the joint submission made by counsel to sentence you to the punishment of a reprimand and a fine in the amount of 700 dollars, considering that it would not be contrary to the public interest and would not bring the administration of justice into disrepute.

[13] Therefore, the Court sentences you to a reprimand and a fine in the amount of 700 dollars. The fine is to be paid in monthly installments of 100 dollars each month commencing on 15 September 2006 and continuing for the following six months. In the event you are released from the Canadian Forces for any reason before the fine is paid in full, the then outstanding unpaid amount is due and payable the day prior to your release.

LIEUTENANT-COLONEL L.-V. D'AUTEUIL

Counsel:

Major S. MacLeod, Directorate of Military Prosecutor
Counsel for Her Majesty The Queen
Lieutenant-Commander J.A. McMunagle, Directorate of Defence Counsel Services
Counsel for Master Corporal V.J. Morrell