



## COURT MARTIAL

**Citation:** *R v Lalande*, 2011 CM 2006

**Date:** 20110401

**Docket:** 201056

Standing Court Martial

14 Wing Greenwood  
Greenwood, Nova Scotia, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Sergeant J.M. Lalande, Offender**

**Before:** Commander P.J. Lamont, M.J.

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### REASONS FOR SENTENCE

[1] Sergeant Lalande, you have been found guilty of one offence, an offence contrary to section 95 of the *National Defence Act*; that is that you ill-treated a person who by reason of rank was subordinate to you.

[2] It now falls to me to determine and to pass a sentence upon you. In so doing, I have considered the principles of sentencing that apply in the ordinary courts of criminal jurisdiction in Canada and at courts martial. I have as well considered the facts of the case as disclosed in the evidence heard in the course of the trial and the materials submitted to me during the course of this phase of the proceedings as well as the submissions of counsel both for the prosecution and for the defence.

[3] The principles of sentencing guide the court in the exercise of its discretion in determining a fit and proper sentence in an individual case. The sentence should be broadly commensurate with the gravity of the offence and the blameworthiness or degree of responsibility and the character of the offender. The court is guided by the sentences imposed by other courts in previous similar cases, not out of a slavish adherence

to precedent, but because it appeals to our common sense of justice that like cases should be treated in similar ways.

[4] In imposing sentence the court takes account of the many factors that distinguish the particular case it is dealing with, both the aggravating circumstances that may call for a more severe punishment and the mitigating circumstances that may reduce a sentence. The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally they relate to the protection of society of which, of course, the Canadian Forces is a part, by fostering and maintaining a just, a peaceful, a safe and a law abiding community. Importantly, in the context of the Canadian Forces these objectives include also the maintenance of discipline, that habit of obedience which is so necessary to the effectiveness of an armed force. The goals and objectives also include deterrence of the individual so that the conduct of the offender is not repeated, and general deterrence so that others will not be led to follow the example of the offender. Other goals include the rehabilitation of the offender, the promotion of a sense of responsibility in the offender and the denunciation of unlawful behaviour. One or more of these objectives will inevitably predominate in crafting a fit sentence in an individual case. Yet it should not be lost sight of that each of these goals calls for the attention of the sentencing court and a fit sentence should reflect a wise blending of these goals tailored to the particular circumstances of the case.

[5] Section 139 of the *National Defence Act* prescribes the possible punishments that may be imposed at court martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment. Only one sentence is imposed upon an offender whether the offender is found guilty of one or more different offences, but the sentence may consist of more than one punishment. It is an important principle that the court should impose the least severe punishment that will maintain discipline.

[6] In arriving at a sentence in this case I have considered the direct and indirect consequences for the offender of the finding of guilt and the sentence I am about to pronounce.

[7] The facts in this case were set out in my finding and I do not intend to repeat what I said on that occasion, at least with respect to the facts of the offence. It is sufficient to add though that as a result of your conduct it does not appear that the complainant, Master Corporal Kresky, suffered any pain, or injury, or even discomfort. On these facts the prosecution suggests that the court consider a reprimand and a fine in the amount of 500 dollars. Counsel on behalf of Sergeant Lalande recommends that the court consider a fine of 200 dollars and the minor punishment of a caution.

[8] I agree with the characterization of both counsel that on the spectrum of things the facts that I have heard suggest that this is a relatively minor case of ill-treatment of a subordinate. I note that the offender comes before the court without a record of previous convictions of any kind. I have also examined the antecedents of Sergeant Lalande including the personnel evaluation reports that have been supplied to me in evidence.

There he is described in unambiguous terms with the highest of praise. Indeed, he is described in one report as a "phenomenal supervisor". The actions for which you have been found guilty of this offence are inconsistent with the characterization of a phenomenal supervisor. I am left in no doubt therefore that this incident of 12 June 2009 is an isolated occurrence. It is most unlikely to recur.

[9] I have not been given any fact upon which I could find the reason why you, Sergeant Lalande, apparently lost it for a brief period of time on the occasion of this offence. I can speculate that the onerous nature of the duties you were then discharging may have had something to do with the fact that you reacted inappropriately and have treated Master Corporal Kresky in the way that you did; that, I'm afraid, is left though in the realm of speculation. But I repeat I consider this offence to be of an isolated nature and most unlikely to recur.

**FOR THESE REASONS, THE COURT:**

[10] **FINDS** you guilty of the first charge and orders a stay of proceedings on the second charge.

[11] **SENTENCES** you to a reprimand.

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**Counsel:**

Lieutenant-Commander D.T. Reeves, Canadian Military Prosecution Service  
Counsel for Her Majesty the Queen

Lieutenant-Commander B.G. Walden, Directorate of Defence Counsel Services  
Counsel for Sergeant J.M. Lalande