

Citation: *R. v. Gunner Thompson, 2006 CM 21*

**Docket:**S200621

**STANDING COURT MARTIAL  
CANADA  
ONTARIO  
CANADIAN FORCES BASE PETAWAWA**

---

**Date:**16 May 2006

---

**PRESIDING:COMMANDER P.J. LAMONT, M.J.**

---

**HER MAJESTY THE QUEEN**

**v.**

**GUNNER H. THOMPSON  
(Offender)**

---

**SENTENCE**

**(Rendered orally)**

---

[1] Gunner Thompson, having accepted and recorded your pleas of guilty to two charges of absence without leave, the court now finds you guilty of these two charges.

[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 by the evidence heard, 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 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. Nevertheless, 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.

[5] The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society, which includes, of course, the Canadian Forces, 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 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.

[6] One or more of these goals and objectives will inevitably predominate in arriving at a fit and just 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 and just sentence should be a wise blending of these goals, tailored to the particular circumstances of the case.

[7] As I told you when you tendered your pleas of guilty, 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, and may be further limited to the jurisdiction that may be exercised by this court. 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. In arriving at the sentence in this case, I have considered the direct and indirect consequences for the offender of the findings of guilt and the sentence I am about to impose.

[8] The facts of the offences are not complicated. Gunner Thompson was a member of the Army Gun Race Team. He failed to appear at 0230 hours, 6 July 2005, for bus transportation from Petawawa to the Ottawa airport. As a result, he missed a flight to Calgary, where the team was to make a public appearance, and was ordered to return to his unit at CFB Petawawa. There, he was ordered to appear the following day, at 0730 hours, but he telephoned to his unit late that same evening to advise that he would not be showing up. He was again ordered to appear as required, but he was not seen at his unit again for a period exceeding five days, until he reported to his Regimental Orderly Officer during the evening of 12 July 2005. I have not been given any satisfactory explanation as to why the offender was absent from his place of duty apart from the fact that it had something to do with the offender's friend, who was also a member of the Army Gun Race Team.

[10] Counsel before me are agreed that a fit disposition in this case is a reprimand and a fine in the amount of \$1,000. The sentence to be pronounced is, of course, a matter for the court, but where, as in this case, both parties agree on a recommended disposition, that recommendation carries substantial weight with the court. The courts of appeal across Canada, including the Court Marital Appeal Court, have held that the joint submission of counsel as to sentence should be accepted by the court unless the recommended sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

[11] It would not be unusual for repeated offences of absence without leave for an extended period of time to be met with a sentence of detention, but I consider, also, the personal circumstances of the offender. He is single and 25 years of age, with just over three years of service in the Canadian Forces as an Artilleryman. He has pleaded guilty to these offences after indicating his intentions so to do at an earlier stage. He has no record of prior disciplinary infractions. Both counsel seem to agree that the offender has learned his lesson already.

[12] Taking all these factors into account, I cannot say that the sentence jointly recommended by counsel would either bring the administration of justice into disrepute, or is otherwise contrary to the public interest. Accordingly, I accept the joint recommendation of counsel. Stand up, Gunner Thompson.

[13] You are sentenced to a reprimand and a fine in the amount of \$1,000 to be paid in monthly installments of \$100 each commencing 16 June 2006, and continuing for the following nine 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 balance is due and owing the day prior to your release. March out Gunner Thompson.

**COMMANDER P.J. LAMONT, M.J.**

Counsel:

Major A.M. Tamburro, Regional Military Prosecutions Central  
Counsel for Her Majesty The Queen  
Lieutenant-Command M. Reesink, Directorate of Defence Counsel Services  
Counsel for Gunner Thompson