



## COURT MARTIAL

**Citation:** *R v Laliberté*, 2014 CM 2011

**Date:** 20140521

**Docket:** 201372

Standing Court Martial

Canadian Forces Base Gagetown  
Oromocto, New Brunswick, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Corporal C.J. Laliberté, Offender**

**Before:** Colonel M.R. Gibson, M.J.

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### REASONS FOR SENTENCE

(Orally)

[1] Corporal Laliberté, having found you guilty in respect of the first, third and fourth charges on the charge sheet following a trial, the court now registers a conviction on those charges, and directs a stay of proceedings on the second charge. It is now my duty to determine an appropriate, fair and just sentence.

[2] In doing so the court has considered the principles of sentencing that apply in the military justice system, the facts of the case as disclosed in the evidence heard by the court and the documents introduced in evidence, as well as the submissions of counsel for the prosecution and the defence.

[3] The fundamental purposes of sentencing by service tribunals in the military justice system, of which courts martial are one type, are: to promote the operational effectiveness of the Canadian Forces by contributing to the maintenance of discipline, efficiency and morale; and to contribute to respect for the law and the maintenance of a

just, peaceful and safe society. In short: to promote operational effectiveness, and to do justice.

[4] The fundamental purposes are achieved by the imposition of just sanctions that have one or more of the following objectives: to promote a habit of obedience to lawful commands and orders; to maintain public trust in the Canadian Forces as a disciplined armed force; to denounce unlawful conduct; to deter offenders and other persons from committing offences; to assist in rehabilitating offenders; to assist in reintegrating offenders into military service; to separate offenders, if necessary, from other officers or non-commissioned members or from society generally; to provide reparations for harm done to victims or to the community; and to promote a sense of responsibility in offenders and an acknowledgement of the harm done to victims and to the community.

[5] The fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[6] Other sentencing principles include: a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances; a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances; an offender should not be deprived of liberty by imprisonment or detention if less restrictive sanctions may be appropriate in the circumstances; a sentence should be the least severe sentence required to maintain discipline, efficiency and morale; and any indirect consequences of the finding of guilty or the sentence should be taken into consideration.

[7] In the case before the court today, I must determine if the sentencing purposes and objectives would best be served by deterrence, denunciation, rehabilitation, or a combination of these factors.

[8] The court must impose a sentence that is of the minimum severity necessary to maintain discipline, efficiency and morale. Discipline is that quality that every Canadian Forces member must have that allows him or her to put the interests of Canada and of the Canadian Forces before personal interests. This is necessary because members of the Canadian Forces must promptly and willingly obey lawful orders that may potentially have very significant personal consequences, up to injury or even death. Discipline is described as a quality because ultimately, although it is something which is developed and encouraged by the Canadian Forces through instruction, training and practice, it is something that must be internalized, as it is one of the fundamental prerequisites to operational effectiveness in any armed force. One of the most important components of discipline in the military context, is self-discipline. The actions of Corporal Laliberté demonstrate that this is an area in which he has been deficient.

[9] The court considers that the aggravating factors in this case are the following:

- (a) the objective gravity of the offences of which Corporal Laliberté has been convicted. The offence of interception of private communications

under section 184 of the *Criminal Code* is an indictable offence punishable by imprisonment for a term not exceeding five years. The offence of behaving with contempt towards a superior officer under section 85 of the *National Defence Act* is punishable by Dismissal with Disgrace from Her Majesty's Service or to less punishment; and

- (b) the fact that Corporal Laliberté is a member of the Military Police, of whom much is necessarily expected, and that his actions constituted a breach of the Military Police Professional Code of Conduct.

[10] The mitigating factors in this case include the following:

- (a) the absence of a conduct sheet or any other indication of prior convictions;
- (b) the apparent lack of pre-mediation in the commission of these offences. The court accepts that all three were committed on the spur of the moment;
- (c) the lack of significant consequences of harm arising from the commission of the offences; and
- (d) the court should also take into account any indirect consequences of the finding of guilty, which in this case, given that Corporal Laliberté is a member of the Military Police, may include a credentials review by the Military Police Credentials Review Board.

[11] The principles of sentencing that the court considers should be emphasized in the present case are denunciation and general and specific deterrence. Confidence in the honesty, integrity, discipline, maturity and good judgment of members of the Military Police in the Canadian Forces, both by the general public, other Canadian Forces members in general, and other members of the Military Police in particular, is critical to the effectiveness of the Military Police in the fulfilment of their important functions. Members of the Military Police are rightly held to a very standard. The actions of Corporal Laliberté, particularly in using Military Police resources for a private purpose, constitute a significant derogation from those standards. He must never repeat these actions, and other members of the Military Police must also understand that such actions are simply not tolerable, and must be deterred from committing them.

[12] The prosecution and defence have made a joint submission for a sentence comprising a reprimand plus a fine of \$1,000, payable in monthly instalments of \$200 per month.

[13] I have carefully canvassed all of the cases submitted to me by counsel as precedents for sentencing. The submissions of counsel in this case are consistent with those precedents.

[14] The court will accept the joint submission of counsel for the prosecution and defence as to sentence.

[15] I would like to thank counsel for their appropriate, efficient and effective submissions as to sentence in this case.

**FOR THESE REASONS, THE COURT:**

[16] **FINDS** you guilty of the first, third and fourth charges on the charge sheet, and directs that proceedings on the second charge be stayed.

[17] **SENTENCES** you to a reprimand and a fine of \$1,000 payable in monthly instalments of \$200, commencing on 1 June 2014.

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**Counsel:**

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

Mr. P.E. Hurley, Q.C.  
Counsel for Corporal Laliberté