

Citation: *R. v. Ex-Ordinary Seaman A.K. Doiron*, 2006 CM 16

Docket:S200616

**STANDING COURT MARTIAL
CANADA
BRITISH COLUMBIA
CANADIAN FORCES BASE ESQUIMALT**

Date:6 June 2006

PRESIDING:COLONEL M. DUTIL, C.M.J.

HER MAJESTY THE QUEEN

v.

**EX-ORDINARY SEAMAN A.K. DOIRON
(Offender)**

SENTENCE

(Rendered orally)

[1] Having accepted and recorded a plea of guilty in respect of the first, second, third, fourth, fifth, sixth, seventh, eighth and ninth charge, the court finds you guilty of these charges.

[2] This is a case where the prosecution and counsel for the defence have made a joint submission on sentence. They have recommended that this court sentences you to imprisonment for a period of 30 days, and also that the court suspends the carrying into effect of the said punishment.

[3] As I have stated earlier, the court had serious reservations and concerns as to the propriety of that recommendation. Consequently, I have been forceful with counsel in order that they provide to the court with detailed explanations as to the rationale behind it. 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 the 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. I must say that I agree with the prosecution when he expresses the view that the protection of the public must be ensured by a sentence that would emphasize general deterrence.

[5] This case is a prime example of blatant disregard for basic military discipline. It is aggravated by the fact that this behaviour occurred in the context of military training in a school environment where members are instilled with the necessary tools for that in order to become professional members of the military and more specifically of the Canadian navy with proper values and discipline. In addition to the need to promote general deterrence, I would also add that this sentence must nevertheless reflect the sentencing principle of denunciation of that unlawful conduct in the context of this case.

[6] The court finds that the facts of this case are, objectively, extremely serious in the context of a training facility and its purpose.

[7] However, having heard and observed you, Mr Doiron, testifying before this court, I consider it to be extremely relevant for a proper understanding of the matter before this court, and I can say now that the court considers that this plea of guilty is a genuine sign of remorse and that it is very sincere in your pursuit, I think, of becoming a valid asset to the Canadian community. The court would not want to unduly jeopardize your chances of success because, as your counsel pointed out, rehabilitation is important in this case, and I would add it is always a key element when sentencing a person at such a young age, even if that rehabilitation will take place outside of the Canadian Forces environment.

[8] As stated by the Supreme Court of Canada in *R. v. Gladue* [1999] 1 S.C.R., 688, incarceration should be the punishment of last resort. That was reiterated by the Court Martial Appeal Court very recently. Imprisonment for a period of 30 days is what I consider to be the minimal sentence in this particular context, and this is taking into account the facts surrounding the commission of the offences and their repetitive nature as far as the offender is concerned as it appears from your military conduct sheet, but also, in taking into account the particular circumstances of the offender. Counsel for the prosecution believes that it is not in the public interest or that of the Canadian Forces that you serve a custodial sentence.

[9] Your service in the Canadian Forces has been very brief and some might say that it was not at all positive. I disagree. If you are sincere as I think you are, you will remember that you have been treated fairly not only by this court, by the military justice system, but also by your chain of command and though you may not pursue a career in the Canadian Forces, you are given what may constitute your final chance and I sincerely hope, Mr Doiron, that you will succeed.

[10] The evidence in mitigation indicates that you will soon start employment if you complete your training which has already commenced for those selected with you. The court believes that you may still have the potential to become a valuable asset not only to your community but also to the Canadian society as a whole. It is now up to you to prove it.

[11] The court believes that sending you to a service prison would not serve the interest of justice. It is therefore of the outmost importance that this court emphasizes that the circumstances of this case are unique both from an objective and subjective aspect. Without the presence and the combination of both aspects, this court would not accept the joint recommendation that the court still considers to be at the very low threshold of what is an appropriate punishment.

[12] In consequence, the court will accept the joint submission made by counsel to sentence you to the punishment of imprisonment for a period of 30 days and to suspend the carrying into effect of the punishment because the court believes, after close scrutiny, that it will not be contrary to public interest and would not bring the administration of justice into disrepute.

[13] Therefore, the court sentences you to imprisonment for a period of 30 days and the court suspends the carrying into effect of that punishment.

[14] The proceedings of this court martial in respect of ex-Ordinary Seaman Doiron are terminated.

COLONEL M. DUTIL, C.M.J.

Counsel :

Lieutenant-Commander G.W. Thomson, Director of Military Prosecutions

Counsel for Her Majesty The Queen

Lieutenant-Commander J.C.P. Lévesque, Director of Defence Counsel Services

Counsel for ex-Ordinary Seaman Doiron