

Citation: *R. v. Major K.P. Mahon*, 2005CM26

Docket: S200526

**STANDING COURT MARTIAL
CANADA
ONTARIO
ROYAL MILITARY COLLEGE KINGSTON**

Date: 04 October 2005

PRESIDING: COLONEL K.S. CARTER, M.J.

HER MAJESTY THE QUEEN

v.

MAJOR K.P. MAHON

(Accused)

SENTENCE

(Rendered verbally)

[1] Major Mahon, the court, having accepted and recorded your plea of guilty to the first charge on the charge sheet, the court finds you guilty of that charge.

[2] The court, in determining a sentence in this case, has considered the Statement of Circumstances submitted as Exhibit 3, and the agreed Statement of Facts submitted as Exhibit 14, as well as the various documents submitted by both counsel and their submissions.

[3] Counsel has presented a joint submission that an appropriate sentence is a fine of \$150, which, should you not be tried summarily or court-martialled again within the next year, would result in this conviction being removed from your conduct sheet in October 2006.

[4] The essence of those submissions made by counsel is: that this is a unique case; that you are an individual who is suffering from a serious mental illness, post-traumatic stress disorder, mainly as a result of experiences related to military service for which you and your family receive a pension as set out in Exhibits 11, 14, and 15; that this action is out of

character; that your many years of good service should be taken into account as set out in Exhibits 4, 6, 7, 8, 9, and 10; and finally, that the chain of command, as set out in Exhibits 12 and 13, having recommended that this matter proceed to court martial, apparently on receipt of information that you intended to defend yourself on the grounds that you were taking medication for stress at the time of the commission of this offence, and concluding that it may be more difficult to establish you had the intent to steal, reconsidered the earlier recommendation to proceed and asked that this charge be withdrawn as no longer being in the public interest. Clearly, the Director of Military Prosecutions did not share the chain of command's view, and the matter proceeded to court martial, and you have, today, pled guilty.

[5] The court would indicate that it is inclined to believe, on all the evidence before it—some of which it was quite surprised to receive—and, in addition, given the position of the prosecution as to what it viewed as an appropriate sentence in this case, that the chain of command's recommended course of action would, in all of the circumstances, appear to have been the most appropriate resolution of this matter. As the Court Martial Appeal Court stated in its decision in *R. v. Castile*, 2003CMAC6:

... a sentencing judge should not reject joint sentencing submissions unless the submission is contrary to the public interest or the sentence would otherwise bring the administration of justice into disrepute....

[6] The court, in this case, accepts the joint submission for what your counsel has described as a unique case and an extraordinarily lenient sentence, and, therefore, imposes a sentence of a fine of \$150.

[7] The proceedings of this court martial in respect of Major Mahon are now terminated.

[8] At 1607 hours, 4 October 2005, the trial is terminated.

COLONEL K.S. CARTER, M.J.

Counsel:

Major B.J. Wakeham, Regional Military Prosecutions Western
Attorney for Her Majesty The Queen
Lieutenant-Colonel J.A. McMunagle, Directorate of Defence Counsel Services

Attorney for Major K.P. Mahon