

Citation: *R. v. Ex-Corporal A.A. Richards*, 2007 CM 1001

Docket: 200736

**STANDING COURT MARTIAL
CANADA
ALBERTA
CANADIAN FORCES BASE EDMONTON**

Date: 11 January 2007

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

HER MAJESTY THE QUEEN

v.

**EX-CORPORAL A.A. RICHARDS
(Offender)**

SENTENCE

(Rendered orally)

[1] Ex-Corporal Richards, please stand up. Having accepted and recorded a plea of guilty to the first charge, the court now finds you guilty of that charge. Counsel have made a joint submission on sentence today and they recommend that this court sentence the offender to a reprimand and a fine of \$1,200.

[2] Counsel have provided the court with complete and detailed arguments in making their submissions. Although the court is not bound by a joint submission, it is generally recognized that it should not be departed from except and only where to accept it would be contrary to public interest and bring the administration of justice into disrepute. This is not the case here.

[3] It has long been recognized that the purpose of a separate system of military justice is to allow the Armed Forces to deal with matters that pertain directly to the discipline, efficiency, and morale of the military. It's also recognized that the military context may, on a case by case basis, justify a sentence that will promote military objectives. However, any punishment given by a tribunal, military or civil, should always constitute the minimum necessary intervention to meet the sentencing principles and objectives, and as I said before, they generally relate to the following: First, the protection of the public, and that public includes the Canadian Forces; second, the denunciation of the conduct and of the offender; third, the punishment of the

offender; fourth, the deterrent effect, not only on the offender, but also on others who might be tempted to commit similar offence, another principle is the reformation and the rehabilitation of the offender; fifth, the proportionality of the punishment, with regard to the offender and for his or her crime; sixth, the parity of sentence, that is, it should be similar to sentences imposed on similar offenders for similar offences; and seventh, the court shall consider the aggravating and the mitigating circumstances that are related to the circumstances of the case, but also to the offender.

[4] I have, therefore, considered these principles and objectives in analysing this joint submission. I've also considered the joint submission in light of the complete statement of circumstances provided by the prosecution, as well as the documentary evidence provided by counsel. I agree with the prosecution that this case should emphasize the need for the protection of the public and general deterrence. I also agree with the prosecution when he states that the fact that ex-Corporal Richards gave one military police ballistic vest to someone he believed to be acquainted with a criminal organization is a very aggravating factor in the circumstances of this case. It must never be forgotten that members of the Canadian Forces are provided with equipment that is extremely interesting for criminal organizations. I would add that this reality imposes a positive duty on every CF member to take every reasonable measure to ensure that this type of sensitive equipment does not fall in bad hands; that is, criminals or criminal organizations. So I repeat, this is a very aggravating factor in the circumstances of this case. Receiving stolen property is already a serious offence. It is even more so when sensitive equipment is knowingly given away to persons that may contribute to a further illegal use of that equipment.

[5] It must be made very clear that if it would not be for your early admissions, your cooperation with the authorities, your plea of guilty, the extensive delay that occurred in order to bring this matter to trial, and the fact that you have already been released from the Canadian Forces, that the court would not have accepted that joint submission, which I consider to be the absolute lowest possible sentence in this case, given the best weight possible to your mitigating factors.

[6] Therefore, ex-Corporal Richards, I sentence you to a reprimand and a fine of \$1,200, payable in cash, by certified cheque or money order that would have to be addressed, of course, to the Receiver General of Canada.

COLONEL M. DUTIL, C.M.J.

Counsel:

Major J.J. Samson, Regional Military Prosecutions Atlantic
Counsel for Her Majesty The Queen

Lieutenant-Colonel J.E.D. Couture, Directorate of Defence Counsel Services
Counsel for Ex-Corporal A.A. Richards