



COURT MARTIAL

Citation: *R v Pollett*, 2014 CM 4001

Date: 20140526

Docket: 201401

Standing Court Martial

Canadian Forces Base Halifax
Halifax, Nova Scotia, Canada

Between:

Master Corporal A.D. Pollett, Accused

- and -

Her Majesty the Queen

Before: Commander J.B.M. Pelletier, M.J.

REASONS FOR FINDING

(Orally)

[1] The accused, Master Corporal Pollett, is charged under section 130 of the *National Defence Act* with possession of cannabis, contrary to section 4(1) of the *Controlled Drugs and Substances Act*.

[2] The particulars of the charge read as follows: In that he, on or about 22 March 2013, at or near Dartmouth, Nova Scotia, did unlawfully possess a substance included in Schedule II, to wit cannabis.

[3] For Master Corporal Pollett to be found guilty of possession of cannabis, the prosecution must essentially establish beyond a reasonable doubt to the satisfaction of this court the following three basic sets of facts, incorporating what is known as the essential elements of the offence charged:

- (a) first, that Master Corporal Pollett was in possession of a substance on 22 March 2013, at or near Dartmouth, Nova Scotia;
- (b) second, the nature of the substance, specifically, that the substance was cannabis; and
- (c) third, that Master Corporal Pollett had a guilty mind, meaning that the possession was voluntary and that he knew the substance to be cannabis.

[4] The prosecution has satisfied me beyond a reasonable doubt of each of these three sets of facts, and, therefore, I must find Master Corporal Pollett guilty of the possession of cannabis. Indeed, the admissions by defence answer the questions I need to consider and answer positively before finding Master Corporal Pollett guilty.

[5] As far as the elements of identity, date, place, and possession are concerned, the question to be asked is whether Master Corporal Pollett was in possession of a substance on 22 March 2013, at or near Dartmouth, Nova Scotia?

[6] A person may have a substance in his or her possession in a number of different ways. A person who has actual physical control of the substance, for example, by holding it in his or her hand or keeping it in his or her pocket or in a place in which he or she has control of that substance in his or her possession.

[7] The facts admitted by defence reveal that Master Corporal Pollett was observed entering a residence suspected of being used by a Canadian Forces member to sell drugs. Upon exiting the residence approximately one minute later, Master Corporal Pollett was observed putting an object into his right pocket, entering his vehicle, and departing the area. He was stopped by members of the CFNIS approximately 15 minutes later, searched, and a quantity of marihuana was seized from his vehicle.

[8] I am satisfied beyond a reasonable doubt that Master Corporal Pollett was in possession of a substance on 22 March 2013, at or near Dartmouth, Nova Scotia.

[9] Second question, was the substance cannabis? A controlled substance is any substance that a person cannot legally buy, sell or possess without government authorization. Cannabis (marihuana) is a controlled substance included in Schedule II of the *Controlled Drugs and Substances Act*.

[10] The facts admitted by defence reveal that one gram of the substance seized from Master Corporal Pollett on 22 March 2013 was sent to Health Canada for analysis. The Certificate of Analysis was subsequently received and confirmed that the substance seized from Master Corporal Pollett contained cannabis. The certificate signed by Dominique Pedneault was admitted by consent as an exhibit in this court and is conclusive on the issue of the nature of the substance as provided by section 51(1) of the *Controlled Drugs and Substances Act*.

[11] I am satisfied beyond a reasonable doubt that the substance Master Corporal

Pollett had in his possession was cannabis.

[12] Finally, did Master Corporal Pollett have the required guilty mind and specifically know the substance was cannabis? There were no issues raised as to whether Master Corporal Pollett intended his acts in possessing the substance, and, indeed, had knowledge of the nature of this substance.

[13] It appears from the admissions of defence that Master Corporal Pollett actually knew or was aware that the substance was cannabis. Indeed, he elected to speak with investigators on 7 August 2013 and admitted that he had purchased cannabis on 20 March 2013; that is, the day he was observed by members of the CFNIS entering and exiting a residence suspected of being used by Canadian Forces members to sell drugs, following which he was arrested and the substance was seized from him.

[14] I am satisfied beyond a reasonable doubt that Master Corporal Pollett had the required guilty mind and knew that the substance was cannabis.

FOR THESE REASONS, THE COURT:

[15] **FINDS** Master Corporal Pollett guilty of the first and only charge on the charge sheet that is an offence under section 130 of the *National Defence Act*, possession of a substance included in Schedule II, contrary to section 4(1) of the *Controlled Drugs and Substances Act*.

Counsel:

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

Major C.E. Thomas, Directorate of Defence Counsel Services
Counsel for Master Corporal A.D. Pollett