



COURT MARTIAL

Citation: *R v Adams*, 2013 CM 2010

Date: 20130408

Docket: 201282

Standing Court Martial

Denison Armoury
Toronto, Ontario, Canada

Between:

Her Majesty the Queen

- and -

Ex-Lieutenant R.K. Adams, Offender

Before: Commander P.J. Lamont, M.J.

REASONS FOR SENTENCE

(Orally)

[1] Mr Adams, having accepted and recorded your plea of guilty to the first and only remaining charge in the charge sheet, a charge of conduct to the prejudice of good order and discipline, and having considered the alleged and admitted facts in this case, this court now finds you guilty in respect of the first charge.

[2] It now falls to me to determine and to pass a sentence upon you. In so doing I have considered the principles of sentencing that apply in the ordinary courts of criminal jurisdiction in Canada and at courts martial. I considered, as well, the facts of the case as disclosed in the statement of circumstances, Exhibit 3, and the other materials that have been submitted in the course of this hearing, as well as the submissions of counsel, both for the prosecution and for the defence.

[3] The principles of sentencing guide the court in the exercise of its discretion in determining a fit and proper sentence in each individual case. The sentence should be broadly commensurate with the gravity of the offence and the blameworthiness or degree of responsibility and character of the offender. The court is guided by the sentences imposed by other courts in previous similar cases, not out of a slavish adherence to precedent, but because it appeals to our ordinary sense of justice that similar cases should be treated in similar ways. Nevertheless, in imposing sentence the court takes account of the many circumstances that distinguish the particular case that it is dealing

with, both the aggravating circumstances that may call for a more severe punishment and the mitigating circumstances that may reduce a sentence.

[4] The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society, of which of course the Canadian Forces is a part, by fostering and maintaining a just, a peaceful, a safe, and a law-abiding community. Importantly, in the context of the Canadian Forces, these objectives include the maintenance of discipline, that habit of obedience which is so necessary to the effectiveness of an armed force. The goals and objectives also include deterrence of the individual so that the conduct of the offender is not repeated and general deterrence so that others will not be led to follow the example of the offender. Other goals include the rehabilitation of the offender, the promotion of a sense of responsibility in the offender and the denunciation of unlawful behaviour. One or more of these objectives will inevitably predominate in arriving at a fit sentence in an individual case, yet the court does not lose sight of the fact that each of these goals calls for the attention of the sentencing court, and a fit sentence should reflect an appropriate blending of these goals, tailored to the circumstances of the case.

[5] As I told you when you tendered your plea of guilty, section 139 of the *National Defence Act* prescribes the possible punishments that may be imposed at court martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment. Only one sentence is imposed upon an offender whether the offender is found guilty of one or more different offences, but the sentence may consist of more than one punishment. It is an important principle that the court should impose the least severe punishment that will maintain discipline.

[6] In arriving at the sentence in this case, I have considered the direct and indirect consequences for the offender of both the finding of guilt and the sentence I am about to pronounce.

[7] The facts of this offence are not complicated. As a lieutenant in the infantry and charged with the command of a platoon, now-Mr Adams made an unfortunate choice to make a text communication directly to one of his subordinates, a senior non-commissioned member, in the words specified generally in the charge to the effect that, "Captain Hubble was working him hard and that if Captain Hubble got a flat tire on his personal vehicle it would be an act of karma."

[8] The alleged and admitted facts disclose that this communication to his subordinate non-commissioned member, Sergeant Lisk, resulted in Sergeant Lisk in fact slashing the tires on the personal vehicle of Captain Hubble; an offence for which Sergeant Lisk has since been punished. It is clear to me that the communication from the offender to Sergeant Lisk must be taken to have been accompanied with the intention on his part that the damage inflicted by Sergeant Lisk to the personal vehicle of Captain Hubble would be inflicted with the tacit concurrence of Mr Adams. I have no hesitation in concluding that this conduct on the part of then-Lieutenant Adams was prejudicial both to good order and discipline.

[8] On these facts counsel before me jointly recommend a sentence of a severe reprimand and a fine in the amount of \$1,000. The sentence to be pronounced is, of course, a matter for the court, but where, as in this case, both parties agree on a recommended disposition, that recommendation carries considerable weight with the court. The courts of appeal across Canada, including the Court Martial Appeal Court have held that the joint submission of counsel as to sentence should be accepted by the court unless the recommended sentence would bring the administration of justice into disrepute, or is otherwise contrary to the public interest.

[9] In addition to the circumstances of the offence, I consider also the circumstances of the offender. I'm told that he enrolled in the Canadian Forces as a Reservist in 2005 with the rank of private. Later, in 2008, he began studies at the Canadian Forces College as an officer cadet and successfully completed his degree programme in 2010. I have every reason to suppose that he has been a conscientious and effective member of the Canadian Forces. As a result of the conduct to which he has pleaded guilty this morning, I understand that he has been released from the Canadian Forces on an unsatisfactory release item and is now gainfully employed and appears to have reacquainted himself successfully with civilian life. Although there is a recent conviction for an offence of driving with too much alcohol in his blood for which he was sentenced by His Honour Judge Selkirk in the Ontario Court of Justice to a fine in October of 2012, I attach little weight to the previous conviction.

[10] On all the circumstances of the case, relating both to the offence and to the offender, I cannot say that the recommendation jointly proposed by counsel would either bring the administration of justice into disrepute or is otherwise contrary to the public interest and I therefore accept the joint submission.

FOR THESE REASONS, THE COURT:

[11] **FINDS** you guilty of the first charge, for an offence under section 129 of the *National Defence Act*.

[12] **SENTENCES** you to a severe reprimand and a fine in the amount of \$1,000. The fine is to be paid forthwith.

Counsel:

Major A.-C. Samson, Canadian Military Prosecutions Service
Counsel for Her Majesty the Queen

Major C.E. Thomas, Directorate of Defence Counsel Services
Counsel for ex-Lieutenant Adams