

**Citation:** *R. v. Ex-Private C.S.C. Adams*, 2004CM11

**Docket:** S200411

**STANDING COURT MARTIAL  
CANADA  
QUEBEC  
ASTICOU CENTRE GATINEAU**

---

**Date:** 19 March 2004

---

**PRESIDING: COMMANDER P.J. LAMONT, M.J.**

---

**HER MAJESTY THE QUEEN  
v.  
EX-PRIVATE C.S.C. ADAMS  
(Accused)**

---

**SENTENCE  
(Rendered orally)**

---

[1] Mr Adams, having accepted and recorded your plea of guilty to charge number two, the court now finds you guilty of charge number two and not guilty of charge number one.

[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 have, as well, considered the facts of the case, as disclosed by the statement of circumstances, Exhibit 8, the evidence received in the course of the mitigation phase and 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 an 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 common sense of justice that like cases should be treated in similar ways. Nevertheless, in imposing sentence, the court takes account of the many factors that distinguish the particular case 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. The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society, which includes, of course, the Canadian Forces, 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 are not 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 goals and objectives will inevitably predominate in arriving at a fit and just sentence in a particular case. Yet, it should not be lost sight of that each of these goals calls for the attention of the sentencing court and a fit and just sentence should be a wise blending of these goals tailored to the particular circumstances of the case.

[4] As I explained to you when you tendered your plea of guilty, section 139 of the National Defense Act prescribes the possible punishments that may be imposed at courts martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment and is further limited to the jurisdiction that may be exercised by this court.

[5] 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. In arriving at the sentence in this case, I have considered the direct and indirect consequences of the finding of guilt and the sentence I am about to impose.

[6] The facts of the case are set out in Exhibit 8. In summary, the offender along with two other privates set upon the complainant, the duty private on duty at a barracks block at CFB Shilo. The offender was drunk and does not have a recollection of the incident. He admits, though, that he locked the door to the TV room and directed one of his accomplices to lock the other, in order that the three of them could effect their apparently common purpose of assaulting the complainant.

[7] The offender participated in the punching of the complainant. Eventually, the complainant was assisted by others to escape, but was confronted by the offender and his accomplices while in the bathroom. A further assault was threatened, but not carried out, but a short time later the offender was still looking for the complainant in order to continue the assault.

[8] The complainant suffered facial bruising, broken glasses, and blurred vision that lasted for some hours. It does not appear that medical attention was either sought or was necessary.

[9] Both counsel have submitted a number of previous cases of assault that were dealt with at courts martial. The prosecution submits that the range of sentence in this case is a fine of \$3000 at the low end to a maximum of imprisonment for a period of 30 days. The defence recommends a disposition by way of a reprimand and a fine. In my view, both positions are within the range of sentence for this kind of offence in the circumstances apparent here.

[10] The aggravating circumstances fully justify a sentence involving incarceration. The offender acted in concert with others. Despite his state of intoxication, the offender had the presence of mind to effectively corner his victim in the TV room to prevent his escape. The victim was in uniform and on duty at the time. The assault and the threat of continued punching continued after other people had intervened to restrain the offender. Importantly, the attack appears to have been entirely unprovoked. Even today, in his evidence before me, long after recovering from the intoxicated state he was in at the time of the offence, the offender was unable to offer any reason for this gratuitous and cowardly assault.

[11] It should be noted that perhaps because of the state of intoxication of the offender and his accomplices, the assault did not cause major injuries to the complainant. That is fortunate for the victim, but it is also very fortunate for the offender, that he is not facing a more serious charge than the one I am dealing with. Indeed, I have not been given any information as to the effects of the assault on the complainant apart from the information referred to above. In my view, if the injuries to the victim had been any more serious than they were, a sentence involving incarceration could not be avoided.

[12] Both counsel have referred to mitigating circumstances. The offender has pleaded guilty to the charge at the first opportunity to do so. He is still young, at 22 years of age, and apart from an incident involving alcohol in his possession, contrary to Unit Standing Orders, on a date subsequent to the date of the present offence, he has had no other difficulties with the law. He has recently become a party to a common law association and his employment makes him the sole income earner for a family of three. Although his employer is not aware of this charge or the circumstances surrounding it, his employment is available to him in the very near future after a seasonal lay-off. He has reintegrated himself into civilian life following his release from the Canadian Forces in August of 2003.

[13] Mr Adams, you have made the right decision in seeking your release from the Canadian Forces. I expect you now have some insight into the effects of alcohol on your behaviour. You are the only one who can decide whether or not to take those lessons to heart.

[14] The prosecution has not sought a DNA databank order under section 196.14(1)(b) of the *National Defence Act*.

[15] Stand up, please, Mr Adams. You are sentenced to a reprimand and a fine in the amount of \$2800, payable in monthly instalments of \$400 each commencing 31 March 2004 and continuing for the following six months.

[16] The proceedings of this court martial in respect of ex-Private Adams are hereby terminated.

COMMANDER P.J. LAMONT, M.J.

Counsel:

Major B. MacGregor, Director Military Prosecutions Ottawa  
Counsel for Her Majesty the Queen  
Captain R.M. Stoney, Directorate of Law/Operations  
Assistant Counsel for Her Majesty the Queen  
Major S.E. Turner, Directorate of Defence Counsel Services  
Counsel for Ex-Private C.S.C. Adams