



## COURT MARTIAL

**Citation:** *R v Laflamme*, 2013 CM 4012

**Date:** 20130618

**Docket:** 201255

Standing Court Martial

Canadian Forces Base Trenton  
Trenton, Ontario, Canada

**Between:**

**Her Majesty the Queen**

- and -

**Master Corporal R.S. Laflamme, accused**

**Presiding:** Lieutenant-Colonel J-G Perron, M.J.

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### OFFICIAL ENGLISH TRANSLATION

#### REASONS FOR FINDING

(Rendered orally)

[1] Master Corporal Laflamme is accused of two charges brought under section 130 of the *National Defence Act*, namely, obstruction of a peace officer contrary to section 129(a) of the *Criminal Code of Canada*.

[2] The evidence submitted before this Court consists of the judicial notice taken by the Court of the facts and issues under section 15 of the *Military Rules of Evidence*, of two exhibits and testimony of Mr. Bains, Corporal Ryan, Mr. Vivian and Master Corporal Laflamme.

[3] Before this Court provides its legal analysis of the charges, it is appropriate to deal with the presumption of innocence and the standard of proof beyond a reasonable doubt, a standard that is inextricably intertwined with principles fundamental to all criminal trials. Although these principles, of course, are well known to counsel, other people in this courtroom may well be less familiar with them.

[4] It is fair to say that the presumption of innocence is the most fundamental principle in our criminal law, and the principle of proof beyond a reasonable doubt is an essential part of the presumption of innocence. In matters dealt with under the *Code of Service Discipline*, as in cases dealt with under Canadian criminal law, every person charged with a criminal offence is presumed to be innocent until the prosecution proves his or her guilt beyond a reasonable doubt. An accused person does not have to prove that he or she is innocent. It is up to the prosecution to prove its case on each element of the offence beyond a reasonable doubt. An accused person is presumed innocent throughout his or her trial until a verdict is given by the finder of fact.

[5] The standard of proof beyond a reasonable doubt does not apply to the individual items of evidence or to separate pieces of evidence that make up the prosecution's case, but to the total body of evidence upon which the prosecution relies to prove guilt. The burden or onus of proving the guilt of an accused beyond a reasonable doubt rests upon the prosecution, and it never shifts to the accused person. A court must find an accused person not guilty if it has a reasonable doubt about his or her guilt after having considered all of the evidence. The term "beyond a reasonable doubt" has been used for a long time. It is part of our history and traditions of justice. The Supreme Court of Canada has proposed a model charge to provide the necessary instructions as to reasonable doubt. The principles laid out by the Court have been applied in a number of Supreme Court and appellate court decisions. In substance, a reasonable doubt is not a far-fetched or frivolous doubt. It is not a doubt based on sympathy or prejudice. It is a doubt based on reason and common sense. It is a doubt that arises at the end of the case based not only on what the evidence tells the court, but also on what that evidence does not tell the court. The fact that a person has been charged is in no way indicative of his or her guilt.

[6] In *R v Starr*, [2000] 2 SCR 144, the Supreme Court held that

... an effective way to define the reasonable doubt standard for a jury is to explain that it falls much closer to absolute certainty than to proof on a balance of probabilities

[7] However, it should be remembered that it is nearly impossible to prove anything with absolute certainty. The prosecution is not required to do so. Absolute certainty is a standard of proof that does not exist in law. The prosecution only has the burden of proving the guilt of an accused person beyond a reasonable doubt. To put it in perspective, if the Court is satisfied or would have been satisfied that the accused is probably or likely guilty, then the accused would have to be acquitted, since proof of probable or likely guilt is not proof of guilt beyond a reasonable doubt.

[8] What is evidence? Evidence may include testimony under oath or a solemn affirmation before the court by witnesses about what they observed or what they did. The evidence could also be documents, photographs, maps or other items introduced by witnesses, the testimony of expert witnesses, formal admissions of facts by either the prosecution or the defence and matters of which the Court takes judicial notice. It is not unusual that some evidence presented by the Court may be contradictory. Often, witnesses may have different recollections of events. The court has to determine what

evidence it finds credible. Credibility is not synonymous with telling the truth and a lack of credibility is not synonymous with lying. Many factors influence the Court's assessment of the credibility of the testimony of a witness. For example, the Court will assess a witness's opportunity to observe or a witness's reasons to remember. The Court will consider, for instance, whether there was something specific that helped the witness remember the details or event that he or she described: were the events noteworthy, unusual and striking, or relatively unimportant and therefore, understandably, more difficult to recollect? Does a witness have any interest in the outcome of the trial, that is, a reason to favour the prosecution or the defence, or is the witness impartial? This last factor applies in a somewhat different way to the accused. Even though it is reasonable to assume that the accused is interested in securing his or her acquittal, the presumption of innocence does not permit a conclusion that an accused will lie where the accused chooses to testify.

[9] Another factor in determining credibility is the apparent capacity of the witness to remember. The demeanour of the witness while testifying is a factor which can be used in assessing credibility, that is, was the witness responsive to questions, straightforward in his or her answers, or evasive, hesitant or argumentative? Finally, was the witness's testimony consistent with itself and with the uncontradicted facts? Minor discrepancies, which can and do innocently occur, do not necessarily mean that the testimony should be disregarded. However, a deliberate falsehood is an entirely different matter. It is always serious and may well taint the witness's entire testimony. The Court is not required to accept the testimony of any witness except to the extent that it has impressed the Court as credible. However, a court will accept evidence as trustworthy unless there is a reason to disbelieve it.

[10] The full test as set out in the Supreme Court of Canada's decision in *R. v. W.(D.)*, [1991] 1 SCR 742, guide the court in its weighing of the evidence and in reaching a finding. As established in that decision, the test goes as follows:

First, if you believe the evidence of the accused, obviously you must acquit.

Second, if you do not believe the testimony of the accused, but you are left in reasonable doubt by it, you must acquit.

Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.

[11] Master Corporal Laflamme testified and presented evidence. The Court must thus weigh the evidence in light of the applicable law to determine the verdict according to the three pronged test in *W.(D.)*.

[12] The evidence clearly indicates that Master Corporal Laflamme was driving his car at around 1 a.m. on February 5, 2012, when he was leaving the corporals' and privates' mess of the 8th Squadron and that he was heading for the base exit. The military police section of the squadron was conducting a RIDE (Reduce Impaired Driving Everywhere) operation on Anson Street, leading to the base exit to identify

impaired drivers. This RIDE operation was planned because there was a special event at the corporals' and privates' mess in the evening of February 4, i.e. the viewing of UFC fights. This operation began around 11:30 p.m. on February 4. Corporals Ryan and Bains conducted this RIDE operation. All the events of this case took place at a defence facility.

[13] The question the Court must now ask itself is whether the evidence accepted by it leaves it with a reasonable doubt as to the guilt of the accused. To do so, the Court must review the essential elements of the offence.

[14] To make a finding, the Court must determine whether the prosecution has proven all the essential elements of each offence beyond a reasonable doubt. The essential elements of both charges are as follows:

- (a) The offender's identity;
- (b) The date and location of the incident;
- (c) That Master Corporal Laflamme knew that Corporals Ryan (charge number 1) and Bains (charge number 2) were peace officers;
- (d) That Corporals Ryan and Bains were in lawful execution of their duties at the time of their interactions with Master Corporal Laflamme;
- (e) That Master Corporal Laflamme obstructed the work of Corporals Ryan and Bains; and
- (f) That Master Corporal Laflamme intentionally obstructed the work of Corporals Ryan and Bains.

[15] The evidence accepted by the Court and which has not been challenged by the accused, proves beyond a reasonable doubt the following essential elements: the offender's identity and the dates and places of both incidents.

[16] Did Master Corporal Laflamme know that Corporals Ryan (charge number 1) and Bains (charge number 2) were peace officers? The officers and non-commissioned members of the Canadian Forces that are appointed for the purposes of section 156 of the *National Defence Act* are peace officers according to the definition of this term found in section 2(g)(i) of the *Criminal Code*. Section 156 of the *National Defence Act* reads as follows:

Officers and NCMs who are appointed as military police under regulations for the purposes of this section may:

- (a) detain or arrest without a warrant any person who is subject to the Code of Service Discipline, regardless of the person's rank or status, who has committed, is found committing, is believed on reasonable grounds to be about to commit or

to have committed a service offence or who is charged with having committed a service offence; and

- (b) exercise such other powers for carrying out the Code Service Discipline as are prescribed in regulations made by the Governor in Council.

Article 2 of chapter 22.02 of the *Queen's Regulations and Orders (QR&O)* reads

(2) The following persons are appointed for the purposes of section 156 of the *National Defence Act*:

- (a) every officer posted to an established position to be employed on military police duties, and;
- (b) every person posted to an established military police position and qualified in the military police trade.

provided that such officer or person is in lawful possession of a Military Police Badge and an official Military Police Identification Card.

Corporals Ryan and Bains were both dressed in their military police patrol uniforms and wore all the accoutrements and regulation weapons during their interactions with Master Corporal Laflamme (see testimony by Corporals Ryan and Bains). The evidence clearly shows that Corporals Ryan and Bains were military police officers appointed under section 156 of the *National Defence Act* at the time of the offences.

[17] The testimony Master Corporal Laflamme clearly showed that he knew that Corporals Ryan and Bains were military police officers and peace officers.

[18] Did Corporals Ryan and Bains act in the lawful execution of their functions at the time of their interactions with Master Corporal Laflamme? The prosecutor relied on section 3 of the *Inspection and Search Defence Regulations* and sections 11 and 12 of the *Government Property Traffic Regulations* (C.R.C., c. 887) to prove that Master Corporal Laflamme had a legal obligation to comply with the orders of the military police. Counsel for the defence replied that the *Inspection and Search Defence Regulations* does not apply to our case. He also argued that the evidence before the court does not show that the military police had peace officer status according to the definition found in the *Government Property Traffic Regulations*. Thus, he argues, Master Corporal Laflamme had no legal obligation resulting from this regulation.

[19] Although this is a court martial, just like any trial court, it must take into consideration case law surrounding similar situations, any trial court must render a verdict based on specific facts of the case, applicable law and the evidence that is presenting before it. The issue is not only whether to these military police officers were peace officers as in *R v Haynes* (1994) NSJ No. 152 of the Nova Scotia Court of Appeal, but also whether they were acting in the lawful exercise of their duties when they were conducting this RIDE operation.

[20] Corporals Ryan and Bains were conducting this RIDE operation at the time of their interactions with Master Corporal Laflamme. During a RIDE operation, drivers are randomly stopped by police officers because they do not know when they first intercept them whether the driver has consumed alcohol. The Supreme Court of Canada declared that this type of interception is justified only if police officers act within the objectives set out in the legislation based on who granted the police officers their powers to stop drivers. In the majority of these cases decided by the Supreme Court of Canada, these situations of fact are like regulations underlying a provincial law such as the *Highway Traffic Act* (see paragraph 22 of *R v Nolet*, [2010] SCC 24).

[21] The facts of our case are very different from those in *R v Nolan* (1987) 1 SCR 1212 where it did not involve a RIDE operation but an arrest of a civilian because he had left a Canadian Forces base, having far exceeded the speed limit and, having been stopped by the military police, it was discovered that he was driving while intoxicated. In *Haynes*, while it concerned a RIDE program, the issue before the court is only whether the military police had peace officer status in relation to the accused since the accused is a civilian who is not a person subject to the *Code of Service Discipline* at the time of his arrest. There is no doubt that Master Corporal Laflamme was subject to the *Code of Service Discipline* at the time of his interactions with the military police (see section 60 of the *National Defence Act*).

[22] The military police may exercise, with a view to applying the *Code of Service Discipline*, the powers prescribed by the Governor in Council's regulation (see section 156 of the *National Defence Act* and article 22.02 of the QR&O). The responsibilities of the military police are those prescribed by the Chief of the Defence Staff (see article 22.02 of the QR&O). The military police is mandated to perform security and police services for the Canadian Forces and the Department of National Defence, in its establishments and works (see CFAO 22-4 (Security and Military Police Services)).

[23] The military police, like civilian police officers, exercise functions related to the maintenance of order. As stated by Chief Justice Dickson in *R v Nolan* (1987) 1 SCR 1212, at paragraph 26, the detection and arrest of drunk drivers fall within the areas listed at para 22.01(2) of the QR&O.

[24] The court has already taken judicial notice under section 15 of the *Military Rules of Evidence* of the Canadian constitution; the laws and resolutions of the Parliament of Canada and the laws and resolutions of the legislatures of the provinces and territories of Canada. The court also took judicial notice under this rule of the content, but not of the publication or sufficiency of their notification, proclamations, Orders in Council, ministerial orders, mandates, letters patent, rules, regulations or by-laws, established, rendered or issued directly under the authority of a public law of the Parliament of Canada or of the legislature of a province of Canada, including the QR&O but not limited to them, and the orders and instructions given in writing by the Chief of the Defence Staff or on his behalf under article 1.23 of the QR&O. This means

that, while no evidence was submitted with regard to these facts, the court must assume that these facts were proven.

[25] Paragraph 273.1(b) of the *National Defence Act* provides that:

The Governor in Council may make regulations

- (b) respecting the access to, exclusion from and safety and conduct of persons in, on or about any defence establishment, work for defence or materiel, including, without restricting the generality of the foregoing, regulations
  - (i) respecting the inspection of persons and property entering, exiting or on any such place or materiel, and
  - (ii) requiring any person, as a condition of being given access to that place or materiel, to submit, on demand, to a search of the person and the person's personal or movable property while entering or exiting that place or materiel or any restricted area within that place or materiel.

[26] Article 19.77 of the QR&O is entitled "*Searches as a condition of access to a controlled area*". This article reproduced sections 2, 4, 5, 6, 7 and 8 of the *Inspection and Search Defence Regulations* (SOR/86-958) found at Volume IV of the QR&O. This regulation defines a controlled area as a defence establishment. The *National Defence Act* defines the term "defence establishment" as any area or structure under the control of the Minister, and the materiel and other things situated in or on any such area or structure (see article 2 of the *National Defence Act*). A Canadian Forces base is therefore a controlled area. Thus, contrary to the prosecutor's interpretation, the court found that it was not section 3 but rather sections 4, 5, 6 and 7 of the *Inspection and Search Defence Regulations* that are relevant to our case. A peace officer to whom a competent authority has given the functions of enforcing the regulation is considered a security guard for the purposes of this regulation (see section 2).

[27] Paragraph 1 of article 4.20 of the QR&O (*General Responsibilities of a Commanding Officer*) states that:

A commanding officer is responsible for the whole of the organization and safety of the commanding officer's base, unit or element, but the detailed distribution of work between the commanding officer and subordinates is left substantially to the commanding officer's discretion.

Thus, it is clear that the military police is part of the organization of security of the 8th Squadron and may be considered as security guards for the purposes of the *Inspection and Search Defence Regulations*.

[28] Sections 5, 6, 7 and 8 of the *Inspection and Search Defence Regulations* are very similar to sections 11, 12, 13, and 14 of the *Defence Controlled Access Area Regulations* (SOR/86-957) found in Volume IV of the QR&O. Sections 11, 12 and 13 of the *Defence Controlled Access Area Regulations* are relevant to our case. This

regulation states that access to an establishment of defence is only granted on the condition that the person, at the request of a security guard, submits to a search of his person or of his personal effects on entering or leaving these premises. The person who refuses to submit to a search of his person or of his personal effects on leaving the controlled access area may be subject to a search and the security guard can only use necessary force for this purpose. These regulations are intended to protect people and property on the military establishments.

[29] The *Government Property Traffic Act* (R.S.C. (1985) c. G-6) states that the Governor in Council may, by regulation, govern the traffic on the property belonging on Her Majesty in Right of Canada. This law provides that these regulations may authorize officers to enforce the regulations (see section 2 of the Act).

[30] A government property is defined as being the property belonging to Her Majesty in Right of Canada or occupied by her (see section 2 of the *Government Property Traffic Act*). Section 2 defines constable as:

"constable" means

- (a) a member of the Royal Canadian Mounted Police,
- (b) a member of a provincial or municipal police force, and
- (c) any person authorized to enforce the Regulations by a Minister or the Minister's Deputy, Assistant Deputy or Acting Deputy, or by the Commissioner or any officer referred to in subsection 6(1) of the *Royal Canadian Mounted Police Act*;

[31] Section 3 states that these regulations apply to government property and the highways thereon except the bridges, roads and territories specifically listed in this section. The Canadian Forces bases are not part of these exceptions. Section 23 states that the regulation does not authorize a member of a provincial or municipal police force to enter any establishment except in the manner set out in the *Defence Controlled Access Area Regulations*.

[32] The QR&O are composed of four volumes: Volume I relates to the general administration of the Canadian Forces, Volume II relates to the *Code of Service Discipline*, Volume III relates to finance and Volume IV contains appendices. Volume IV is divided in seven parts. The *Government Property Traffic Act* is found in Part III – Security, Volume IV, and it is Appendix 3.4 of this volume. The *Security of Information Act* is found in Appendix 3.1, the *Defence Controlled Access Area Regulations* are found in Appendix 3.2 and the *Inspection and Search Defence Regulations* are found in Appendix 3.3.

[33] Paragraph 2 of article 1.09 of the QR&O authorizes the Chief of the Defence Staff to designate which texts will be printed in the appendix to the QR&O. This



regulation was taken by the Governor in Council (see article 1.24 of the QR&O). Article 1.03 of the QR&O is entitled "Persons subject to QR&O"; this article reads as follows:

- (1) Unless the context otherwise requires, and subject to article 1.24 (Regulations and Orders - General), QR&O and all orders and instructions issued to the Canadian Forces under authority of the *National Defence Act*, apply to:
  - (a) the Regular Force;
  - (b) the Special Force;
  - (c) the Reserve Force when subject to the Code of Service Discipline; and;
  - (d) unless the Minister otherwise directs, any person not mentioned in subparagraphs (a), (b) and (c) if the person is subject to the Code of Service Discipline.
  
- (2) An officer or non-commissioned member who becomes a prisoner of war continues to be subject to QR&O and all orders and instructions issued to the Canadian Forces under authority of the *National Defence Act*.

[34] In *Nolan*, a unanimous court stated that a military police officer "had authority to enforce the applicable speed limits against a civilian driving on the base (*Government Property Traffic Act*, C.R.C. 1978, chap. 887)" (see paragraph 27 in *Nolan*). This quote tells us that military police officers were, at the time of this arrest, considered to be peace officers within the meaning of the *Government Property Traffic Act*.

[35] The best evidence was apparently the submission of the document that allegedly met the conditions described in paragraph (c) of the definition of peace officer. This was not done by the prosecutor. During his argumentation, counsel for the defence stated that the specific powers of military police officers were found in the QR&O up to 1996. Following the question from the court, the prosecutor stated that a ministerial order dating back to 1953 relating to peace officer status under this regulation was included in Volume IV until 1996. It appears that the submission of the QR&O were modified in 1996. Counsel for the defence stated that this order appeared in Volume IV until 1996.

[36] Considering articles 1.03 and 1.09 of the QR&O, the decision on this topic in *Nolan* and the information on the ministerial order of 1953 provided the court by counsel for the defence and the prosecutor, the court concluded that the *Government Property Traffic Act* is legally binding on a Canadian Forces base and that the military police are peace officers under this regulation.

[37] The Court already indicated that it is Part II of the *Inspection and Search Defence Regulations* that applies in our case and not Part I as suggested by the prosecutor. Although it is the Base Commander who is the designated authority as defined by article 2 of the Regulations, the military police under its authority are

responsible for the security of the base. Article 11 of the *Defence Controlled Access Area Regulations* states that as a condition of being given access to any defence establishment, every person shall, on the demand of a security guard, submit to a search of his person or personal property. Where a person refuses to submit to a search of his person or personal property while exiting the controlled access area may have his person and his personal property searched by a security guard. The military police therefore had the authority to search Master Corporal Laflamme. The military police had the authority to instruct a person to stop so as to perform a search under these two regulations.

[38] Section 11 of the *Government Property Traffic Regulations* states that a driver shall comply with any traffic directions given to him by a constable. Section 12 states that he or she shall produce to a constable upon demand any licence or permit he holds authorizing him to drive a vehicle; and any certificate of registration of a vehicle held by him or her.

[39] Thus, a military police officer has peace officer status when he or she performs duties under these three regulations. These statutory powers are thus the legal justification to also perform a RIDE operation. It is completely normal that a military police officer asks the person who may be searched to stop and identify him- or herself. Canadian case law accepts that a peace officer with the legal authority to instruct a driver to stop may also verify the sobriety of this driver. The right to access a military base is subject to the conditions prescribed by law.

[40] Corporals Ryan and Bains acted as peace officers at the time of the offences because they had the authority to exercise the power to search as prescribed under article 19.77 of the QR&O, the *Inspection and Search Defence Regulations* and the *Defence Controlled Access Area Regulations* (see also paragraph 15 of *R v Haynes* (1994) N.S.J. No. 153). Corporals Ryan and Bains were in the lawful execution of their duties at the time of their interactions with Master Corporal Laflamme.

[41] The court will now concentrate on the first charge. Did Master Corporal Laflamme obstruct the work of Corporal Ryan? there cannot be obstruction unless there is a legal duty; i.e. that Master Corporal Laflamme had a legal duty to comply with the military police officers' instructions (*R v Moore* (1979) 1 SCR 195). The effect of the act of obstruction is that it impedes the execution of the police officer's work or makes it more difficult (*R c Lavin* (1990) 77 CR 3d 251 C.S. Qué). There is not a more precise legal definition because any interpretation of this term must take into account that any citizen may call into question the exercise of police officers' powers (see *R v Gunn* (1977) 6 CCC (3d) 174 CA Alta).

[42] Master Corporal Laflamme had a duty to stop his car when he was stopped by Corporal Ryan. This obligation flows from the powers conferred on police officers by the *Inspection and Search Defence Regulations* and the *Defence Controlled Access Area Regulations*. This obligation also flows from section 11 of the *Government Property Traffic Regulations*. He did not do so. Corporal Ryan had to quickly leave the

vehicle of the driver with whom she was speaking to get in her patrol vehicle and intercept Master Corporal Laflamme. This failure to stop forced Corporal Ryan to cease checking a driver to intercept Master Corporal Laflamme so that she could verify why he had failed to comply with her instructions. The fact of not stopping impeded Corporal Ryan's work and made it more difficult.

[43] Section 12 du *Government Property Traffic Regulation* states that a person shall produce upon demand his or her driver's license. "Produce" is not defined in this Regulation. The *Petit Robert* defines "produce" as: [TRANSLATION] producing an official document before the authority, to show, let someone see.

[44] Master Corporal Laflamme showed his driver's licence to Corporal Ryan but he did not give it to her. It is not very important whether Corporal Ryan asked him to show or give her his driver's licence. Given the facts of our case, i.e. a police officer signalling twice with a flashlight to a driver at around 1 a.m. on a Canadian Forces base while a police car with its beacon lights on blocked the road leading to the base exit, common sense is that a person should stop and give the police officer his or her driver's license when he or she asks to see it. The term "produce" does not simply mean to show one's licence, but to produce it, i.e. to present it on request. Master Corporal Laflamme did not do this. Corporal Ryan was not able to identify him at that time. The fact of not giving his licence impeded Corporal Ryan's work and made it more difficult.

[45] Did Master Corporal Laflamme intentionally obstruct the work of Corporal Ryan? Deliberate obstruction requires an intentional act or omission to do something that stems from a legal obligation (see *R c Lavin* (1990) 77 CR 3d 251 C.S. Qué).

[46] Master Corporal Laflamme testified that he was heading toward the base exit and that he saw a police car blocking the road leading to the exit and that it was placed in such a way to divert cars toward the parking lot. A police officer lit up his windshield with her flashlight; he understood that he had to turn to enter the parking lot. He testified that it was lit up twice. He slowed down and turned his face because the light was blinding him. He drove slowly next to a stopped car and saw that a military police officer was close to the door of the driver of that car. He continued because he did not see a signal from the police officer asking him to stop. He knew that the military police do random checks to check for impaired driving. He continued and exited the parking lot and stopped at the red light at the base exit.

[47] He testified that he "relaxed" at that time because he was not happy to have been blinded by the police officer's flashlight. He hit the sidewalk while he was blinded and he testified that he could have hit pedestrians without seeing them if any had been present at that time. He was tired, in a bad mood and frustrated, but as he said, he could not do anything about it. It was at this time that the military police vehicle stopped behind him.

[48] Corporal Ryan exited the car and walked toward him. He lowered his window. He did not remember whether she identified herself at that time. She asked him in

English to get out of the car. He asked her why and he did not get out of his vehicle. She answered that he had tried to bypass a RIDE program. He testified that he understood English fairly well and that he understood well what she was saying except when she referred to the RIDE program. She asked him to turn off his motor and he did so. She asked to see his licence and he showed it to her by holding it in his hand and putting his hand in the opening of his window. She approached and looked at the licence with her flashlight. She spoke on her radio. He put his licence back in his wallet.

[49] During cross-examination, Master Corporal Laflamme testified that he did not see that Corporal Ryan was attempting to guide him because the light was blinding him. He stated that he was not obliged to stop even if there was a RIDE program. He interpreted the fact that she had lit him twice as if to say to be careful because they were there. He stated that he was not obliged to stop according to his understanding of the *Highway Traffic Act*.

[50] He testified that he would have gotten out if she had given him a valid reason to get out or a reason that made sense. He testified that he found himself [TRANSLATION] "in the middle of nowhere" and that a police officer, who was not identifying herself, was asking him to get out of his car to explain why he had not gotten out of his car. He explained by recounting an incident in Québec where a person had disguised him or herself as a police officer to stop people.

[51] He also indicated that he was on route 2 and, therefore, was legally on a provincial road. He also explained that she was not wearing a vest that indicated that it was a RIDE programme. He did not get out of the car because she did not identify herself. He said that police officers usually identify themselves. He did not ask her for her name or to identify herself. He agreed with the prosecutor that there were good chances that she was a police officer because he recognized the military police uniform she was wearing. He stated that he was only acting on instinct and it was not because he did not want to get out. He testified that he would have gotten out of his car if Corporal Ryan had identified herself and would have told her that he had not been stopped at a roadblock.

[52] He testified that he had been stopped seven or eight times in 30 years for RIDE programs but never in this way. He stated that he always showed his licence to police officers the same way and that the OPP police officers would then ask him to give them the licence, which he would do.

[53] He felt frustrated at that time and he wanted to exit the base. He replied [TRANSLATION] "partially" when the prosecutor suggested that he was frustrated and that this had influenced his driving. He explained that the police officers' conduct showed a total lack of respect and professionalism. He testified that she had not tried to take his licence and that she could see and read it well with her flashlight.

[54] She asked him if he had been drinking and he replied no. He then testified that he wondered if it was the military police who had been drinking since they were not

identifying themselves and Corporal Ryan had testified that he was gesturing with his hands. He testified that the police officers were attempting to provoke him and that he was reacting more slowly because he did not want to play their game. He was reacting more slowly faced with the increased level of tension in the military police officers. He did not think that there was anything wrong with that. He testified that he was happy to do what the police officers were asking him to do.

[55] Corporal Ryan testified that Master Corporal Laflamme was slowly heading toward the parade ground when she signalled to him. She testified that Master Corporal Laflamme passed on the right side of the already stopped car, exited the parade ground and sped up to exit the base when the light was green. She explained that some people do not recognize the RIDE program and that, therefore, it was necessary to explain it. She went to the vehicle of Master Corporal Laflamme with her beacon lights lit. She approached the driver's door and he rolled down the window. She explained that this was a RIDE program and she asked him if he had been drinking alcohol. He answered no and seemed nervous. She asked him for his driver's licence to identify him. She testified that she attempted to take it and he drew it back, saying that she could see it with her eyes. She could not read the information on the driver's licence. She asked him again and he refused.

[56] She described the conduct of Master Corporal Laflamme as erratic and, therefore, she wanted to check whether he had been drinking alcohol by taking a breath sample. She asked him to follow her to her vehicle and he answered no. She did not write these observations in her notebook.

[57] Canadian case law clearly states that citizens are not obliged to identify themselves to a police officer unless there is a legal obligation to do so (*R v Moore* 1979 1 SCR 195). This does not refer to a person wandering on a public street in a town who is stopped by a police officer. Master Corporal Laflamme had a duty to identify himself when Corporal Ryan asked him to. This obligation stems from the powers conferred on police officers by the three regulations in this case.

[58] Master Corporal Laflamme testified that he had not understood that Corporal Ryan was motioning to him to stop. Further, Mr. Vivian and the other stopped driver close to Corporal Ryan seemed to not have had any difficulty in understanding that they had to stop. Master Corporal Laflamme stated that he always co-operated with the police. Moreover, his testimony shows very little co-operation with Corporal Ryan.

[59] Master Corporal Laflamme testified that he saw a patrol car with its beacon lights lit, blocking the road close to the base exit, that a police officer lit his car with a flashlight and that he understood that he should turn in the direction of the police officer but he did not understand that all this meant that he had to stop in the parking lot like the car stopped close to the police officer.

[60] Master Corporal Laflamme only offered excuses to explain why he did not stop and he did not give his licence to Corporal Ryan. His testimony regarding his conduct,

the interpretation of Corporal Ryan's actions and words and the situation in general is improbable and makes no sense.

[61] Master Corporal Laflamme is not a credible witness. The court concluded that the evidence proves beyond any reasonable doubt that Master Corporal Laflamme voluntarily refused to stop his car and identify himself by not giving his driver's licence to Corporal Ryan. The court thus finds that the evidence proves beyond any reasonable doubt that Master Corporal Laflamme obstructed the work of Corporal Ryan.

[62] The court will now concentrate on the second charge. Did Master Corporal Laflamme obstruct the work of Corporal Bains? The prosecutor argues that the obstruction is composed of one or more of the following acts: not exiting the car, not giving his driver's licence so that Corporal Bains could identify him and resisting arrest at the time that he was handcuffed.

[63] Master Corporal Laflamme testified that on Corporal Bains's arrival at his car, Corporal Bains asked to see his licence in a calm voice. Master Corporal Laflamme showed him as he had done with Corporal Ryan. Corporal Bains pointed his flashlight on the licence to see it and apparently came closer. There was very little light in this location. Corporal Bains then allegedly asked him to give him his licence and his wallet in a hysterical and aggressive tone and he gave them to him. Corporal Bains asked a commissionaire to translate that Master Corporal Laflamme was under arrest for drunk driving, trying to avoid a RIDE program and for not co-operating with police. Corporal Bains then asked him to get out of the car and he got out immediately. Corporal Bains told him to turn to face his car and Corporal Bains searched him. Following this, Corporal Bains asked him to put his left hand behind him to put handcuffs on him. When he tried to put his right hand behind him, he had trouble because his arm was not flexible and his arm tensed. He turned his head to talk to Corporal Bains. It was at this moment that he was put face-down on the ground.

[64] Corporal Bains testified that he came on the scene after Corporal Ryan had called him. He identified himself to Master Corporal Laflamme and asked him to get out of his vehicle. Master Corporal Laflamme asked him why. He asked him again to get out of his vehicle about three other times and Master Corporal Laflamme answered no and why. Master Corporal Laflamme got out of his vehicle. Corporal Bains asked Master Corporal Laflamme to give him a piece of identification. Master Corporal Laflamme answered why. Corporal Bains asked three or four times before Master Corporal Laflamme took out his ID card from his wallet to show it to him. Bains tried to take the card but Master Corporal Laflamme placed it behind his back. Corporal Bains contacted the dispatcher so that he could inform Master Corporal Laflamme in French that he would be put under arrest because he had not identified himself.

[65] Corporal Bains took Master Corporal Laflamme's wallet and gave it to Corporal Ryan. He asked Master Corporal Laflamme to turn toward his car and place his hands on the vehicle, which Master Corporal Laflamme did. He asked Master Corporal Laflamme to place his hands behind his back so that he could put the handcuffs on him

but Master Corporal Laflamme resisted by keeping his arms tense and pushing back from the vehicle in Corporal Bains's direction. Master Corporal Laflamme turned around and faced Corporal Bains and seemed angry. Corporal Ryan's testimony on these events was similar.

[66] During his cross-examination, Master Corporal Laflamme testified that he had not gotten out of his car when Corporal Ryan had asked him at the time of his first contact with her. He asked her why she was asking him to do this and she answered because he had not stopped for the RIDE program.

[67] Master Corporal Laflamme and Mr. Vivian told the court that another male police officer was present during the arrest of Master Corporal Laflamme. Corporal Ryan and Bains testified that they were the only police officers on the scene. It appears that Mr. Vivian, wanting to inform his chain of command that he had observed troubling events the night of February 5, had spoken about this briefly with Master Corporal Laflamme in the days following. Master Corporal Laflamme apparently told him not to speak to him about it, but to speak to his lawyer in the near future. Mr. Vivian therefore made no complaint or any official statement. The court has difficulty in understanding why Master Corporal Laflamme did not tell Mr. Vivian to give an official statement when he learned that a witness could describe how he was allegedly mistreated by the police officers. The court does not believe this evidence.

[68] Given the decision of the court on the application of the rule in *Browne v Dunn*, the court gives little weight to this testimony. The court considers that Corporals Ryan and Bains are credible.

[69] This is a situation caused by the attitude and conduct of Master Corporal Laflamme. The sequence of events started when Master Corporal Laflamme decided not to stop in the parking lot. By refusing to give his driver's licence to Corporal Ryan as she had asked, he was causing increased tension. He testified that [TRANSLATION] "the more that Corporal Bains yelled, the more time I took to turn around".

[70] Although Corporal Bains repeated his order three times, Master Corporal Laflamme came out of his car. The court found that the evidence accepted by the court prove beyond a reasonable doubt that Master Corporal Laflamme did not give his driver's licence in a way that would allow Corporal Bains to identify him and that he resisted arrest.

[71] Did Master Corporal Laflamme intentionally obstruct the work of Corporal Bains? The court finds that the evidence proves beyond a reasonable doubt that Master Corporal Laflamme voluntarily refused to give his driver's licence in a way that would allow Corporal Bains to identify him and that he resisted arrest. The court finds that the evidence proves beyond a reasonable doubt that Master Corporal Laflamme obstructed the work of Corporal Bains.

**FOR THESE REASONS, THE COURT:**

[72] **DECLARES** Master Corporal Laflamme guilty of both charges.

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Counsel:

Major E. Carrier, Canadian Military Prosecution Service  
Counsel for Her Majesty the Queen

Major J.L.P.-L. Boutin, Defence Counsel Services  
Counsel for Master Corporal R.S. Laflamme