



COURT MARTIAL

Citation: *R. v. Ringuette*, 2012 CM 1019

Date: 20121126

Docket: 201244

Standing Court Martial

Canadian Forces Base Esquimalt
Esquimalt, British Columbia, Canada

Between:

Her Majesty the Queen

- and -

Leading Seaman M.G.J. Ringuette, Offender

Before: Colonel M. Dutil, C.M.J.

REASONS FOR SENTENCE

(Orally)

[1] Ex-Leading Seaman Ringuette admitted her guilt to two offences. First, she admitted having committed an act of a fraudulent nature under s. 117(f) of the *National Defence Act*, by defrauding the Government of Canada of the sum of \$6,450; and, she admitted being absent without leave under s. 90 of the *Act*. Counsel have jointly recommended that the court sentence her to a severe reprimand and a fine in the amount of \$3,500. Although this court is not bound by that recommendation, it fits within the adequate range of sentences for this type of offences and it will not bring the administration of military justice into disrepute because the proposed sentence adequately addresses the applicable principles and objectives of sentencing, namely general and specific deterrence, denunciation of the conduct and of the offender, and rehabilitation. Counsel have provided numerous relevant case law from 2004 to 2010 inclusive in support of their submissions. I have no difficulty in accepting it.

[2] The facts surrounding the commission of the offences reveal that ex-Leading Seaman Ringuette was performing Class "B" Reserve Service posted to a position as a

Resources Management Support Clerk (RMS) in the Naval Reserve Coordination Cell in the Base Orderly Room, Canadian Forces Base Esquimalt. Her Class "B" engagement expired on 31 August 2010, and as part of her end of engagement benefits she was entitled to a full-cost move to her place of origin in Kingston, Ontario. In June 2010, she began working with Brookfield Global Relocation Services (BGRS), a civilian company that oversees the Canadian Forces Integrated Relocation Program (CFIRP), to arrange for her return to origin benefits. As part of her relocation benefits she was entitled to a "House Hunting Trip" (HHT), which included return transportation by air, lodging and living expenses for a 10-day period at her intended place of relocation, for the purpose of locating a new residence to move into. This CFIRP benefit was paid for by the Canadian Forces and administered through BGRS.

[3] On 14 July 2010, return flights were booked in her name by BGRS to travel on 22 July 2010 from Victoria, British Columbia to Kingston, Ontario for her HHT. Return tickets were also purchased that day for return flights from Kingston, Ontario to Victoria, British Columbia on 31 July 2010. Later the same day, she called the air carrier directly and cancelled those tickets. On 12 August, she changed them for tickets to fly to Charlottetown, Prince Edward Island on 30 August 2010; then from Charlottetown to Kingston on 3 September 2010; and finally, from Toronto, Ontario to Victoria, British Columbia on 12 September 2010.

[4] During the period from 22 to 31 July 2010 inclusive, ex-Leading Seaman Ringuette did not proceed on her authorized HHT but instead remained in the vicinity of Victoria, British Columbia but away from her place of duty on base. She had received an advance on the basis of travel by air and stay in Kingston which included allowances for meals, non-commercial accommodation and incidentals.

[5] In discussing her final relocation travel with BGRS staff in June 2010, she indicated her intent to travel to Kingston, Ontario using her own vehicle, a 2000 Chrysler Intrepid, while pulling a trailer. Accordingly, BGRS authorized the issue of a monetary advance to Leading Seaman Ringuette, as she was then, which accounted for mileage, accommodation, meals and incidental allowance for this mode of travel. Contrary to the information provided which would have had her travel from 19 to 28 August, she did not use her PMV to travel to Kingston, travelling instead via the airline tickets previously purchased for her HHT.

[6] Ex-Leading Seaman Ringuette, in addition to confirming her travel arrangements as per the initial discussions with Brookfield, produced three gas receipts reflecting expenses she had not incurred as well as a receipt for a BC ferry crossing, an expense she had also not incurred as part of relocating. Further to an inquiry from her unit, former Leading Seaman Ringuette re-confirmed having travelled as initially disclosed and maintained that position during the military police investigation, although she mentioned at some point that she might owe some money to the CF.

[7] She had been separated from her husband since December 2009. In July 2010, she started to work on reconciliation with her estranged husband although they were

still living apart. Her flight to Charlottetown, Prince Edward Island was for the purpose of visiting her sister and she later joined her estranged husband in Kingston and attended a wedding with him there. On 12 September 2010, she flew back to Victoria to continue to work on reconciliation with her estranged husband who was still serving with Fleet Diving Unit Pacific, in Esquimalt. Eventually, they reconciled and are now living together in Kingston. She fraudulently received a sum of \$6,450 to which she was not entitled.

[8] The parties have also agreed on a series of facts found relevant for the determination of sentence that's at Exhibit 7, mostly related to the delay in bringing this matter to trial. Information regarding the facts that led to the charges against ex-Leading Seaman Ringuette was passed on to the military police on 18 November 2010, after approximately six weeks of internal investigation within former Leading Seaman Ringuette's unit. The military police interviewed approximately seven witnesses, including former Leading Seaman Ringuette, and gathered evidence from military and civilian sources between that date and 15 December 2010. During the course of the investigation the nature of the offences believed to have been committed shifted. There were no reported investigative activities between 15 December 2010 and 28 March 2011. Investigative activities resumed on 28 March 2011 at which time a number of new military and civilian witnesses were interviewed and others were re-interviewed, as well as additional photographic and documentary evidence was gathered from military and civilian sources. Under cover of a letter dated 29 June 2011, the investigation report "deemed concluded" was circulated to appropriate authorities. A record of disciplinary proceedings (RDP) containing various charges against former Leading Seaman Ringuette was signed on 22 September 2011. The referral authority referred the matter to DMP on 8 November 2011. In October 2011, a legal officer at DDCS, was appointed as counsel for former Leading Seaman Ringuette. On 23 November 2011, this prosecutor was appointed to conduct the post charge screening and act as prosecutor should this matter go to court. Further investigative activities took place from March to May 2012 and the evidence obtained at that time existed in the Spring of 2011 before the deemed concluded report issued on 29 June 2011. The first disclosure package was sent to her legal counsel on 7 December 2011 and he received a second one on 26 June 2012. On 28 June 2012, the charge sheet marked as Exhibit 2 in these proceedings was signed by Lieutenant-Commander Reeves and the charges were preferred the following day. On 21 September 2012, Maître Denis Couture was appointed by the Director of Defence Counsel Services to represent former Leading Seaman Ringuette as it was believed that there might exist some conflict of interest preventing a lawyer from DDCS to act. On 9 November 2012, counsel of record mutually accepted to set a date of trial to 26 November 2012. Once counsel had agreed on the actual amount she had received without entitlement, former Leading Seaman Ringuette tendered a bank draft payable to the Receiver General for Canada in the amount of \$6,450 to the prosecutor for onward transmission to competent authorities. In addition, the sum of \$1,305.40 will be withheld from the benefits owed to former Leading Seaman Ringuette on release from the CF to cover the ten day period in July 2010 where she was absent without leave. Ex-Leading Seaman Ringuette obtained a Bachelor of commerce in 2009 at Queen's University in Kingston, Ontario; she

completed her Canadian Security Course in 2010 and her Master in Business Administration in October 2012. At present she is employed at a private college as an administrator under the direction of her father while she is completing various training that will enable her to become a facilitator. Her monthly income is \$2,400 per month and she has no prior disciplinary or criminal record.

[9] In this case the aggravating factors are the following:

- (a) The objective seriousness of the offences under s. 117 and 90 of the *National Defence Act*. A person found guilty of these offences is liable on conviction to imprisonment for less than two years;
- (b) The subjective seriousness of the offences as described in the statement of circumstances. The evidence establishes that her actions were planned and deliberate. Certainly as an RMS Clerk, she had an intrinsic knowledge of public funds expenditure and the principles that apply. Above all, she was no doubt aware of the important and negative impact that fraudulent acts may have on departmental budget. It is ironic that she has graduated with a baccalaureate in commerce and recently completed her master's degree in Business Administration; and
- (c) The amount of the fraudulent act is significant, namely \$6,450.

[10] There are also mitigating factors in this case:

- (a) She pleaded guilty to the charges under s. 117(f) and 90 of the *Act*. In doing so, she saved the Crown with a long trial which is normally costly and complex for offences of a fraudulent nature;
- (b) She has reimbursed the Crown for the total amount of her fraudulent act;
- (c) She has no prior disciplinary or criminal record. However, this conviction will likely have an impact on her career in public administration or a career in financial services because she will have a record for offences of dishonesty. This is certainly not the best way to embark on a new career;
- (d) The offender is still relatively young at 25 years of age. Her academic record speaks for itself. She is an intelligent person who has a superior intellect. Unfortunately, she did not think through the consequences of her actions at the time. No doubt, she does now and it will follow her for a good period of time; and
- (e) The delay in bringing this matter to trial. I agree with counsel that the investigation was virtually complete in early summer of 2011. However, it is difficult to understand why the Director of Defence Counsel

Services had to wait almost one year to realize that a potential conflict of interest could prevent a lawyer from DDCS to act. Maître Couture, her new counsel, was appointed on 21 September 2012. On 9 November 2012, counsel of record agreed to this trial date and we are here today. This speaks for itself.

[11] For these reasons, I agree with counsel that the proposed joint submission is fit and constitutes the minimum sentence to maintain discipline in the circumstances.

FOR THESE REASONS, THE COURT:

[12] **FINDS** you guilty of the second and third charges, respectively for an offence under s. 117(f) of the *National Defence Act*, for an act of a fraudulent nature not particularly specified in sections 73 to 129 of the *National Defence Act*; and for an offence of absence without leave under s. 90 of the *Act*.

AND

[13] **SENTENCES** you to a severe reprimand and to a fine in the amount of 3,500 dollars.

Counsel:

Lieutenant-Commander D Reeves, Director of Military Prosecutions
Counsel for Her Majesty the Queen

Maître D. Couture, Directorate of Defence Counsel Services
Counsel for Ex-Leading Seaman M.G.J. Ringuette