



COURT MARTIAL

Citation: *R v Laflamme*, 2013 CM 4013

Date: 20130619

Docket: 201255

Standing Court Martial

Canadian Forces Base Trenton
Trenton, Ontario, Canada

Between:

Her Majesty the Queen

- and -

Master Corporal R.S. Laflamme, Offender

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

OFFICIAL ENGLISH TRANSLATION

REASONS FOR SENTENCE

(Rendered orally)

[1] Master Corporal Laflamme, following a full trial, the Court has found you guilty of two charges brought under section 130 of the *National Defence Act*, namely, the obstruction of a peace officer contrary to section 129 of the *Criminal Code*. I must now impose an appropriate punishment, which must be the minimum punishment required in the circumstances of the case to ensure that discipline is served.

[2] The Court Martial Appeal Court of Canada (CMAC) tells us at paragraphs 30 to 33 of its decision in *Private R.J. Tupper v R*, 2009 CMAC 5, that a military judge must consider the fundamental purposes and goals of sentencing set out at sections 718 and following of the *Criminal Code*, R.S.C., 1985, c. C-46 (Cr. C). The sentence must also be "proportionate to the gravity of the offence and the degree of responsibility of the offender" (see section 718.1 of the Cr. C.), as well as "similar to sentences imposed on similar offenders for similar offences committed in similar circumstances"

(paragraph 718.2(b) of the Cr. C.). An offender should not be deprived of liberty, if less restrictive sanctions other than imprisonment may be appropriate in the circumstances.

[3] Section 718 of the *Criminal Code* reads as follows:

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- a) to denounce unlawful conduct;
- b) to deter the offender and other persons from committing offences;
- c) to separate offenders from society, where necessary;
- d) to assist in rehabilitating offenders;
- e) to provide reparations for harm done to victims or to the community;
and
- f) to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.

[4] The prosecutor suggested that the minimum and appropriate sentence for this offence is a reprimand and a fine of \$2,000. He argued that the sentencing principles that apply in this case are denunciation of the offender's actions and specific and general deterrence. Your counsel, on the other hand, submits that an appropriate sentence for this offence is a reprimand and a fine in the amount of \$200 to \$500.

[5] At around one o'clock on February 5, 2012, you left the corporals' and privates' mess of the 8th Squadron and you headed toward the base exit. The military police section of the squadron was conducting a RIDE (Reduce Impaired Driving Everywhere) operation on the road leading to the base exit to thereby 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.

[6] You saw a police car blocking the road leading to the exit, placed in a manner to divert cars toward the parking lot. A police officer lit your windshield with her flashlight twice; you turned to enter the parking lot. You slowly drove next to a stopped car and saw that a military police officer was close to the door to the driver of this car. You continued and left the parking lot and you stopped at the red light at the base exit. Corporal Ryan stopped you at the exit and asked to see your licence. You showed it to her while holding it in your hand but refusing to give it to her. She called Corporal Bains.

[7] Corporal Bains asked you to exit your vehicle approximately four times before you exited the vehicle. Corporal Bains asked you to give him a piece of identification

three or four times and you showed him your identification card. He tried to take it but you put it behind you. Corporal Bains took your wallet and gave it to Corporal Ryan. He asked you to turn toward your car and place your hands on the vehicle, which you did. He asked you to place your hands behind your back so that he could handcuff you, but you resisted, keeping your arms straight and pushing yourself away from the vehicle in the direction of Corporal Bains. You turned around and faced Corporal Bains. You refused to stop your car and identify yourself by not giving your driver's licence to Corporal Ryan and you refused to give your driver's licence so that Corporal Bains could identify you and you resisted arrest.

[8] Having summarized the main facts of this case, I will now concentrate on sentencing. Therefore, in considering what sentence would be appropriate, I took into consideration the aggravating and mitigating factors that follow. I will start with the mitigating factors.

- a) Your performance reports are very good and indicate that you are ready to assume the responsibilities of Sargent.
- b) The disciplinary proceedings and this trial surely have a deterrent effect on you and on any person who is aware of them. At least, I hope they do.
- c) This breach of the *Criminal Code* is punishable by a maximum sentence of imprisonment of two years. This is one of the least severe of the maximum sentences found in the *Criminal Code*. This sentence is considered severe if we examine the range of sentences found in section 139 of the *National Defence Act* since it is located at the second level of this range, immediately after life imprisonment. Further, I agree with your lawyer that this offence is not objectively serious if we compare it to other breaches of the Code of Service Discipline. Moreover, the breaches to the source regulations in this matter are only minor sentences.
- d) You were detained for approximately three hours at the guardhouse. During this detention, Master Corporal Horner, the shift supervisor, spoke to you briefly. I must say that I am not very impressed by his language and his attitude toward your rights. His conduct leaves much to be desired and I do not think that it reflects the conduct that we expect from our military police officers. That said, it is your conduct and your attitude that are at issue here and not his.

[9] I will now discuss the aggravating factors.

- a) Although you have a conduct sheet, the offence of neglect to the prejudice of good order and discipline dated November 12, 2009, is not relevant to our case. This was a discharge of your C-7 during your

Primary Leadership Qualification course. The nature of the offence was such that the court will not focus on this criminal record during sentencing.

- b) You were 49 years old at the time of the offences and had approximately 25 years of experience in the Canadian Forces. Your conduct does not demonstrate the level of maturity and experience that we expect from you.
- c) Your summary of the Canadian Forces Personnel Records (see P-6) indicates that you reached level E for oral interaction in English. You spoke in French and this was your right. But this case is not only a lack of communication between you and the Anglophone police officers. Of course, the police officers could not understand everything you were telling them; Further, it is your attitude and your conduct that are the cause of this obstruction. I do not really understand why you acted this way, but it is clear that you had no intention of co-operating with Corporals Ryan and Bains.

[10] You did not drink alcohol. You only had to stop and identify yourself adequately and the whole thing would have been over in a few minutes and you would have been on your way. You caused all these problems for yourself in addition to causing problems for the police officers. I agree with your counsel that this case is different from *Major* 2012 CM 3002 and *Crawford* 2008 CM 4003. Alcohol and violence toward police officers are significant factors in these cases that are not present in this one. You were polite and your resistance was relatively passive despite your lack of co-operation.

[11] You did not demonstrate the qualities that we are looking for in a member of the Canadian Forces and this conduct is not the kind of example that we can tolerate. Considering the aggravating and mitigating factors and the need to denounce the offender's conduct and to dissuade members of the Canadian Forces from engaging in such lack of respect for peace officers, I will impose a sentence that will send both you and other members of the Canadian Forces the message that such behaviour is unacceptable and has consequences.

[12] Considering the particular facts of this case, I find that the sentence I am about to pronounce is the lightest possible sentence to ensure the protection of the public and the maintenance of discipline in the circumstances.

FOR THESE REASONS, THE COURT:

[13] **SENTENCES** Master Corporal Laflamme to a reprimand and a fine of \$600.

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