

Citation: *R.v. Corporal Alden*, 2004CM19

Docket: S200419

**STANDING COURT MARTIAL
CANADA
MANITOBA
2ND BATTALION PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY**

Date: 4 May 2004

PRESIDING: LIEUTENANT COLONEL M. DUTIL, M.J.

HER MAJESTY THE QUEEN

v.

CORPORAL ALDEN

(Accused)

SENTENCE

(Rendered orally)

[1] Corporal Alden, having accepted and recorded a plea of guilty in respect of charge number 2, this court finds you guilty of that charge and directs a stay of proceedings in respect of charge number 1.

[2] This is a case where the prosecutor and counsel for the defence have made a joint submission on sentence. They have recommended that this court sentences you to a minor punishment in the form of confinement to barracks for a period between seven to ten days.

[3] Although this court is not bound by this joint recommendation, it is generally accepted that a joint submission should be departed from only where to accept it would be contrary to the public interest and would bring the administration of justice into disrepute, and this is not the case here.

[4] I've considered the joint submission in light of the relevant facts set out in the Statement of Circumstances and their significance, and I've also considered the joint submission after applying the relevant sentencing principles that are well known to counsel. I must say that I agree with both counsel when they expressed the view that the protection of the public is probably the most important factor and this is the factor

that—the general deterrence is the most important factor that would ensure the protection of the public in this case.

[5] The evidence before the court, mostly the testimonies of Captain Crooks and Major Ford, clearly demonstrate that you are already an exceptional performer at your rank level with unlimited potential, and that unlimited potential is certainly there to further your career in the Canadian Forces either as a non-commissioned member or even, as Major Ford indicated, maybe as an officer, so that clearly speaks to your great potential.

[6] And in your early career, you've already been exposed to highly stressful situation including your recent deployment in Afghanistan and where you performed beyond expectations, and this performance is in line with your previous assignments where your performance and behaviour have always been strikingly above that of your peers, and therefore, the court accepts because it's well established in evidence that this was an unfortunate incident that was totally out of character and an error in judgement.

[7] So therefore, I have no difficulty in accepting this joint submission that was well articulated by both counsel, both in facts and in law.

[8] So having said that, this court sentences you to confinement to barracks for a period of seven days.

LIEUTENANT-COLONEL M. DUTIL, M.J.

Counsel:

Major B.J. Wakeham, Regional Military Prosecutions Western
Counsel for Her Majesty The Queen
Major A.E. Appolloni, Directorate of Defence Counsel Services
Counsel for Corporal Alden