

**Citation:**R. v. Major B.L. Murray, 2004CM51

**Docket:**S200451

**STANDING COURT MARTIAL  
CANADA  
ONTARIO  
ROYAL MILITARY COLLEGE KINGSTON**

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**Date:**12 November 2004

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**PRESIDING:**COLONEL K.S. CARTER, M.J.

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**HER MAJESTY THE QUEEN**

**v.**

**MAJOR B.L. MURRAY  
(Accused)**

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**SENTENCE**

**(Rendered orally)**

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[1] Major Murray, the court is in the unusual situation of being in complete agreement with the offender as to the appropriate sentence in this matter and the court sentences you to a reprimand.

[2] As counsel has ably summarized, the aims of sentencing that apply at courts martial are protecting the public interest in law and order; deterrence, both general and specific; and reformation and rehabilitation. The ultimate purpose of sentencing at a court martial is the restoration of discipline in the military community and, if required, in the offender.

[3] The court agrees as counsel have submitted, that the principal consideration here is general deterrence. That deterrence must serve to dissuade others who are faced with a provocative situation as you were in the early morning of 04 July 2003 from making the wrong decisions because they are under the influence of alcohol. As you have discovered, it can take only a momentary lapse of control to find yourself in an escalating situation that you would normally be able to avoid, or, indeed, would normally assist in defusing and resolving without incident.

[4] As your counsel's research has indicated, offences due to alcohol are a continuing problem in the Canadian Forces, some are more serious and some are less

serious. Although it is sometimes tempting to believe that prohibiting consumption would resolve many problems, that has never proved to be the case. Promotion of moderate and responsible consumption and the recognition that while under the influence even of moderate amounts of alcohol, individuals may be more impulsive and less constrained in their actions is required. There may be *veritas in vino* but there is also a high potential for trouble even for the most responsible among us.

[5] The range of offences and punishments for drunkenness and related offences go from detention down to a small fine depending upon the nature of the circumstances of the offence and the character of the offender.

[6] In this particular situation, the court has considered that the offence was at the low to moderate range in terms of a drunkenness offence. No duty was involved; this was an isolated matter; no rank was involved at the time; it was of short duration; and the only injuries that appeared to have been suffered were by you yourself. At the same time, there was violence used, even if provoked by a very offensive comment to your wife and your own misperception of the situation.

[7] The most aggravating factor is your rank and the fact that ultimately the knowledge that a major and a pilot was involved in a drunken fracas outside a bar on base with a bunch of technicians from a squadron is not conducive to the maintenance of discipline.

[8] At the same time, the court is required to put your offence in the general context of your character, your previous service and the potential consequences of this conviction and any sentence imposed.

[9] The documentary evidence, the testimony of your colleagues in the main trial and your own testimony show a personable, pleasant, reasonable person who has performed at a very high standard, made extraordinary contributions to the Canadian Forces and is capable of continuing to do so.

[10] The court has reviewed your Personnel Record Résumé and notes the impressively large number of professional courses you have taken. The court has reviewed your PER's, one of which includes 15 of the 16 performance markers to be at the highest level, the first time the court has seen this at a court martial. The court has read the contents closely and would reiterate some of them here.

[11] In regard to the PER that runs from the 1st of April, 2001 to the 31st of March, 2002, you are described under the performance and potential headings as someone who is a highly respected team principal, who is someone who makes sage and cogent decisions, who is an articulate convincing speaker. You are described as a very experienced supervisor who combines tremendous operational knowledge with maturity and a joie de vivre and an extremely capable leader and superbly competent officer.

[12] In the PER that runs from April of 2002 to March of 2003, you are described as a joy to work with; a walking morale boost. You are lauded for a briefing that was rivetting, with a very entertaining delivery. You were noted as being someone who has impressive dedication, tremendous natural leadership skills, a prodigious output. You were described as someone who is continuously striving to better your people and as someone who has the courage to state your beliefs, the wit and knowledge to be right, yet be ready to accept opposing direction when given.

[13] And finally, in the third PER the court has received, you were described as someone who continues to perform to the highest standards, who has produced incredibly large or high levels of customer satisfaction, as a gifted communicator and as the "go-to-guy" by the flying squadrons.

[14] Very, very clearly from your PERs, you've been an exceptional performer. The court has also taken into account your current academic performance. A+ is a very good mark on half of your completed courses and the rest of the marks are all A's. You're also taking on additional academic burdens concurrently to better prepare you to serve the Canadian Forces more effectively as a leader.

[15] And at least as importantly as the documents show, you do all this while being an active supporter of the community and of your family; that is, your wife and your three sons aged 11, 9 and 8.

[16] This incident is out of character and isolated. The court hopes it will have and believes it should not have any administrative consequences for you. It will always have an impact on you but hopefully, ultimately to make you an even better leader. It is very clear to the court that under normal circumstances you do not go around punching non-commissioned members, even the most offensive ones.

[17] Perhaps the best indication of who you are is that you suggested to your counsel a higher punishment than the punishment that the prosecution was recommending. The court accepts that, in fact, your evaluation is the most accurate one and that sentence is one that, in many ways, is much more appropriate than any fine that the court could impose upon you and is one that will last much longer, in terms of impact upon you, not simply because of technical reasons but because you really will take it to heart. The court hopes that the ultimate outcome of all this is that you will be better prepared to ensure that the young pilots who are entrusted to your care and custody will not be allowed to get into a similar situation.

[18] The proceeding of this court martial in respect of Major Murray are now terminated. You may leave.

COLONEL K.S. CARTER, M.J.

Counsel:

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