

**Citation:** *R. v. Corporal R.D. Parsons*, 2006cm3004

**Docket:** 200516

**STANDING COURT MARTIAL  
CANADA  
NOVA SCOTIA  
CANADIAN FORCES BASE GREENWOOD**

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**Date:** 3 February 2006

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**PRESIDING:** COMMANDER P.J. LAMONT, M.J.

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**HER MAJESTY THE QUEEN**

**v.**

**CORPORAL R.D. PARSONS**

**(Accused)**

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**SENTENCE**

**(Rendered orally)**

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[1] Corporal Parsons, you have been found guilty on one charge of conduct to the prejudice of good order and discipline, in that you did have in your possession public property, a Nikon digital camera without proper authorization.

[2] It now falls to me to determine and to pass a sentence upon you. In so doing, I have considered the principles of sentencing that apply in the ordinary courts of criminal jurisdiction in Canada and at courts martial. I have, as well, considered the facts of the case as disclosed by the evidence taken in the course of the trial, the evidence heard during the course of the mitigation phase, and the submissions of counsel, both for the prosecution and for the defence.

[3] The principles of sentencing guide the court in the exercise of its discretion in determining a fit and proper sentence in an individual case. The sentence should be broadly commensurate with the gravity of the offence and the blameworthiness or degree of responsibility and character of the offender.

[4] The court is guided by the sentences imposed by other courts in previous similar cases, not out of a slavish adherence to precedent, but because it appeals to our common sense of justice that like cases should be treated in similar ways. Nevertheless, in imposing sentence, the court takes account of the many factors that distinguish the particular case it is dealing with, both the aggravating circumstances that

may call for a more severe punishment and the mitigating circumstances that may reduce a sentence.

[5] The goals and objectives of sentencing have been expressed in different ways in many previous cases. Generally, they relate to the protection of society which includes, of course, the Canadian Forces, by fostering and maintaining a just, a peaceful, a safe, and a law-abiding community. Importantly, in the context of the Canadian Forces, these objectives include the maintenance of discipline, that habit of obedience, which is so necessary to the effectiveness of an armed force. The goals and objectives also include deterrence of the individual so that the conduct of the offender is not repeated and general deterrence so that others will not be led to follow the example of the offender. Other goals include the rehabilitation of the offender, the promotion of a sense of responsibility in the offender, and the denunciation of unlawful behaviour. One or more of these goals and objectives will inevitably predominate in arriving at a fit and just sentence in an individual case. Yet it should not be lost sight of that each of these goals calls for the attention of the sentencing court, and a fit and just sentence should be a wise blending of these goals tailored to the particular circumstances of the case.

[6] Section 139 of the *National Defence Act* prescribes the possible punishments that may be imposed at courts martial. Those possible punishments are limited by the provision of the law which creates the offence and provides for a maximum punishment and may be further limited to the jurisdiction that may be exercised by this court. Only one sentence is imposed upon an offender whether the offender is found guilty of one or more different offences, but the sentence may consist of more than one punishment. It is an important principle that the court should impose the least severe punishment that will maintain discipline.

[7] In arriving at the sentence in this case, I have considered the direct and indirect consequences of the finding of guilt and the sentence I am about to impose.

[8] The facts of this offence were discussed by me in the course of my finding and I will not repeat what I said then. The prosecution submits that the sentencing principles of general deterrence and denunciation require a sentence of a reduction in rank together with a fine in the range of 4 to 6,000 dollars. Counsel has referred to the training and experience of the offender in his position of supply technician as an aggravating factor, as well as the value of the camera, and the motive of the offender as simple greed.

[9] The effect upon the unit of the loss of public property of this nature to which Lieutenant-Colonel Ross testified is as well an aggravating factor, because it shows the adverse consequences upon the offender's unit as a result of his behaviour.

[10] I am asked by the prosecutor to consider what I have found to be the false testimony of the offender, given in his defence, as an aggravating factor. This evidence extends to the production before the court of what I have found to be a falsified

receipt. In my view, I should and do attach no weight to the way the offender has conducted his defence in arriving at a fit sentence.

[11] I agree with the holding of the Ontario Court of Appeal in *R. v. Kozy* (1990), 58 C.C.C. (3d) 500 that the interests of the administration of justice, the right to make full answer and defence, and the right not to be punished for a crime of which an accused has not been convicted require that the conduct of the defence at trial be ignored in arriving at a fit sentence, except perhaps to negate any other evidence of remorse which might otherwise have mitigated a fit sentence.

[12] The defence submits that a reprimand and a fine should be imposed in this case. Counsel points to a fine service record of the offender over 16 years in the Canadian Forces. He is married with a dependant child. Although he has a conviction before the civilian court, I agree with defence counsel that the matter is quite dated and I find to be of no significance to me in arriving at a sentence here.

[13] I'm also mindful of the stigma that is attached to a conviction for this kind of offence in the military community generally and perhaps specifically within the trade of supply technician.

[14] Considering all of these factors related as they are both to the offence that was committed, and to the circumstances of the offender, I am not persuaded that a sentence involving reduction in rank is appropriate in this case. The authorities to which I have been referred by the prosecutor do not support a sentence of reduction in rank.

[15] Stand up, Corporal Parsons. You are sentenced to a reprimand and a fine in the amount of \$2,000, payable in monthly installments of \$100 each commencing 1 March 2006 and continuing for the following 19 months. In the event you are released from the Canadian Forces for any reason before the fine is paid in full, the entire outstanding unpaid amount is due and payable the day prior to your release.

COMMANDER P.J. LAMONT, M.J.

Counsel:

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