

Citation: *R. v. Gunner V. Pejanovic*, 2006 CM 20

Docket: C200620

**STANDING COURT MARTIAL
CANADA
ONTARIO
2ND REGIMENT, ROYAL CANADIAN HORSE ARTILLERY
CANADIAN FORCES BASE PETAWAWA**

Date: 24 November 2006

PRESIDING: LIEUTENANT-COLONEL J-G PERRON, M.J.

HER MAJESTY THE QUEEN

v.

**GUNNER V. PEJANOVIC
(Accused)**

**DECISION RESPECTING AN APPLICATION MADE UNDER
SUBPARAGRAPH 112.05(5)(b) OF THE *QUEEN'S REGULATIONS AND
ORDERS FOR THE CANADIAN FORCES* AND THAT THE COURT
DECLARES TO BE OF NO FORCE AND EFFECT SECTION 165.14 OF THE
NATIONAL DEFENCE ACT.
(Rendered orally)**

[1] The accused, N24 879 837 Gunner Pejanovic is charged with having committed three offences. More specifically, he is accused of one charge of having disobeyed a lawful command of a superior and of two charges of being absent without leave. The applicant, the accused, has made an application under subparagraph 112.05(5)(b) of the Queen's Regulations and Orders for the Canadian Forces requesting that the Standing Court Martial declares that this Standing Court Martial as having no jurisdiction over the applicant and that this court terminates the proceedings pursuant to QR&O paragraph 112.24(6).

[2] The applicant also requests that if the Standing Court Martial declares that section 165.14 of the *National Defence Act* to be of no force and effect pursuant to subsection 52(1) of the *Constitution Act 1982*; and that the Standing Court Martial declares that section 165.19 of the *National Defence Act* and article 111.02 of the Queen's Regulations and Orders insofar as it pertains to the determination of the type of court martial by the Director of Military Prosecutions to be of no force and effect pursuant to sub-section 52(1) of the *Constitution Act 1982*. Finally, the applicant