



## COURT MARTIAL

**Citation:** *R. v. Benoit*, 2024 CM 3007

**Date:** 20240409

**Docket:** 202409

Standing Court Martial

14 Wing Greenwood  
Greenwood, Nova Scotia, Canada

**Between:**

**His Majesty the King**

- and -

**Master Corporal, A.J.R. Benoit, Offender**

**Before:** Lieutenant-Colonel L-V. d'Auteuil, D.C.M.J.

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### **REASONS FOR SENTENCE**

(Orally)

#### **Introduction**

[1] Master Corporal (MCpl) Benoit was charged with two offences contrary to section 130 of the *National Defence Act* (NDA) for theft and it reads as follows:

**“FIRST CHARGE**  
Section 130 of the  
*National Defence Act*

**AN OFFENCE PUNISHABLE UNDER  
SECTION 130 OF THE NATIONAL  
DEFENCE ACT, THAT IS TO SAY  
THEFT, CONTRARY TO SECTION  
334(B) OF THE CRIMINAL CODE OF  
CANADA**

*Particulars:* In that he, on or about 22 July 2022, at or near Canadian Forces Base Greenwood, Nova Scotia, stole paving

bricks, the property of His Majesty in Right of Canada.

**SECOND CHARGE**  
Section 130 of the  
*National Defence Act*

**AN OFFENCE PUNISHABLE UNDER  
SECTION 130 OF THE NATIONAL  
DEFENCE ACT, THAT IS TO SAY  
THEFT, CONTRARY TO SECTION  
334(B) OF THE CRIMINAL CODE OF  
CANADA**

*Particulars:* In that he, between 01 and 30 June 2022, at or near Canadian Forces Base Greenwood, Nova Scotia, stole four tires and rims, the property of Sergeant M.J.S. Casavant.”

[2] MCpl Benoit pleaded guilty to both charges and consequently the Court having accepted and recorded the plea of guilty in respect of each charge, now finds him guilty of these offences.

[3] In the particular context of an armed force, the military justice system constitutes the ultimate means of enforcing discipline which is a fundamental element of the military activity in the Canadian Armed Forces (CAF). The purpose of this system is to prevent misconduct or, in a more positive way, promote good conduct. It is through discipline that an armed force ensures that its members will accomplish, in a trusting and reliable manner, successful missions.

[4] The prosecutor and the offender’s defence counsel presented a joint submission. They recommended that the Court impose a severe reprimand and a fine in the amount of \$8,210 to be paid in twelve monthly installments commencing on 1 May 2024.

**Summary of circumstances**

[5] The circumstances of the offences were presented to the Court through a Statement of Circumstances read by the prosecutor and for which the offender acknowledged these facts as conclusive evidence. The Statement of Circumstances reads as follows:

“Statement of Circumstances

1. At all material times, MCpl Benoit (the “Accused”) was enrolled in the Regular Forces and posted to 14 Wing Mission Support Squadron at CFB Greenwood. At all relevant times below, the Accused held the rank of Corporal.

Circumstances Regarding Charge 1

2. On or about 13 July 2022, Sgt Kim Rehberg reported that four pallets of stone paving stones were missing from a military

compound located at Building 209, 14 Thunderbird Way, CFB Greenwood (the "Compound"). The stone pavers were surplus from a previous job completed by 14 Construction Engineering Squadron, CFB Greenwood.

3. On or about 14 July 2022, Sgt Rehberg reported that an additional pallet of paving stones had been removed from the Compound sometime overnight.
4. In response to Sgt Rehberg's reports, military police set up a hidden, motion-activated camera at the Compound. The camera was functioning on 22 July 2022. Between approximately 1520 and 1800 on 22 July 2022, the camera captured the Accused attending at the Compound twice. On both occasions, the Accused loaded the remaining paving stones at the Compound into the Accused's black Dodge Ram. During these visits, the accused took approximately 700 paving stones.
5. The Accused admits that between 7 July and 22 July 2022, he removed without lawful authority or colour of right approximately 3,000 paving stones from the compound.
6. The paving stones taken by the Accused had a value of approximately \$3,210.00. the paving stones taken from the Compound were never recovered.

#### Circumstances Regarding Charge 2

7. On or about 26 June 2022, Sgt Casavant reported that a set of four winter tires and rims had been stolen for his garage at 28 Rose St, 14 Wing, CFB Greenwood. Sgt Casavant reported that the tires were last seen on 31 May 2022. Between 9 June and 19 June 2022, Sgt Casavant's home was monitored by the Accused as Sgt Casavant and his family were on leave. During this period, the Accused was the only person with keys to Sgt Casavant's home, the exterior garage door was locked, however the garage was accessible without a separate key through the home.
8. On 7 August 2022, acting on an anonymous tip, investigators located the tires and rims belonging to Sgt Casavant in a locked storage cage within a refueling tender garage at CFB Greenwood.
9. Between 31 May 2022 and 7 August 2022, the only individual with the keys to the storage cage where the tires were located was the Accused. When asked by colleagues about the tires, the Accused stated they belonged to him.
10. The Accused admits that between 31 May and 26 June 2022, he removed, without lawful authority or colour of right, four tires and rims from Sgt Casavant's residence at 28 Rose Street.
11. The value of the tires and rims taken by the Accused was approximately \$2,390 at their time of purchase in December 2020. The tires and rims taken by the Accused were recovered by MP and will be returned to Sgt Casavant."

[6] Defence counsel introduced an Agreed Statement of Facts which reads as follows:

**“AGREED STATEMENT OF FACTS**

1. MCpl. Benoit is 36 years old. He was born in Chicoutimi but grew up mainly in Halifax.
2. He enrolled in the Canadian Armed Forces in March 2010 as a reservist medical technician with 33 Field Ambulance. He transferred to the regular force in 2016 as an MSE Op. MCpl. Benoit was posted to CFB Greenwood in February of 2017 where he remained until July 2023 when he was posted to CFLTC at CFB Borden as an MSE Op. course instructor. He teaches both QL3 and QL5.
3. MCpl. Benoit was promoted to Master Corporal at about the same time as he was posted to CFB Borden.
4. MCpl. Benoit’s long term plan is to remain in the CAF for a total of at least 25 years.
5. In his personal life, MCpl. Benoit has been in a common law relationship for nine years. His partner is from Nova Scotia and they have a son who will be six years old in June 2024.
6. MCpl. Benoit’s partner and son continue to live in Greenwood because of the very high cost of housing in the Borden area. At present, the CAF is paying for MCpl. Benoit’s off-base housing, however this is only a one bedroom apartment. He is on a waitlist for a PMQ in Borden, however the waitlist is 2 1/2 years long. He continues to pay the cost of housing for his partner and their son.
7. MCpl Benoit has voluntarily paid \$500 to Sgt Casavant in order to defray any costs associated with the loss of use of his tires and rims from the time they were taken in 2022 until they are returned to him following the conclusion of this court martial.
8. MCpl. Benoit has no prior conduct sheet.”

**The joint submission**

[7] Although this Court is not bound by the joint recommendation made by counsel, it is generally accepted that the sentencing judge should depart from the joint submission only when it is contrary to the public interest or will bring the administration of justice into disrepute, as stated by the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43, at paragraph 32. The only situation where the Court

would depart from the joint recommendation is where the proposed sentence would be viewed by reasonable and informed persons as a breakdown in the proper functioning of the military justice system which includes courts martial. It is the responsibility of military lawyers, in these circumstances, to provide the Court with a full account of the offender's situation and the circumstances of the offences in a joint submission. Here, the Court is satisfied with the information provided by counsel. They provided sufficient and detailed information for the Court to appreciate the joint submission arising from their discussions in this specific context that they were dealing with.

[8] In this case, the principles and objective of denunciation, specific and general deterrence, and rehabilitation were considered by the parties. I would add that the objective of maintaining the public trust in the CAF as a disciplined armed force providing reparation for harm done to victims, and also promoting a sense of responsibility to offenders, were also an integral part of their discussions on the basis for their joint submission.

### **Parity**

[9] The Court would agree with counsel that their suggestion in respect of the principle of parity with other courts martial decisions that are on similar matters and constitute the least severe sentence required to maintain the discipline, efficiency, and morale of the CAF. It must not be forgotten that the sentence must be proportionate to the gravity of the offence and the degree of responsibility of an offender as stated at section 203.2 of the *NDA*.

[10] MCpl Benoit initially enrolled in the CAF in 2010 with the reserve force as a Medical Assistant. He transferred to the regular force later in 2016 as a Mobile Support Equipment Operator. He was charged in January 2023 and the Court notes that he was recently promote and posted to the Canadian Forces Logistic Training Centre at Canadian Forces Base Borden as an instructor in July 2023. His promotion and transfer as an instructor demonstrate the trust that his chain of command continues to have in MCpl Benoit, despite his lack of integrity that he demonstrated through the commission of these offences.

[11] It is clear that these events are considered an isolated incident and that the chances of you committing such an offence again are rather minimal if nonexistent from the perspective of the chain of command. The Court will consider this as a positive message towards you from a professional perspective. Consequently, it is up to you to demonstrate that you once again deserve this confidence in carrying out your daily tasks as a trainer and a leader. The burden is on you, and I am confident that you will be able to meet it.

[12] That being said, I accept the joint submission made by counsel to sentence MCpl Benoit to a severe reprimand and a fine in the amount of \$8,210 as it is not contrary to the public interest and will not bring the administration of justice into disrepute.

**FOR THESE REASONS, THE COURT:**

[13] **FINDS** MCpl Benoit guilty of the first and second charges of theft, contrary to paragraph 334(b) of the *Criminal Code*.

[14] **SENTENCES** MCpl Benoit to a severe reprimand and a fine in the amount of \$8,210 to be paid in twelve monthly installments of \$684.16 commencing on 1 May 2024. If for any reason he is released from the CAF prior to the full payment of the fine, then the entire remaining amount will become due in full on the date of his release.

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**Counsel:**

The Director of Military Prosecutions as represented by Major M. Reede and Captain D. Quayat

Lieutenant(N) B. Wentzell, Defence Counsel Services, counsel for Master Corporal A.J.R. Benoit