

**Court Martial Appeal Court  
of Canada**



**Cour d'appel de la cour martiale  
du Canada**

**Date: 20140826**

**Docket: CMAC-565**

**Citation: 2014 CMAC 11**

**CORAM: COURNOYER J.A.  
MAINVILLE J.A.  
GAGNÉ J.A.**

**BETWEEN:**

**MASTER CORPORAL LAFLAMME**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Hearing held at Ottawa, Ontario, on March 14, 2014.

Supplemental judgment delivered at Ottawa, Ontario, on August 26, 2014.

**REASONS FOR SUPPLEMENTAL JUDGMENT AS  
TO COSTS:**

**COURNOYER J.A.**

**CONCURRED IN BY:**

**MAINVILLE J.A.  
GAGNÉ J.A.**

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JUGE MAINVILLE J.A.  
GAGNÉ J.A.

**BETWEEN:**

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**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**REASONS FOR SUPPLEMENTAL JUDGMENT AS TO COSTS**

[1] On June 13, 2014, this Court allowed the appellant's appeal, but did not order the awarding of fees or costs pursuant to Rule 21 of the *Court Martial Appeal Court Rules*.

[2] An accused is generally not entitled to costs, whether he or she is successful or unsuccessful on the merits of the case. A court of appeal will deny costs to an accused who has

successfully appealed a criminal matter except where the case of the accused is remarkable or where there is oppressive or improper conduct on the part of the prosecution. See *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500, para. 97; *R. v. Trask*, [1987] 2 S.C.R. 304; *Tele-Mobile Co. v. Ontario*, [2008] 1 S.C.R. 305, 2008 SCC 12, para. 55; *(Attorney General) v Foster* (2006), 215 C.C.C. (3d) 59 (C.A. Ont.), paras 62-69.

[3] In *R. v. Cole*, [2012] 3 S.C.R. 34, para.106, Justice Fish wrote:

Mr. Cole asks that he be awarded his costs regardless of the outcome of the appeal. While the Court has the discretion to make such an order, I would decline to do so. There is nothing “remarkable” about this case — the principal criterion — and there was no allegation of “oppressive or improper conduct” on the part of the Crown (*R. v. Trask*, [1987] 2 S.C.R. 304, at p. 308; *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500, at para. 97).

[4] These principles have been applied by this Court in the following cases: *R. v. Bernier*, 2003 CMAC 7; *R. v. Rose*, 2005 CMAC 4; *R. v. Dominie*, 2002 CMAC 8.

[5] In *Rose*, this Court wrote:

[2] Under Rule 21(2) of the *Court Martial Appeal Rules*, the Court has discretion to award costs. Although the Rule gives the Court broad discretion, the Court does not award costs routinely. Nothing in the conduct of this prosecution, nor in the complexity of the issues raised, takes this case out of the ordinary so as to persuade us to award costs.

[6] These principles apply to the appellant’s appeal.

[7] For these reasons, it would not be appropriate to award fees or costs in this appeal, and the judgment of this Court need not be amended in that regard.

“Guy Cournoyer”

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J.A.

“I concur.

Robert Mainville, J.A.”

“I concur.

Jocelyne Gagné, J.A.”

**COURT MARTIAL APPEAL COURT OF CANADA**  
**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** CMAC-565

**STYLE OF CAUSE:** MASTER CORPORAL  
LAFLAMME v. HER MAJESTY  
THE QUEEN

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** MARCH 14, 2014

**REASONS FOR SUPPLEMENTAL JUDGMENT AS  
TO COSTS:** COURNOYER J.A.

**CONCURRED IN BY:** MAINVILLE J.A.  
GAGNÉ J.A.

**DATED:** AUGUST 26, 2014

**APPEARANCES:**

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MASTER CORPORAL  
LAFLAMME

Major Éric Carrier FOR THE RESPONDENT  
HER MAJESTY THE QUEEN

**SOLICITORS OF RECORD:**

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