Court Martial Appeal Court of Canada



Cour d'appel de la cour martiale du Canada

Date: 20191106

Docket: CMAC-598

Citation: 2019 CMAC 5

CORAM: CHIEF JUSTICE BELL

MOSLEY J.A. SCANLAN J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

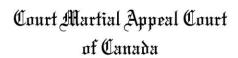
and

LIEUTENANT J.C. BANTING

Respondent

Heard at Ottawa, Ontario, on October 28, 2019.

Judgment delivered from the Bench at Ottawa, Ontario, on October 28, 2019 and edited for syntax and grammar with added reference to the relevant case law.





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and

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Respondent

REASONS FOR JUDGMENT

[1] The panel is unanimous that this appeal should be dismissed. In *R. v. Banting*, 2019 CM 2009, Military Judge Sukstorf correctly applied the law as it relates to the failure to establish a *prima facie* case. We share her view there was no evidence presented at the trial upon which a reasonable panel of a General Court Martial, properly instructed, could return a guilty verdict.

[2] We dismiss the appeal.

| "B. Richard Bell" |
|---------------------|
| Chief Justice |
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| |
| "Richard G. Mosley" |
| J.A. |
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| |
| "J.E. Scanlan" |
| J.A. |

COURT MARTIAL APPEAL COURT OF CANADA

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: CMAC-598

STYLE OF CAUSE: HER MAJESTY THE QUEEN v.

LIEUTENANT J.C. BANTING

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: OCTOBER 28, 2019

REASONS FOR JUDGMENT BY: THE COURT

DATED: NOVEMBER 6, 2019

APPEARANCES:

Lieutenant-Colonel Dominic Martin, FOR THE APPELLANT

Major Stephan Poitras

Mr. Joshua M. Juneau FOR THE RESPONDENT

SOLICITORS OF RECORD:

Military Prosecution Service FOR THE APPELLANT

Ottawa, Ontario

Michel Drapeau Law Office FOR THE RESPONDENT

Ottawa, Ontario