

**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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**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”

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Chief Justice

“Richard G. Mosley”

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J.A.

“J.E. Scanlan”

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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,  
Major Stephan Poitras FOR THE APPELLANT

Mr. Joshua M. Juneau FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Military Prosecution Service  
Ottawa, Ontario FOR THE APPELLANT

Michel Drapeau Law Office  
Ottawa, Ontario FOR THE RESPONDENT