

Brian C. Nelson

(Lieutenant, Canadian Forces) *Appellant*,

v.

Her Majesty the Queen

Respondent.

INDEXED AS: R. v. NELSON

File No.: CMAC 412

Heard: Vancouver, British Columbia, 11 December, 1997

Judgment: Vancouver, British Columbia, 11 December, 1997

Present: Malone, Simpson and Campbell, J.J.A.

On appeal from a conviction and sentence of a Standing Court Martial held at Canadian Forces Base Montréal, Québec, on 15, 16 and 17 April 1997.

Indecent act — Conduct to the prejudice of good order and discipline — Severity of sentence.

Held: Appeals dismissed.

COUNSEL:

M.R. Hunt, for the appellant
Commander C.J. Price and *Major G.K. Duncan*,
for the respondent

The following are the reasons for judgment of the Court delivered orally in English by

MALONE J.A.: We have carefully considered the decision of the learned President of the Standing Court Martial and are of the view that his findings with respect to credibility and fact were supported throughout by the evidence and should not be disturbed on appeal.

Leave to appeal having been granted, the appeal against sentence is dismissed.

Brian C. Nelson

(Lieutenant, Forces canadiennes) *Appelant*,

a c.

Sa Majesté la Reine

Intimée.

b

RÉPERTORIÉ : R. c. NELSON

N° du greffe : CACM 412

c Audiance : Vancouver (Colombie-Britannique), le 11 décembre 1997

d Jugement : Vancouver (Colombie-Britannique), le 11 décembre 1997

Devant : les juges Malone, Simpson et Campbell, J.C.A.

e En appel d'une déclaration de culpabilité et d'une sentence prononcée par une cour martiale permanente siégeant à la base des Forces canadiennes de Montréal (Québec), les 15, 16 et 17 avril 1997.

f *Action indécente — Conduite préjudiciable au bon ordre et à la discipline — Sévérité de la sentence.*

Arrêt : Les appels sont rejetés.

AVOCATS :

g *M.R. Hunt*, pour l'appelant
Commander C.J. Price et *Major G.K. Duncan*,
pour l'intimée

h *Ce qui suit est la version française des motifs du jugement de la Cour prononcés à l'audience par*

LE JUGE MALONE, J.C.A. : Après examen attentif de la décision du président de la cour martiale permanente, nous concluons que ses conclusions sur la crédibilité et sur les faits étaient toutes fondées sur les preuves et témoignages produits, et qu'il n'y a pas lieu de toucher à sa décision sur appel.

L'autorisation d'appel ayant été accordée, l'appel contre la sentence est rejeté.

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R v MARSAN, at 509

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