

Court Martial Appeal Court
of Canada



Cour d'appel de la cour martiale
du Canada

Date: 20120703

Docket: CMAc-548

Citation: 2012 CMAc 1

**CORAM: DAWSON J.A.
O'REILLY J.A.
MACKENZIE J.A.**

BETWEEN:

CORPORAL RIVAS, D.

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario, on March 23, 2012.

Judgment delivered at Ottawa, Ontario, on July 3, 2012.

REASONS FOR JUDGMENT BY:

O'REILLY J.A.

CONCURRED IN BY:

**DAWSON J.A.
MACKENZIE J.A.**

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REASONS FOR JUDGMENT

O'REILLY J.A.

I. Overview

[1] Corporal Rivas worked as an orderly at the student canteen on Canadian Forces Base Borden. In July 2010, a Private at the base identified Corporal Rivas as being the person who had

entered her room while she was sleeping and touched her in a sexual manner without her consent.

[2] In May 2011, Corporal Rivas pleaded not guilty to the following charges:

- Sexual assault, contrary to section 130 of the *National Defence Act*, R.S.C. 1985, c. N-5 and section 271 of the *Criminal Code*, R.S.C. 1985, c. C-46. (Enactments cited are set out in Annex A).
- Behaving in a disgraceful manner, contrary to section 93 of the *National Defence Act*;
- Drunkenness, contrary to section 97 of the *National Defence Act*.

[3] Corporal Rivas was tried at a General Court Martial consisting of a military judge and a five-member panel on the charges and was found guilty of sexual assault and drunkenness. The charge of behaving in a disgraceful manner was stayed. The prosecution and defence made a joint submission on sentence, proposing 90 days of detention and a fine of \$2,000. The military judge rejected that submission and imposed a sentence of nine months' imprisonment.

[4] Corporal Rivas appeals his convictions, the stay of proceedings and his sentence. His principal dispute lies in the manner in which the military judge instructed the panel on the identification evidence. I agree that the instructions to the panel in this area were incomplete. It is unnecessary, therefore, to address the other issues Corporal Rivas raised in his appeal. I would

allow the appeal and order a new trial.

II. The Military Judge's Instructions to the Panel

[5] The military judge began with general instructions about the role of the panel in determining the facts and its duty to follow the judge's directions on the law. The judge made clear that the panel could accept all, part, or none of what a witness said. He repeated the meaning of the presumption of innocence and its corollary, the standard of proof beyond a reasonable doubt. He also set out the standard charge in cases where credibility is a key issue arising from *R. v. W.(D.)*, [1991] 1 S.C.R. 742, (*W.(D.)*):

If you believe the evidence of the accused you must find him not guilty. If you do not believe the evidence of the accused but his evidence leaves you with a reasonable doubt, you must find him not guilty. If you do not know whom to believe, then you have a reasonable doubt and must find the accused not guilty. Even if you are not left with a reasonable doubt by the evidence of the accused you must still ask yourself whether, on the whole of the evidence, you are satisfied beyond a reasonable doubt that the accused is guilty.

[6] The military judge then explained the concepts of direct and circumstantial evidence, and summarized the evidence in the trial. He began with the complainant's evidence. He referred to the following parts of her testimony:

- she went to bed at about 10:00 pm on July 15, 2010 after studying for a while;
- she heard a door slam and became aware that a person was lying on her bed with his arm across her chest – it was 12:01 am;
- she identified Corporal Rivas, whom she had seen before on parade and working in the canteen, as the person on her bed;
- she asked the intruder to leave, and he did;

- she awoke again later after hearing a bang;
- she saw Corporal Rivas with his pants off and masturbating;
- she noticed that her pyjamas had been pulled down to her ankles and that her pubic area was wet, with the texture of saliva;
- she told Corporal Rivas, who smelled of vodka, to get out – he told her to shut up;
- after the intruder left, the complainant found a cellphone in her room – she went into the hallway and threw it to the intruder, who caught it;
- she went to the bathroom, showered, then went back to her room.
- the next day, she confronted Corporal Rivas at the canteen and told him she would smash his head if he did that again;
- he apologized and said that he had had too much to drink.

[7] The military judge then referred to the evidence, elicited on cross-examination of the complainant, of a prior sexual encounter between the complainant and Corporal Rivas. He explained that the panel could use that evidence to help decide whether the complainant had identified Corporal Rivas correctly, and not for other purposes.

[8] The judge then summarized Corporal Rivas's testimony:

- he knew the complainant as a customer at the canteen and from the smoking area near the barracks;
- she knew him by name;
- in June 2010, after a conversation in the smoking area, she invited him to her room where they had sex;
- after that, their relationship was “a bit weird”;
- she asked if he wanted to date her, and he declined – she seemed disappointed;

- he said that on the night of the alleged assault, he was with friends at the mess;
- they arrived at the mess between 10:00 and 11:00 pm – while there, Corporal Rivas drank some beer and danced;
- he left with friends at closing time, 1:00 am, and walked back to his residence, which was a brisk 20-minute walk away;
- he denied being in the complainant's room that night and being threatened by her the next day – he said their conversation was amicable.

[9] The military judge also summarized the evidence of the defence witnesses who were called to corroborate Corporal Rivas's alibi and his description of the conversation with the complainant on the day after the alleged assault. The military judge explained how to assess credibility, including the use of any prior inconsistent statements.

[10] The military judge then set out the essential elements of the offence of sexual assault. He explained the respective theories of the prosecution and defence. The prosecution maintained that Corporal Rivas got drunk at the mess and then decided to visit the complainant in order to have sex with her. He got into bed with her, but she rebuffed him. He then lowered her pyjamas and licked her pubic area. He lowered his own pants and began masturbating. He fell and hit his head, and then the complainant awoke. The complainant did not consent to any touching. Therefore, according to the prosecution, the elements of the offence of sexual assault were made out.

[11] The judge then summarized the defence position. Corporal Rivas said he did not commit the offence and questioned whether any offence had actually occurred. The complainant was unsure about what had happened. Her testimony identifying Corporal Rivas was unreliable because she did not remember his name, and made mistakes about his rank and physical appearance. In any case, he

was at the mess at the relevant time. Corporal Rivas suggested that the allegations against him were falsified because the complainant was upset at his reaction when she asked him if he wanted to date her. The defence suggested that this evidence should create a reasonable doubt in the panel's mind.

[12] The military judge then focused on the complainant's identification of Corporal Rivas. He stated that "[t]he case against Corporal Rivas depends entirely, or to a large extent, on the eyewitness testimony" of the complainant. He warned the panel to be very cautious about relying on that testimony, reminding them that miscarriages of justice had resulted from mistakes in identifying perpetrators of crimes. The judge noted that honest witnesses can make mistakes, even when their testimony seems convincing. He then instructed the panel to take account of several important factors:

The circumstances in which the witness made her observations – did the witness know the person before the time of the events? How long was the opportunity to observe her assailant? How good was the visibility and the lighting conditions? And was her attention distracted at the time of the observations? You will recall that [the complainant] testified that she knew the person who entered her room from seeing him on parade and at the canteen. She followed him out of the room the second time to the stairs. It was at night, and there was some light coming through the window from outside the room. There is evidence that the hallway was lit. Consider also the description given by the witness after the observations that the intruder was about five and a half feet tall and dark-skinned with a small belly. The evidence is that Corporal Rivas is 5 foot 9 inches tall.

[13] The military judge noted, however, that it was not necessary for the identification witness to be free of doubt about the correctness of her identification, so long as the prosecution proved the accused's guilt beyond a reasonable doubt.

[14] The military judge then concluded with a further reference to the alibi defence raised by Corporal Rivas. The judge pointed out to the panel that if they believed him, they must acquit. So, too, if that evidence raised a reasonable doubt. If they did not believe that evidence, or if it did not

create a reasonable doubt, the panel should consider whether the rest of the evidence proved Corporal Rivas's guilt beyond a reasonable doubt.

[15] The military judge then moved on to a discussion of the other charges.

III. The Judge's Duties in Respect of Identification Evidence

[16] A trial judge must warn the trier of fact about the need for special caution when relying on identification evidence. The judge should point out that miscarriages of justice have resulted from honest mistakes by witnesses, including witnesses who were convincing and certain about their testimony. These duties are clearly stated in both the Ontario Specimen Jury Charges and the Canadian Judicial Council's Model Jury Instructions, which advise judges to provide jurors with a detailed and careful review of the relevant testimony. In particular, that review should include a discussion of the evidence relating to:

- the circumstances in which the witness made his or her observations;
- the description given by the witness after he or she made the observations; and
- the circumstances of the witness's identification of the accused as the person whom he or she saw.

[17] In addition, in cases where the prosecution relies heavily on an identification of the accused by a single witness, trial judges must take special care to point out any weaknesses in that testimony (*R. v. Sophonow* (No. 2), [1986] 2 W.W.R. 481 (Man. C.A.) at paras 84-94). They should caution the jury about the particular frailties in the eyewitness evidence, not simply rely

on “boiler-plate” instructions (*R. v. Baltovich*, 73 O.R. (3d) 481; at paras 78-83). Judges should also warn the jury that witnesses can be mistaken even when they purport to recognize someone they know (*R. v. Turnbull*, [1976] 3 All ER 549 at 552 (Eng. C.A.)).

IV. Were the Military Judge’s Instructions Adequate?

[18] Corporal Rivas argues that the military judge’s instructions were faulty because he failed to point out to the panel much of the key evidence relating to identification. This was an absolute requirement, he says, in a case where identity was the single most important issue before the panel.

[19] Corporal Rivas also maintains that the military judge erred by telling the jury that it was “not necessary that an identification witness be free from doubt about the correctness of his or her identification”, so long as the panel was satisfied beyond a reasonable doubt, on the whole of the evidence, that Corporal Rivas was the person who committed the offence. He argues that this statement should not be given in a case, such as this one, where the whole of the prosecution evidence rested on the testimony of the complainant. The prosecution could only meet its burden of proof if the panel was satisfied beyond a reasonable doubt that the complainant had correctly identified Corporal Rivas as the perpetrator of the offence.

[20] The prosecution submits that Corporal Rivas’s submissions on this issue amount to a microscopic analysis of the military judge’s instructions to the jury. The proper approach is to review the instructions as a whole to determine whether they were proper and fair. A good deal of the evidence that Corporal Rivas says was omitted from the military judge’s discussion of

identity was actually mentioned in other areas of the instructions to the panel. Therefore, as a whole, according to the prosecution, the instructions were sufficient.

[21] Further, the prosecution contends that the military judge's instructions on the identification evidence were consistent with those set out in *Watt's Manual of Criminal Jury Instructions* (Toronto: Carswell, 2005) and reflect the current state of the law.

[22] In my view, the military judge's instructions to the jury on identification were incomplete in two respects. First, the instructions omitted a significant amount of the evidence relevant to identity. While the military judge alluded to some of that evidence elsewhere in his instructions (e.g., when he summarized the defence "theory"), it was important to draw the panel's attention to it specifically in relation to the issue of identity. Second, the military judge did not include a specific instruction on the application of the principles established in *W.(D.)* to the issue of identification. While the military judge gave a general *W.(D.)* instruction, and provided another on the issue of alibi, this was a case where a specific *W.(D.)* instruction should have been repeated on the issue of identity. This was a vital issue in the case that merited particular care in explaining to the panel how to go about deciding whether the prosecution had proved its case beyond a reasonable doubt.

[23] There was extensive evidence in this case relating to the complainant's identification of Corporal Rivas. The relevant evidence on this point included the following:

- the complainant had a headache and took some pain medication before she went to bed – extra strength Advil at around 6:30 pm and then some extra strength Tylenol at 10:00 pm. She also consumed some herbal tea to relax. She felt tired and fell into a deep sleep. She recalled having a nightmare and told investigators

that she was not sure if a man had been lying on top of her or if that was a dream. She was sure about the first part of the incident (when a man laid down on her bed and put his arm across her) and about the last part (when she saw a person trying to take his pants off and masturbating), but she was not sure whether, in the interim, a man had been lying on top of her. She did not see anyone touching her vaginal area. She was asleep.

- it was dark in her room, but there was some light coming into the room from an exterior lamppost and from under the door. There was enough light to see an outline of everything in the room.
- the complainant said that she had a fast look at the intruder and was in shock at the time.
- the complainant said that the intruder was masturbating at the edge of her bed. He was an arm's length away.
- the complainant told investigators that the intruder was a Private. Obviously, Corporal Rivas is a Corporal.
- the complainant testified that the intruder exuded an extreme smell of vodka; Corporal Rivas testified that he only drinks beer, not hard liquor. On the night in question, he drank two "tall boys," the equivalent of four beers. A witness said that he saw Corporal Rivas drinking beer at the H Club that night.
- in her written statement, the complainant described the intruder as being 5'6" or 5'7" with dark skin (but not too dark), and with a small belly, like baby fat. Corporal Rivas testified that he is 5'9" and 185 pounds.
- the barracks were not locked. Anyone could have entered at any time.
- the complainant described her intruder to a Private Walsh, but told her she did not know his name; Private Walsh testified that the complainant told her that the intruder was a young black male who worked in the canteen.
- the complainant also gave a brief description of the intruder to a Master Corporal Meade, saying only that he had dark skin; Master Corporal Meade recalled that the complainant told him that she could not make out who the intruder was, but also said it was someone who worked at the canteen.
- the complainant testified that she knew Corporal Rivas only by his face, not his name. She did not know his first name, his last name or his rank. She might have known his name at one point, but then forgot it.
- she testified that she recognized Corporal Rivas's voice when the intruder spoke to her.

- the complainant testified that she did not see Corporal Rivas on a regular basis. They were rarely near one another. She only saw him sporadically. They had only spoken once or twice.
- when she did see him, Corporal Rivas was in uniform, with his name and rank visible. She would have seen him frequently in the canteen. She also saw him marching and in the smoking area.
- the complainant conceded that she had had a sexual encounter, a one-night stand, with Corporal Rivas a couple of weeks before the alleged incident.
- Corporal Rivas testified that he had spoken with the complainant almost every day during June and July 2010. He described a number of their conversations. He said that the complainant usually called him by his last name, but sometimes by his first; a defence witness, Private MacIsaac, testified that he had witnessed the complainant and Corporal Rivas having conversations during which he had heard the complainant address Corporal Rivas mostly by his last name, but sometimes by his first name.
- the complainant testified that she was 100% sure that the intruder was Corporal Rivas. Corporal Rivas testified that he was with friends at the H Club at the time of the incident.

[24] As described above, in his instructions relating to the evidence of the complainant, the military judge told the panel to be very cautious about relying on eyewitness testimony. In terms of the evidence relating to that issue, the military judge pointed only to a small portion of the relevant evidence. He noted that the complainant testified that she knew the intruder from seeing him on the base. She followed the intruder out of the room to the stairs. While it was night-time, there was some light coming through her bedroom window. Also, the hallway was lit. The military judge noted that the complainant had previously described the intruder as having dark skin and a small belly, and being about 5'6" in height. The evidence showed that Corporal Rivas is 5'9".

[25] In my view, there was substantially more evidence that was relevant to the issue of identification than was mentioned by the military judge. Some of that evidence exposed weaknesses

in the complainant's testimony about the identity of her intruder. While the judge gave a general warning about the inherent frailties of eyewitness identification, it would have been preferable if he had drawn the panel's attention to some of the particular weaknesses disclosed in the complainant's evidence. However, it is unnecessary to decide whether this alone would justify allowing Corporal Rivas's appeal; there is another problem with the military judge's instructions.

[26] As mentioned, the prosecution points out that the military judge's instructions on identity were consistent with *Watt's Manual of Criminal Jury Instructions*. However, Justice Watt has made clear that supplementary instructions are required in cases where the jury must make credibility determinations on a vital issue. In those cases, the trial judge must provide the jury with a particularized *W.(D.)* instruction on that issue:

The principles that underlie *W.(D.)* are not restricted to cases where an accused testifies and where his or her evidence conflicts with evidence of witnesses for the prosecution. Where, on a vital issue, credibility findings must be made between conflicting evidence called by the defence or emerging from evidence favourable to the defence adduced as part of the Prosecution's case, the trial judge must relate the principle of reasonable doubt to those credibility findings: *R. v. D.(B.)*, 2011 ONCA 51 (CanLII), 2011 ONCA 51, 266 C.C.C. (3d) 197, at para. 114. What the jury must understand is that to find an accused not guilty, they need not believe the defence evidence on the vital issue; rather, it is enough that the conflicting evidence leaves them with a reasonable doubt about the accused's guilt in light of all the evidence: *D.(B.)*, at para. 114.

R. v. F.E.E., 2011 ONCA 783, at para. 104 (*F.E.E.*).

[27] In *F.E.E.*, the trial judge had given two *W.(D.)* instructions. In the circumstances, Justice Watt concluded that the charge was adequate. However, in doing so, he felt it was particularly significant that the trial judge had specifically instructed the jury to consider the "evidence favourable to the defence", not just evidence emanating from the accused. The trial judge's formulation of the charge, therefore, had the effect of embracing "all of the evidence supportive of

the defence position, including the appellant's alibi, the testimony of other family members and the evidence of good character".

[28] In *D.(B.)*, the case cited by Justice Watt in the above passage, Justice Blair stated:

Where, on a vital issue, there are credibility findings to be made between conflicting evidence called by the defence or arising out of evidence favourable to the defence in the Crown's case, the trial judge must relate the concept of reasonable doubt to those credibility findings. The trial judge must do so in a way that makes it clear to the jurors that it is not necessary for them to believe the defence evidence on that vital issue; rather, it is sufficient if – viewed in the context of all of the evidence – the conflicting evidence leaves them in a state of reasonable doubt as to the accused's guilt. In that case, they must acquit.

(At para. 114; citation omitted.)

[29] Here, the military judge did not provide a specific instruction on the concept of reasonable doubt as it related to the vital issue of identity. Nor did he instruct the panel to consider the evidence favouring the accused which would have alerted the panel to weigh all of the evidence put forward by the defence, as well as the evidence emanating from the prosecution's case, including some of the complainant's own testimony, that the panel might have regarded as favourable to the defence and capable of raising a reasonable doubt. The jury was entitled to disbelieve Corporal Rivas's testimony about his alibi, for example, and still have a reasonable doubt about whether he was guilty of the offences charged.

[30] Finally, the military judge did not direct the panel's attention to significant parts of the evidence that were relevant to the most important issue in the case – the identity of the perpetrator. In these circumstances, I must conclude that the military judge's instructions to the panel were inadequate.

[31] Given this conclusion, it is not necessary for me to consider the fitness of the sentence imposed. However, these reasons should not be understood as endorsing the sentence imposed by the military judge.

V. Conclusion and Disposition

[32] Based on the insufficiency of the military judge's instructions to the jury on the issue of identity, I would allow the appeal and order a new trial on all charges.

"James W. O'Reilly"

J.A.

"I agree.
Eleanor R. Dawson J.A."

"I agree.
A.D.K. MacKenzie J.A."

Annex “A”

National Defence Act, R.S.C. 1985, c. N-5

Loi sur la défense nationale, L.R. 1985, ch. N-5

Cruel or disgraceful conduct

Cruauté ou conduite déshonorante

93. Every person who behaves in a cruel or disgraceful manner is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding five years or to less punishment.

93. Tout comportement cruel ou déshonorant constitue une infraction passible au maximum, sur déclaration de culpabilité, d'un emprisonnement de cinq ans.

Drunkenness

Ivresse

97. (1) Drunkenness is an offence and every person convicted thereof is liable to imprisonment for less than two years or to less punishment, except that, where the offence is committed by a non-commissioned member who is not on active service or on duty or who has not been warned for duty, no punishment of imprisonment, and no punishment of detention for a term in excess of ninety days, shall be imposed.

97. (1) Quiconque se trouve en état d'ivresse commet une infraction et, sur déclaration de culpabilité, encourt comme peine maximale un emprisonnement de moins de deux ans, sauf s'il s'agit d'un militaire du rang qui n'est pas en service actif ou de service — ou appelé à prendre son tour de service — auquel cas la peine maximale est un emprisonnement de quatre-vingt-dix jours.

(2) For the purposes of subsection (1), the offence of drunkenness is committed where a person, owing to the influence of alcohol or a drug,

(2) Pour l'application du paragraphe (1), il y a infraction d'ivresse chaque fois qu'un individu, parce qu'il est sous l'influence de l'alcool ou d'une drogue :

(a) is unfit to be entrusted with any duty that the person is or may be required to perform; or

a) soit n'est pas en état d'accomplir la tâche qui lui incombe ou peut lui être confiée;

(b) behaves in a disorderly manner or in a manner likely to bring discredit on Her Majesty's service.

b) soit a une conduite répréhensible ou susceptible de jeter le discrédit sur le service de Sa Majesté.

Service trial of civil offences

Procès militaire pour infractions civiles

130. (1) An act or omission

130. (1) Constitue une infraction à la présente section tout acte ou omission:

(a) that takes place in Canada and is punishable under Part VII, the *Criminal Code* or any other Act of Parliament, or
(b) that takes place outside Canada and would, if it had taken place in Canada,

a) survenu au Canada et punissable sous le régime de la partie VII de la présente loi, du *Code criminel* ou de toute autre loi fédérale;
b) survenu à l'étranger mais qui serait

be punishable under Part VII, the *Criminal Code* or any other Act of Parliament,

punissable, au Canada, sous le régime de la partie VII de la présente loi, du *Code criminel* ou de toute autre loi fédérale.

is an offence under this Division and every person convicted thereof is liable to suffer punishment as provided in subsection (2).

Quiconque en est déclaré coupable encourt la peine prévue au paragraphe (2).

(2) Subject to subsection (3), where a service tribunal convicts a person under subsection (1), the service tribunal shall,

(2) Sous réserve du paragraphe (3), la peine infligée à quiconque est déclaré coupable aux termes du paragraphe (1) est:

(a) if the conviction was in respect of an offence

a) la peine minimale prescrite par la disposition législative correspondante, dans le cas d'une infraction :

- (i) committed in Canada under Part VII, the *Criminal Code* or any other Act of Parliament and for which a minimum punishment is prescribed, or
- (ii) committed outside Canada under section 235 of the *Criminal Code*,

- (i) commise au Canada en violation de la partie VII de la présente loi, du *Code criminel* ou de toute autre loi fédérale et pour laquelle une peine minimale est prescrite,
- (ii) commise à l'étranger et prévue à l'article 235 du *Code criminel*;

impose a punishment in accordance with the enactment prescribing the minimum punishment for the offence; or

b) dans tout autre cas:

(b) in any other case,

- (i) impose the punishment prescribed for the offence by Part VII, the *Criminal Code* or that other Act, or
- (ii) impose dismissal with disgrace from Her Majesty's service or less punishment.

- (i) soit la peine prévue pour l'infraction par la partie VII de la présente loi, le *Code criminel* ou toute autre loi pertinente,
- (ii) soit, comme peine maximale, la destitution ignominieuse du service de Sa Majesté.

(3) All provisions of the Code of Service Discipline in respect of a punishment of imprisonment for life, for two years or more or for less than two years, and a fine, apply in respect of punishments imposed under paragraph (2)(a) or subparagraph (2)(b)(i).

(3) Toutes les dispositions du code de discipline militaire visant l'emprisonnement à perpétuité, l'emprisonnement de deux ans ou plus, l'emprisonnement de moins de deux ans et l'amende s'appliquent à l'égard des peines infligées aux termes de l'alinéa (2)a) ou du sous-alinéa (2)b)(i).

(4) Nothing in this section is in derogation of the authority conferred by other sections of the Code of Service Discipline to charge, deal with and try a person alleged to have committed any offence set out in sections 73 to 129 and to impose the punishment for that offence described in the section prescribing that offence.

Criminal Code, R.S.C. 1985, c. C-46

Sexual assault

271. (1) Every one who commits a sexual assault is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

(4) Le présent article n'a pas pour effet de porter atteinte aux pouvoirs conférés par d'autres articles du code de discipline militaire en matière de poursuite et de jugement des infractions prévues aux articles 73 à 129.

Code criminel, L.R.C. 1985, ch. C-46

Agression sexuelle

271. (1) Quiconque commet une agression sexuelle est coupable:

a) soit d'un acte criminel et passible d'un emprisonnement maximal de dix ans;

b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire et passible d'un emprisonnement maximal de dix-huit mois.

COURT MARTIAL APPEAL COURT OF CANADA

SOLICITORS OF RECORD

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CONCURRED IN BY: DAWSON J.A.
MACKENZIE J.A.

DATED: July 3, 2012

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