

**Court Martial Appeal Court
of Canada**



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

Date: 20061020

Docket: CMAC-489

Citation: 2006 CMAC 2

**CORAM: VEIT J.A.
BLAIS J.A.
ROBERTSON J.A.**

BETWEEN:

CORPORAL M.J. BALLARD

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Edmonton, Alberta, on October 6, 2006

Oral decision delivered at Edmonton, Alberta, on October 6, 2006

Judgment delivered at Ottawa, Ontario, on October 20, 2006

REASONS FOR JUDGMENT OF THE COURT BY:

**VEIT J.A.
BLAIS J.A.
ROBERTSON J.A.**

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REASONS FOR JUDGMENT

By the Court

[1] At the hearing on October 6, 2006, we dismissed the appellant's appeal of three convictions for drug trafficking, undertaking to provide reasons for the decision; these are the promised reasons.

[2] The appellant raises two grounds of appeal. First he challenges the credibility findings, both in the trial proper and in the entrapment hearing, of the military judge. We are all of the view that the military judge did not make any palpable and overriding error that would justify this court's interfering with his decision: *Kemp v. Queen* 2005 CMAC 5; *Housen v. Nikolaisen* [2002] 2 S.C.R. 235; *R. v. Gagnon* [2006] S.C.J. No. 17.

[3] Second, he asserts that the military judge failed to deal with relevant evidence or misapprehended relevant evidence. We are all of the view that the military judge did not misapprehend the evidence, and, in particular, did not misapprehend the testimony of the witness Anne Johnson in relation to the amended Agreed Statement of Facts. We have not been persuaded that the military judge reached an unreasonable verdict: *Nystrom v. R.* 2005 CMAC 7.

[4] For these reasons, we dismissed the appeal.

"Joanne B. Veit"

Veit J.A.

"Pierre Blais"

Blais J.A.

"J.T. Robertson"

Robertson J.A.

Court Martial Appeal Court
of Canada



Cour d'appel de la cour martiale
du Canada

COURT MARTIAL APPEAL COURT OF CANADA

SOLICITORS OF RECORD

DOCKET: CMAC-489

STYLE OF CAUSE: Corporal M.J. Ballard v. Her Majesty the Queen

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: October 6, 2006

**REASONS FOR JUDGMENT
OF THE COURT:** Veit J.A., Blais J.A., and Robertson J.A.

DATED: October 20, 2006

**RENDERED FROM THE
BENCH BY:** Veit J.A.

APPEARANCES:

LtCol. J.M. Dugas	FOR THE APPELLANT
Major R.V. Holman	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Defence Counsel Services Ottawa, Ontario	FOR THE APPELLANT
Office of the Directorate of Military Prosecutions Ottawa, Ontario	FOR THE RESPONDENT