

Date: 20021021

Docket: CMAC-452

Neutral citation: 2002 CMAC 10

**CORAM: ROULEAU J.A.
GOODWIN J.A.
MALONE J.A.**

BETWEEN:

CAPTAIN J. LOUGHREY

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario, on October 18, 2002.

Judgment delivered at Ottawa, Ontario, on October 21, 2002.

REASONS FOR JUDGMENT:

MALONE J.A.

CONCURRED IN BY:

**ROULEAU J.A.
GOODWIN J.A.**

Date: 20021016

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MALONE J.A.**

BETWEEN:

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and

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REASONS FOR JUDGMENT

MALONE J.A.

[1] I am of the opinion that leave to appeal sentence should be granted but that the appeal should be dismissed.

[2] Based on the reasoning of the Supreme Court of Canada in *R. v. Shropshire* (1995), 102 C.C.C. (3rd) 193 at p. 209, I am satisfied that the four month sentence of imprisonment delivered by Military Judge A. Ménard on September 19, 2001 was not unreasonable in all the

circumstances when all relevant factors are considered. The sentence imposed was within the acceptable range.

[3] While the appellant is a first offender, his background with the military police, his position of trust over administrative matters in his unit, the seriousness of the six offences repeated over a two year period and the lack of a meaningful explanation for his conduct all militate against leniency.

[4] The motion to admit fresh evidence is denied due to untimeliness. In any event, its content would not have affected my decision in any material way.

[5] I would grant leave to appeal and would dismiss the appeal.

“B. Malone”
J.A.

“I agree
P. Rouleau”

“I agree
“Ross Goodwin”

COURT MARTIAL APPEAL COURT OF CANADA

SOLICITORS OF RECORD

DOCKET: CMAC-452

STYLE OF CAUSE: CAPTAIN JODY A. LOUGHREY v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: October 18, 2002

REASONS FOR JUDGMENT BY: Malone J.A.

CONCURRED IN BY: Rouleau J.A.
Goodwin J.A.

DATED: October 21, 2002

APPEARANCES:

Mr. John H. Hale	FOR THE APPELLANT
Major Kenneth Lindstein	FOR THE RESPONDENT
Lieutenant Commander Martin Pelletier	

SOLICITORS OF RECORD:

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Embrun, Ontario	
Office of the Directorate of Military Prosecutions	FOR THE RESPONDENT
Ottawa, Ontario	