

Date: 19990108

Docket: CMAC-419

**CORAM: LINDEN, J.
 LYSYK, J.
 WEILER, J.**

BETWEEN:

LEADING SEAMAN CHRIS RITCHIE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Vancouver, British Columbia, on January 8, 1999.

Judgment delivered at Vancouver, British Columbia, on January 8, 1999.

REASONS FOR JUDGMENT BY:

WEILER, J.

CONCURRED IN BY:

**LINDEN, J
LYSYK, J.**

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REASONS FOR JUDGMENT

WEILER J.A.

[1] The appeal from conviction for sexual assault has already been dismissed by us.

[2] With respect to sentence, leave to appeal sentence should be granted, the appeal should be allowed and the sentence imposed should be varied from a period of imprisonment for 60 days to a period of detention for 60 days.

[3] While the sentence imposed by the President of the Standing Court Martial was fit at the time, the fresh evidence filed on consent on this appeal indicates that the appellant has been completely rehabilitated and has been accepted back into the military community.

[4] The offence was a serious one involving the entry into the bedroom of a fellow service person while she was asleep and a non-consensual attempt at sexual relations with her. In our opinion, however, the goal of general deterrence is equally met by a period of detention for the same time, 60 days. As a result the more attractive option of allowing the appellant to remain in the service is better maintained for the Career Review Board. This submission appears not to have been before the President but the making of the submission itself was not opposed on appeal.

(Sgd.) "Karen M. Weiler"

JUDGE.

COURT MARTIAL APPEAL COURT OF CANADA

SOLICITORS OF RECORD

DOCKET: CMAC-419

STYLE OF CAUSE: Leading Seaman Chris Ritchie v. Her Majesty the Queen

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: January 8, 1999

REASONS FOR JUDGMENT OF THE COURT BY: WEILER, J.

CONCURRED IN BY: Linden, J.
Lysyk, J.

DATED: January 8, 1999

APPEARANCES:

Mr. Dwight M.D. Stewart for the Appellant

Commander C.J. Price for the Respondent

SOLICITORS OF RECORD:

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