

Date: 20050928

Docket: CMAC-479

Citation: 2005 CMAC 4

**CORAM: McFADYEN, J.A.
 VEIT, J.A.
 O'REILLY, J.A.**

BETWEEN:

CPL M.A. ROSE

Appellant

- and -

HER MAJESTY THE QUEEN

Respondent

HEARD at Edmonton, Alberta on April 8th, 2005

SUPPLEMENTARY JUDGMENT delivered at Ottawa, Ontario on September 28, 2005

SUPPLEMENTARY REASONS FOR JUDGMENT BY:

McFADYEN, J.A.

CONCURRED IN BY:

**VEIT, J.A.
O'REILLY, J.A.**

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SUPPLEMENTARY REASONS FOR JUDGMENT

McFADYEN J.A.

[1] The appellant, having succeeded in his appeal against conviction, asks this Court to award costs.

[2] Under Rule 21(2) of the Court Martial Appeal Rules, the Court has discretion to award costs. Although the Rule gives the Court a broad discretion, the Court does not award costs routinely. Nothing in the conduct of this prosecution, nor in the complexity of the issues raised, takes this case out of the ordinary so as to persuade us to award costs.

[3] The application for costs is dismissed.

“Elizabeth McFadyen”
McFADYEN J.A.

I agree: _____
“Joanne B. Veit”
VEIT J.A.

I agree: _____
“James W. O’Reilly”
O’REILLY J.A.

COURT MARTIAL APPEAL COURT OF CANADA

Names of Counsel and Solicitors of Record

DOCKET: CMAC-476

STYLE OF CAUSE: CPL M.A. Rose v. Her Majesty the Queen

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: April 8, 2005

**SUPPLEMENTARY REASONS
FOR JUDGMENT BY:** McFAYDEN J.A.

CONCURRED IN BY: VEIT J.A.
O'REILLY J.A.

DATED: September 28, 2005

APPEARANCES BY:

Mr. Marvin Bloos, Q.C.	For the Applicant
Major Rob Holman	For the Respondent

SOLICITORS OF RECORD:

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Office of the Directorate of Military Prosecutions Ottawa, Ontario K1A 0K2	For the Respondent