**Date: 20070525**

**Docket: CMAC-493**

**Citation: 2007 CMAC 2**

**CORAM:** **LÉTOURNEAU J.A.**
**SHARLOW J.A.**
**O'KEEFE J.A.**

**BETWEEN:**

**CPL GRANT, R.D.**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Ottawa, Ontario, on May 11, 2007.

Judgment delivered at Ottawa, Ontario, on May 25, 2007.

REASONS FOR JUDGMENT BY: LÉTOURNEAU J.A.

CONCURRED IN BY: SHARLOW J.A.
O'KEEFE J.A.

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**Appellant**

**and**

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**Respondent**

**REASONS FOR JUDGMENT**

**LÉTOURNEAU J.A.**

[1] This is an appeal of a decision of a Standing Court Martial rendered on June 2, 2006. In that decision, the military judge found the appellant guilty of a violation of the *Code of Service Discipline*.

[2] The charge was laid under section 130 of the *National Defence Act*, R.S.C. 1985, c. N-5 as amended (Act). It consisted of one count of assault causing bodily harm, contrary to paragraph 267(*b*) of the *Criminal Code*, R.S.C. 1985, c. C-46.

[3] Although it is not in issue, I mention, for the sake of completeness, the sentence imposed upon the appellant: 30 days of detention suspended pursuant to section 215 of the Act and an order pursuant to subsection 196.14(2) of the Act that the appellant provides suitable DNA samples. In determining the sentence, the military judge took into account as a mitigating factor the lapse of time since the commission of the offence.

**ISSUES ON APPEAL**

[4] The appellant raises three grounds of appeal which can be summarized as follows:

a) the military judge erred in finding that the appellant's right under section 7 of the *Charter of Rights and Freedoms* (Charter) to be tried in accordance with the principles of fundamental justice has not been violated;

b) the military judge erred in finding that the appellant's right to a trial within a reasonable time, pursuant to paragraph 11(*b*) of the Charter, has not been violated; and

c) the finding of guilt rendered by military judge is unreasonable.

## THE REMEDIES SOUGHT

[5] The appellant seeks as relief a declaration that his rights under section 7 and paragraph 11(*b*) of the Charter have been violated and a stay of the proceedings.

[6] Alternatively, if this Court declines to grant a stay, the appellant asks that his conviction be quashed and an acquittal entered. As a second alternative, he requests that a new trial be ordered.

## THE FACTS AND CIRCUMSTANCES SURROUNDING THE ASSAULT, THE LAYING AND THE PROSECUTION OF THE CHARGE

[7] The appellant and Corporal Noseworthy (the victim) have given different versions of the circumstances leading to the assault. In view of the conclusion that I have come to, it is not necessary to relate the facts in great detail. I will concentrate on those that are relevant for a proper understanding of these reasons.

## THE ASSAULT

[8] On April 15, 2004, a party was held at the Kyrenia Club (Club) located on the premises of the Canadian Forces Base (CFB) at Petawawa. The party was given for troops returning from Afghanistan.

[9] The victim and his friend Corporal Chiasson arrived at the Club at about 6:30 p.m. He testified that he consumed a little over a dozen beers. In cross-examination, he claimed that his consumption did not exceed 16 beers. He also had a couple of shooters at the bar with his friend Chiasson, who himself had consumed approximately 12 beers and a shooter.

[10] The appellant, who had returned from Afghanistan, attended the party. However, he did not drink that evening.

[11] The assault occurred outside the Club at approximately 12:30 a.m. on April 16, 2004. According to the appellant's version, he felt that the victim had hit him with his right hand on the side of the head. He reacted with a left hand blow.

[12] The victim asked the appellant why he had hit him. The appellant tried to explain to the victim that he had hit him first. The victim grabbed him, the appellant says, and pushed him against the wall. The appellant immediately countered with a right hand: see appeal book, volume II, at page 321.

[13] The victim's account of events is somewhat different. According to his testimony, he went outside to smoke a cigarette after midnight and saw the appellant. He commented on the appellant's jacket bought in Afghanistan. He was struck twice by the appellant, once in the right ear and again on the left cheek. He testified that, before he received these blows, he had raised his right hand to

indicate the appellant's jacket and that he might have brushed along the side of the appellant's arm: *ibidem*, at page 265.

[14] Corporal Chiasson testified for the prosecution and gave his account of the events. He said that, as he was about to come out of the Club to get the victim so that they could leave the party, he saw the appellant hit the victim twice. He then ran outside and grabbed the appellant. He offered the victim the opportunity to hit back at the appellant as he was holding him.

[15] On the scene, Master Warrant Officer Ouellet tried to calm the situation down. He too had come outside the Club for a cigarette when he saw the victim holding his face. He did not see what happened outside the Club. From 7:00 p.m. to that time he drank six or seven beers.

**THE MILITARY POLICE INVESTIGATION AND THE PRE-CHARGE DELAY**

[16] The victim and his friend Chiasson were interviewed on April 16, 2004 by Leading Seaman (LS) Sonnenburg who was the military police officer assigned to investigate the incident. He interviewed the appellant on April 19, 2004. He then requested that the Identification Unit of the Ontario Provincial Police in Perth, Ontario, conduct a photographic line-up. The line-up took place on June 14, 2004 and Corporal Chiasson identified the appellant as the assailant.

[17] For unexplained reasons, it was not until December 6, 2004 that the Watch Commander of the CFB Petawawa Military Police Department concluded his review of the investigative report concerning the incident.

[18] On December 22, 2004, the Provost Marshall forwarded the investigative report to the unit in which the appellant served at the time of the incident. As the appellant had already been transferred to the Base Training List in June 2004, he then fell under the disciplinary jurisdiction of the Base Commander.

[19] Captain Scofield was the Base Adjutant for CFB Petawawa. Her role with respect to disciplinary charges was to review the military police documentation and discuss it with the Base Chief Warrant Officer in order to make a decision as to whether or not to pursue charges. Once a decision has been made to pursue charges, the paperwork is reviewed by the Office of the Judge Advocate General (JAG) which provides advice as to whether to proceed with the charges: see appeal book, volume 1, at page 51.

[20] By means of a charge report, one count of assault causing bodily harm was laid against the appellant on April 21, 2005, i.e. more than one year after the incident: see appeal book, volume III, at page 444, paragraph 5.

[21] In accordance with the procedure for referring charges to court martial, by letter dated June 29, 2005, Lieutenant-Colonel Rundle applied for disposal of the charge: *ibidem*, at paragraph 7. On

July 12, 2005, Colonel Poulter forwarded the application to the referral authority. By letter dated July 25, 2005, the referral authority, Brigadier-General Young, referred the charge to the Director of Military Prosecutions: *ibidem*, at paragraph 9.

[22] The prosecutor signed a charge sheet containing the count previously mentioned. This was done on September 27, 2005. Pursuant to section 165 of the Act, the charge was preferred on that day when it was signed by the prosecutor and referred to the Court Martial Administrator.

[23] In the referral letter, the prosecutor anticipated that the length of the prosecution's case would be one day. He was prepared to proceed as of November 1, 2005.

[24] At the time, the judicial resources available were limited. Already, trial dates were being set into 2006: *ibidem*, at paragraph 12. April 11, 2006 was the date scheduled for the trial of the appellant. That date (nor was a date in February) was not suitable for defence counsel who was involved in a long civil trial. Finally, both parties agreed to the date of April 26, 2006 and a convening order was issued accordingly by the Court Martial Administrator: *ibidem*, at paragraphs 19 to 26.

[25] A delay of more than one year followed the charge report. The length of the pre-charge and post-charge delay totalled two years and 11 days.

## FIRST GROUND OF APPEAL: WHETHER THE APPELLANT'S RIGHTS UNDER SECTION 7 OF THE CHARTER WERE VIOLATED

### The requirement to proceed expeditiously

[26] The appellant relies for his argument upon section 162 of the Act which stipulates that "charges under the *Code of Service Discipline* shall be dealt with as expeditiously as the circumstances permit". This obligation, it has been ruled by military courts, applies not only to the military police but also to military authorities at all levels. It is premised on the need to maintain discipline in the Forces and, therefore, celerity is seen as of the essence of the process: see *Corporal F. Vincent*, Permanent Court Martial, Sherbrooke, 13 October 2000, page 25.

[27] In *R. v. Ex-Corporal S.C. Chisholm*, 2006 CM 07, where the pre-trial delay amounted to 14 months from the time two charges of disobedience of a lawful command were laid, Commander Lamont M.J. asserted at paragraphs 14 and 15 of his reasons, in the following terms, the importance of section 162:

> In the military justice system, in addition to vindicating the public right to justice, the maintenance of individual and collective discipline is of cardinal importance. Military authorities at all levels are obligated by section 162 of the *National Defence Act* to deal with charges under the Code of Service Discipline "as expeditiously as the circumstances permit."
>
> The unnecessary lapse of time between the commission of an offence and punishment following a trial diminishes the disciplinary effect that can be achieved only by the prompt disposition of charges. This distinguishes the system of military justice from the civilian criminal justice system where there is no disciplinary objective, nor is there any statutory obligation on any of the actors to proceed promptly at all stages of a prosecution.
>
> [Emphasis added]

**The right to choose between a summary trial and a court martial**

[28] The appellant also finds support in articles 108.07, 108.16(1), 108.17 and 108.24 of the *Queen's Regulations and Orders* (QR&Os) which describe the role, function and powers of a commanding officer with respect to the hearing of charges by way of summary trial.

[29] In a nutshell, the QR&Os enumerate the offences that a commanding officer may try summarily. Assault causing bodily harm, which was the charge against the appellant, is one of these offences. Before commencing a summary trial, the commanding officer having summary trial jurisdiction must ensure that he is not precluded from trying the accused because, among other things, of rank or status or because the accused has elected to be tried by a court martial.

[30] As a matter of fact, save for exceptions that are not relevant here, article 108.17 gives an accused triable by summary trial the right to be tried by a court martial if he or she so chooses.

[31] In the present instance, the appellant who was tried by a court martial contends that he was denied "a benefit that he would almost certainly otherwise have enjoyed, namely the right to choose between summary trial and court martial": see appellant's memorandum of fact and law, at paragraph 37. This fact, he says, the adverse consequences that resulted for him and the fact that the trial was allowed to continue constitute an abuse of process and run contrary to the principles of fundamental justice.

[32] I should point out at this stage that this Court ruled in *R. v. Langlois*, 2001 CMAC 3, at paragraph 45, that an accused has no vested right to a summary trial. The initial decision to proceed by way of summary trial belongs to the reviewing authorities. The accused's right to elect trial by a court martial, when charged with an electable offence, comes into play when a decision has been made to proceed summarily. It is at that time, and at that time only, that it can be said that the accused possesses the right to choose between the two modes of trial.

[33] I shall address later the appellant's contention that he has been denied the benefit of a summary trial. Before I do, I need to relate the events which deprived the appellant of that benefit.

**The limitation period applicable to summary trials**

[34] Paragraph 69(*b*) of the Act puts a time limit on the prosecution of charges by way of summary trial:

| | |
|---|---|
| **69.** A person who is subject to the Code of Service Discipline at the time of the alleged commission of a service offence may be charged, dealt with and tried at any time under the Code, subject to the following: | **69.** Toute personne qui était justiciable du code de discipline militaire au moment où elle aurait commis une infraction d'ordre militaire peut être accusée, poursuivie et jugée pour cette infraction sous le régime de ce code, compte tenu des restrictions suivantes : |
| (*a*) if the service offence is punishable under section 130 or 132 and the act or omission that constitutes the service offence would have been subject to a limitation period had it been dealt with other than under the Code, that limitation period applies; and | *a*) si le fait reproché est punissable par le droit commun en application des articles 130 ou 132, la prescription prévue par le droit commun pour cette infraction s'applique; |
| (*b*) the person may not be tried by summary trial unless the trial begins before the expiry of one year after the | *b*) nul ne peut être jugé sommairement à moins que le procès sommaire ne commence dans l'année qui suit la |

| | |
|---|---|
| day on which the service offence is alleged to have been committed. | prétendue perpétration de l'infraction. |

[Emphasis added]

[35] In contrast with subsection 786(1) of the *Criminal Code* where the six-month limitation period is interrupted by the laying of the charge, here the Act requires that the summary trial begin within one year from the day on which the service offence is alleged to have been committed.

[36] In the present instance, the Base Adjutant, Captain Scofield, had requested legal advice with respect to the charge. By the time the advice was received, almost a year had passed since the incident. The charge was referred to the court martial because it was believed to be impossible to make the preparations for a summary trial before the limitation period ran. This now brings me to consider the appellant's argument relating to the first ground of appeal.

**Analysis of the appellant's contentions with respect to the first ground of appeal**

[37] It is not disputed that, as a matter of current practice, the vast majority of charges under the *Code of Service Discipline* are dealt with by way of summary trial. These figures taken from the *Annual Report of the Judge Advocate General* for the years 2000 to 2006 confirm that fact:

Summary Trials and Courts Martial Statistics

| | **Summary Trials** | **Courts Martial** |
|---|---|---|
| **2000-2001** | 1112 (94.6%) | 63 (5.4%) |
| **2001-2002** | 1122 (94.4%) | 67 (5.6%) |

| | | |
|---|---|---|
| **2002-2003** | 1568 (95.5%) | 73 (4.5%) |
| **2003-2004** | 1610 (96.6%) | 56 (3.4%) |
| **2004-2005** | 1407 (96%) | 64 (4%) |
| **2005-2006** | 1505 (97.5%) | 39 (2.5%) |

[38] The statistics also show that most service members who are given the right to elect trial by court martial choose the summary trial as their mode of trial. Thus for the year 2004-2005, as the above figures indicate, there were 1407 summary trials and 64 courts martial. Of the 1407 summary trials, there were 477 cases where an election was offered to the accused. Only 36, i.e. 8.16% of the offenders, opted for a court martial while 441 chose a summary trial. In the year 2005-2006, that percentage was down to 5.67% as only 28 of the 522 cases where an election was offered were tried by a court martial. The JAG Annual Reports for 2004-2005 and 2005-2006 provide the following charts:

***Election to Court Martial***

| | **2004-2005** | |
|---|---|---|
| | **#** | **%** |
| Number of Cases where member offered the right to be tried by court martial | 441 | 100% |
| Number of persons electing court martial when offered | 36 | 8.16% |

***Election to Court Martial***

| | **2005-2006** | |
|---|---|---|
| | **#** | **%** |
| Number of cases where the member was offered the right to be tried by court martial | 494 | 100% |
| Number of persons electing court martial when offered | 28 | 5.67% |

[39] There are many reasons why an accused may prefer a summary trial over a court martial: the court martial may impose more severe penalties than the commanding officer, the court martial hearing is held publicly rather than informally within the unit, and it receives more publicity than a summary trial: see *Corporal F. Vincent*, *supra*, at pages 75-76.

[40] Because the appellant was found guilty of a primary designated offence within the meaning of section 487.04 of the *Criminal Code*, the military judge was, in the present instance, under the obligation to order the taking of DNA samples. This is a consequence to which the appellant would not have been subjected if the charge had been dealt with by way of a summary trial.

[41] The uncontradicted evidence in the present case reveals that it was the intention of the authorities to deal with the charge summarily. Indeed, every effort was made to convene a summary trial before the one-year limitation period ran.

[42] Captain Scofield, whose function it should be recalled was to review the charge and discuss the matter with the Base Chief Warrant Officer, testified as follows in her examination in chief by defence counsel (appeal book, volume 1, pages 51 and 52):

> **Q.** All right. I'll ask you to turn your mind back to approximately one year ago, or perhaps slightly before that. Are you aware of what the matters before the court today are about?
>
> **A.** Yes, I am.
>
> **Q.** And what is your knowledge of these matters?
>
> **A.** My knowledge of the matter is that we received the military police completed investigation into my office. It was decided at that point, with discussion between the base chief and the AJAG, that charges would be pursued. At that time – going

> from memory, it's been quite some time actually since I've reviewed the file – the JAG returned with their advice on how to proceed and indicated at that time that we had come very close to the one year time limit for which a charge can be heard by summary trial. With that advice we reviewed every possible avenue of being able to convene a summary trial before the deadline was going to happen, making the assumption, of course, that that would have been the individual's election for a summary trial. Unfortunately with – if memory serves me – one of the witnesses was overseas, I believe, and with Corporal Grant being here in Kingston on training it would have been impossible to make the preparations for summary trial given the time that we had prior to the deadline.
>
> **Q.** What was – you say regrettable? What was the intention, or at least your perception of the intention, of the chain of command?
>
> **A.** Perception of intention with this case, and with any case, is to resolve as quickly as possible, and quickly, of course, being fairly as well, and also to maintain lowest level when at all possible. So at this point it was regrettable because of administrative delays, now the individual would not have the opportunity to elect summary trial or court martial. It was – the charges were referred to court martial.
>
> **Q.** So again you've indicated regrettable, and some of the evidence that you've given seems to point to the fact that it was the intention to proceed by way of summary trial?
>
> **A.** Well, at the very least, it would have been the intention to offer Corporal Grant the option of electing, given that the charges were an electable – it was an electable offence. So basically we had failed in providing that opportunity by having the delays and not meeting the one year time line.
>
> [Emphasis added]

[43] It is true that the decision to proceed summarily and, therefore, to put the accused to an election would have been that of the base commander and not that of Captain Scofield or the Base Chief Warrant Officer. However, nothing on the record indicates that the hearing of the charge could not and would not have proceeded summarily as is usually the practice. The sentence imposed by the court martial, i.e. thirty (30) days of detention, was within the range of punishment that the base commander could have imposed: see paragraph 163(3)(*a*) of the Act.

[44] Furthermore, the appellant was a highly praised soldier with an unblemished record. In this respect, the military judge wrote the following, at pages 432 and 433 of volume III of the appeal book:

> In particular, the offender has served with distinction since 1995 without any disciplinary infractions. He has many skills which are of great benefit to the Canadian Forces. He is extraordinarily highly thought of by his superior officers and is a consistent high performer. On the basis of the material I have been provided with, and the evidence I have heard, I am satisfied that his commanding officer's assessment is bang on when he refers to the offender in highly complimentary terms as a "soldier's soldier". I am also mindful of the fact that the offender was apparently dealing with the symptoms of depression at the time of the offence, although there is no evidence before me that this condition contributed, in any way, to the commission of the offence.
>
> [Emphasis added]

The appellant has now become an intelligence officer.

[45] In these circumstances, bearing in mind the practice of disposing of charges summarily whenever possible, the need to enforce discipline quickly, the high regard in which the appellant was held and the peculiar circumstances surrounding the commission of the offence, I think that it is highly unlikely that the mode of trying the charge would have been otherwise than by way of summary trial. It is not unreasonable to infer that there was a legitimate expectation that the procedure that would be used to deal with the charge would be the summary procedure and that that legitimate expectation did not materialize as a result of the inordinately long delay in processing the charge. The appellant has been unjustly deprived of the benefit of the summary trial procedure as a result of an unjustified breach of section 162 of the Act.

[46] I should add that this was a relatively simple case of assault causing bodily harm involving only a few witnesses. No explanation or justification has been given by the prosecuting authorities for the delay of over a year in deciding whether or not to pursue the charge. The appellant has been prejudiced by this delay imputable to the prosecution. He is entitled to some form of remedy, otherwise section 162 of the Act, which requires that charges be dealt with as expeditiously as the circumstances permit, loses all its significance and becomes a dead letter.

[47] In view of this conclusion, it is not necessary to decide whether the appellant's right under section 7 of the Charter has been violated. In any event, I believe that, as the military judge concluded, the fairness of the trial and the right to full answer and defence were not compromised: see *R. v. Langlois*, *supra*.

**The appropriate remedy in the circumstances**

[48] As the court martial found, I do not believe that a stay of proceedings is the appropriate remedy in these circumstances. The pre-charge delay deprived the appellant of the possibility of a procedural avenue which, the offence charged being an electable offence, he could and, his counsel says, he would have chosen. I think that the appropriate remedy is to put him in the position that he would have been in if the processing of the charge had been done in a timely fashion.

[49] Accordingly, I would allow the appeal, annul the proceedings before the court martial, set aside the conviction and order the destruction of the DNA samples ordered to be taken from the

appellant pursuant to section 196.14 of the Act upon conviction. Pursuant to paragraph 238(1)(*b*) of the Act, I would remit the matter to a commanding officer as defined in section 162.3 for a summary trial of the charge, if he or she deems it still advisable to hold one in the circumstances: for the discretionary aspect of the order, see *R. v. Marsaw*, [1997] C.M.A.J. No. 2 (Q.L.); *R. v. Brocklebank***,** [1996] C.M.A.J. No. 4 (Q.L.); *R. v. Jones*, [1996] C.M.A.J. No. 6 (Q.L.); *R. v. Lalonde*, [1995] C.M.A.J. No. 5 (Q.L.); and *Reid v. R.*, (1980) 4 C.M.A.R. 188. Should it be decided to hold a summary trial, the trial shall begin within four months of the date of the judgment of this Court. The appellant who requested a new trial shall be deemed to have renounced the benefit of the limitation period in paragraph 69(*b*) of the Act.

**SECOND GROUND OF APPEAL: WHETHER THE APPELLANT'S RIGHT TO A TRIAL WITHIN A REASONABLE TIME, PURSUANT TO PARAGRAPH 11(*b*) OF THE CHARTER, HAS BEEN VIOLATED**

[50] According to the evidence on the record before the court martial, the delay exceeded by two months the post-charge delay of ten months before trial that prevailed for all cases at the time of the appellant's hearing. The learned military judge explained the ten-month delay by a temporary institutional shortage of judicial resources which was remedied thereafter. Two months of the twelve-month delay were due to the unavailability of defence counsel.

[51] While a ten-month delay for the hearing of a rather simple case may appear too long, there was a special conjuncture at the time. I agree with the military judge that the delay itself, if it did prejudice the appellant, did so only minimally and does not warrant a stay of the proceedings.

**THIRD GROUND OF APPEAL: WHETHER THE VERDICT IS UNREASONABLE**

[52] In view of the conclusion that I have reached, I need not address this issue. However, I would like to say this.

[53] In cross-examination, the victim admitted to drinking sixteen (16) beers and two shooters: see appeal book, volume II, at page 288. However, he did not mention to the military police the fact that he had also drunk a couple of shooters: *ibidem*, at page 294. Describing his state of intoxication, the victim testified in cross-examination that he was drunk, but not intoxicated and that he was feeling good: *ibidem*. He also admitted that it was likely that he would be slurring his words after having drunk 16 beers: *ibidem*, at page 289. The appellant could not remember the quality of the victim's speech, but did remember the smell of alcohol and glossy eyes: *ibidem*, at page 324.

[54] Corporal Chiasson was a very good friend of the victim. They had done their basic training together in 1994: see appeal book, volume II, at pages 201 and 205. He was a crucial witness for the prosecution as he claimed that he saw the appellant hit his friend twice.

[55] Corporal Chiasson also recognized that he drank "anywhere from 10 to 12 beers", maybe thirteen (13) and a shooter. He testified that he was "not to the point where [he] was seeing double, but feeling good": *ibidem*, at pages 201, 215, 216 and 227. He acknowledged that, possibly as a result of the consumption of alcohol, "nothing that night really made sense": *ibidem*, at pages 220 and 221.

[56] The military judge believed the testimony of the victim and that of his friend, Corporal Chiasson, in which he found some corroboration as to how the events unfolded: *ibidem*, at pages 390 and 391. The victim admitted, as previously mentioned, that he had raised his hand to indicate the appellant's jacket and that he might have brushed along the side of the appellant's arm: see appeal book, volume II, at page 265. This tends to lend credibility to the appellant's testimony that the victim hit him with his right hand on the side of the head and that he then reacted with a left hand blow.

[57] Given the substantial consumption of alcohol by the victim (he said he was drunk) and his friend, it is perplexing that the learned military judge did not address the issue of the reliability of their evidence and the witnesses' capacity to accurately perceive and appreciate the events as they unfolded.

**CONCLUSION**

[58] For the reasons previously given, I would grant the appellant a remedy tailored to the specific facts and circumstances of this case.

[59] I would allow the appeal, annul the proceedings before the court martial, set aside the finding of guilty and order the destruction of the DNA samples ordered to be taken from the appellant pursuant to section 196.14 of the Act.

[60] Pursuant to paragraph 238(1)(*b*) of the Act, I would remit the matter to a commanding officer as defined in section 162.3 for a summary trial of the charge, if he or she deems it still advisable to hold one in the circumstances. Should a summary trial be held, it shall begin within four months of the date of the judgment of this Court and the appellant who requested a new trial shall be deemed to have renounced the benefit of the limitation period in paragraph 69(*b*) of the Act.

"Gilles Létourneau"
J.A.

"I agree
K. Sharlow J.A."

"I agree
John A. O'Keefe J.A."

**COURT MARTIAL APPEAL COURT OF CANADA**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

| | |
|---|---|
| **DOCKET:** | CMAC-493 |
| **STYLE OF CAUSE:** | CPL GRANT, R.D. v.<br>HER MAJESTY THE QUEEN |
| **PLACE OF HEARING:** | Ottawa, Ontario |
| **DATE OF HEARING:** | May 11, 2007 |
| **REASONS FOR JUDGMENT BY:** | LÉTOURNEAU J.A. |
| **CONCURRED IN BY:** | SHARLOW J.A.<br>O'KEEFE J.A. |
| **DATED:** | May 25, 2007 |

**APPEARANCES:**

| | |
|---|---|
| Lieutenant Colonel T. Sweet | FOR THE APPELLANT |
| Major R.F. Holman | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

| | |
|---|---|
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| Office of the Directorate of Military Prosecutions<br>Ottawa, Ontario | FOR THE RESPONDENT |