Date: 20010119
Docket: CMAC-435

CORAM: **STRAYER C.J**
LYSYK J.A.
HANSEN J.A.

BETWEEN:

A/SLT MD LECHMAN

Appellant,

--and--

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario on Friday, January 19, 2001

JUDGMENT delivered from the Bench at Ottawa, Ontario on Friday, January 19, 2001

REASONS FOR JUDGMENT BY: STRAYER C.J.

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REASONS FOR JUDGMENT
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STRAYER C.J

[1] We are all of the view that leave to appeal the sentence should be granted, but that the appeal should be dismissed.

[2] Guidance as to intervention by this Court, as it has noted in a series of decisions, is provided by the decision of the Supreme Court of Canada in *R. v. Shropshire*.[1] There, Iacobucci J., delivering the judgment of the Court, stated at paragraph 46 that:

[1] (1995) 102 C.C.C. (3d) 193. See also *R. v. M.* (C.A.) (1996) 105 C.C.C. (3d) 327.

> A variation in the sentence should only be made if the Court of Appeal is convinced it is not fit. That is to say, that it has found the sentence to be clearly unreasonable.

[3] At paragraph 50 he stated:

> Unreasonableness in the sentencing process involves the sentencing order falling outside the "acceptable range" of orders; this clearly does not arise in the present appeal.

[4] In his submissions, counsel for the appellant has cited a number of post-*Shropshire* decisions in this Court involving fraud, theft or similar offences where this Court has allowed an appeal from a sentence of imprisonment and substituted non-custodial punishment. Without reviewing those cases individually, it may be noted that this Court has said several times[2] that in cases such as this one, involving a first offender, and an offence of this nature, there is no automatic rule that imprisonment either ought to be or ought not to be imposed. Each case must be examined in the light of its particular circumstances and, of course, with respect to the particular sentence imposed at trial.

[5] The sentence imposed by the Standing Court Martial in this case falls well within the acceptable range of sentences for these offences. In imposing sentence, the learned military judge in our view took into account the relevant factors, including the mitigating factor of the delay which elapsed prior to the charges being laid.

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[2] See e.g. *R. v. Vanier* C.M.A.C. 422, February 17, 1999 at para. 7; *R. v. Lévesque* C.A.C.M.428, November 29, 1999, at para. 7; *Legaarden v. R*. C.M.A.C. 423, February 24, 1999 at para. 8; *St-Jean v. R*. C.M.A.C. 429, February 8, 2000 at para. 22.

[6] We are therefore satisfied that the sentence imposed cannot be said to be "clearly unreasonable".

[7] Leave to appeal will be granted but the appeal will be dismissed.

(s) “B.L. Strayer”
C.J.

COURT MARTIAL APPEAL COURT OF CANADA

SOLICITORS OF RECORD

DOCKET:	CMAC-435
STYLE OF CAUSE:	A/SLT MD LECHMAN - and – HER MAJESTY THE QUEEN
PLACE OF HEARING:	Ottawa, Ontario
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REASONS FOR JUDGMENT by Strayer C.J., delivered orally from the Bench on Friday, January 19, 2001

DATED: January 19, 2001

APPEARANCES:

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Major G.T. Rippon	FOR THE RESPONDENT

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