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EXTRACT OF PROCEEDINGS

of a

COURT MARTIAL

held at

BRITISH FORCES GERMANY MILITARY COURT CENTRE

before

JUDGE LARGE
ASSISTANT JUDGE ADVOCATE GENERAL

4th day of June 2013

in the cases of

SOLDIER X
SOLDIER Y
SOLDIER Z

PRESIDENT OF THE BOARD

Lieutenant Colonel M S Lawson MBE
Adjutant General's Corps (Staff and Personnel Support Branch)

MEMBERS

Major N C Johnson
Corps of Royal Engineers

Warrant Officer Class One D J Booker
The Mercian Regiment

TRANSCRIPT OF PROCEEDINGS

(23 folios)

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(REASONS FOR SENTENCE)

JUDGE ADVOCATE: Gentlemen I am going to explain to you the reasons behind the sentence that the court has come to and then the president will pass the sentence upon you.

B Soldier X I start with you first of all. You are twenty-two years old, you joined the army in 2008; you had been serving for three years at the time of these offences. You were, despite your youth, regarded as an experienced and responsible soldier. During your service you were involved in this operational tour in Afghanistan which gave rise to the charges that you have today admitted. It was in late 2011 that you were in tour in Lashkar Gah West in Afghanistan. The operational situation was demanding and there was a continuing risk of attack from insurgents and a constant IED threat. Many soldiers, this applies really to both of you, develop their own strategies for dealing with the pressures of life on operations. One of those strategies is known as banter. Banter between soldiers has been a historical feature of military life, particularly military life on operations. It helps lighten the tension; it passes the time; it may assist in unit cohesion; it may often be in what would generally be regarded as bad taste and is frequently of a sexual nature. The boundary between what is acceptable and what trespasses into the unacceptable is sometimes unclear and difficult to distinguish. The very fact of being engaged on operational duties may in itself make it more difficult to stand back and dispassionately to assess what is acceptable and what is not. Having said that, and for those reasons, all soldiers participating in operations in Afghanistan are fully trained, fully prepared for all aspects of your duties. We have heard that you were both thoroughly briefed on the sensitivities which exist in the country in which you were operating. You were well aware of the need to respect local customs and culture and you knew that any behaviour which could be interpreted as having a sexual connotation, or a racist connotation, could well cause very significant and, I stress the word, understandable offence to the local community. I want you both to think about your reaction had the videos, or the photograph which we have seen, been played to you or shown to you during your MATS training and to ask yourselves what would have been your reaction to them as you were being trained for operations in Afghanistan. The British Army prides itself quite rightly on its expertise in hearts and minds operations which are an important part of the army's role in Afghanistan. Any conduct which may affect the success of this aspect of the army's duty in Afghanistan must be treated seriously and that is why you are both standing here today in this court, the Court Martial.

F Your conduct Soldier X, as you accept, was such as would clearly prejudice good order and service discipline. In relation to the first of the charges you have admitted we accept completely that there was no sexual motive behind what you did. You did not get the child to touch your private parts. We can see for ourselves that the child in question was, fortunately, not aware of anything you did. Importantly, neither was any of the local adult population. So it is right to note that in fact no damage was done at that time to relations with the local community. Nonetheless, your actions were well beyond any acceptable conduct by a soldier in uniform on operational duty in the sensitive and potentially volatile situation you and your colleagues were in. In relation to the second charge, your actions by shouting offence language at a young Afghan boy clearly caused offence. It was gratuitously unpleasant and again a total unacceptable form of behaviour from a soldier in uniform on operational patrol. We accept that part of what you did was motivated by an ill-judged attempt at humour but there can be no justification for such behaviour. What you did clearly prejudiced good order and service discipline as you have today accepted. Again, and fortunately, it did not affect the

A situation on the ground at that time. You pleaded guilty this morning, on the day of trial, and you are entitled to some credit for that; in the range of 10% is appropriate in those circumstances. We take account of the passage of time since these events; 18 months have passed, your life has moved on, you have been out of the army for six months and you are now in full-time employment here in Germany; having said that of course your not guilty pleas have necessitated in part an adjournment for this trial. We have your reports from your days in the army; we have carefully considered the reference provided by Captain B Charlesworth, who describes you as having the utmost professionalism and being one of his most trusted soldiers, but he noted a degree of immaturity which was clearly evident to us. We have had to consider the appropriate course when it comes to sentence. It seems to us in all the circumstances of this case that the appropriate course is to fine you and the sentence of the court is that you will be fined £500 for each charge, making a total fine of £1,000.

C Soldier Y I turn to you. You are twenty-three; you were twenty-one at the time. This was your second operational tour. You have been a lance bombardier from July 2010 and the fact that you held rank is important in this case. The board members in particular, but I with my experience in this job, know that the rank of lance corporal is a very difficult rank to hold, no doubt considerably more difficult when it comes to the confines of a close quarters situation in operations in Afghanistan, but your job and your role was to uphold discipline, as you had been trained to do, and to support the values and standards of the army. You did not do that. D What you did do was highly offensive and particularly stupid. Although the gentleman you asked to hold the sign saying ‘Silly Paki’ is unlikely to have had any idea of what the sign said you made sure the incident was photographed and you know now if you did not before how in the age of Facebook and the like photographs get around, although in fact, fortunately, that did not happen in this case. We focus on what it was that you did at that time. You have been trained in the need to act with sensitivity and decorum whilst on duty in Afghanistan and you singularly failed to do that. It was your role to stop what was happening, not to condone it and join in. E We accept, as with your co-defendant, this was an attempt at humour, but as you accepted in your interview it went beyond the acceptable and certainly was not funny. By your plea today you accept that your conduct was such as was racially aggravated and likely to cause harassment, alarm or distress. It is regrettable that your plea was not indicated at an earlier stage, which may have avoided much of the delay in this case, but we do take into account the fact that you pleaded guilty and you will receive appropriate credit for that. We have had to consider whether the case is so serious that you must be reduced to the ranks and in our judgement it is. F The gravity of this offence is such that the sentence of the court must be that you are reduced to the ranks. I will now ask the President to pass the sentence please.

(SENTENCE)

G PRESIDENT OF THE BOARD: Soldier X the sentence of the court is on Charge Two to be fined £500, on Charge Five to be fined £500. Soldier Y the sentence of the court on the sixth charge is to be reduced to the ranks.

The Trial is concluded.

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CERTIFICATE

In the matter of:

Regina v Soldiers XY

I, ***Karen Louise EDGE***, of Merrill Corporation, 8th Floor, 165 Fleet Street, London, EC4A 2DY, hereby certify that:

I recorded by the use of digital equipment an extract of the proceedings of the above Court Martial and the typed transcript herein has been produced to the best of my skill and ability.

Signed: ***Karen L. Edge***

Date: ***4th day of June 2013***

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CERTIFICATE

In the matter of:

Regina v Soldiers X, Y and Z

I, ***Karen Louise EDGE***, of Merrill Corporation, 8th Floor, 165 Fleet Street, London, EC4A 2DY, hereby certify that:

I recorded by the use of digital equipment the proceedings of the above Preliminary Hearing and the typed transcript herein has been produced to the best of my skill and ability.

Signed: ***Karen L. Edge***

Date: 28th day of May 2013