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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

10th day of February 2025

in the case of

REX

V

560346 Major Benedict Lincoln STEPHENS

Headquarters Intelligence Corps

JUDGE ADVOCATE

Judge Legard

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Thank you, please take a seat everyone. Please remove headdress. Just bear with me for a minute, please. Major Stephens, just remain seated please for the moment. You have been convicted after trial of a single offence of sexual assault. It is in respect of that, that you fall to be sentenced today.

On 17th April last year, you were an acting Lieutenant Colonel, and you were a member of the British Defence Staff for the Gulf. The victim in this case, who sits at the back of court, [name redacted], she

was a J2 Middle East Analyst. She had very recently arrived in Dubai and the purpose of her visit was in part to have what is called a situational awareness visit. She was accompanied by a Colonel Mashida, and he was the regional officer for the Middle East. You were not previously well known to one another, that is yourself and [name redacted].

You met up that evening you took the pair both [name redacted] and Colonel Mashida to first of all the Distillery Bar where you met and then subsequently what is called the Time Out. Both of which are in Central Dubai. You had previously been drinking before their arrival and over the course of the evening you continued to drink yourself into a state of extreme intoxication. Your behaviour deteriorated and your interactions with others, both French and Cypriot nationals was such that both [name redacted] and Colonel Mashida, no doubt embarrassed by your behaviour especially since you were supposed to be hosting them and introducing them essentially to Dubai. They agreed between themselves that it would be best if you left.

Then whilst Colonel Mashida was in the toilet, you and Lance [name redacted] left the bar, you descended the stairs and escalator. On the way down you offered your arm to her, for her to take. Then whilst you were outside, you reached forward, and you deliberately touched her with your fingers on her crotch area albeit outside her jeans. Before touching her on her groin, you said words to the effect that, "I want you". Subsequently, "Do I intimidate you?" Colonel Mashida arrived quite soon afterwards, and [name redacted] was seen to mouth the words, "Help me", to him. He reacted, Colonel Mashida that is, by separating you. [name redacted] became hysterical. She phoned her cousin who lived in Dubai and in the meantime, you left of your own accord and made your own way home.

The following morning there was a WhatsApp exchange between yourself, and Colonel Mashida and you also wrote a letter addressed to [name redacted] apologising for your actions and informing her of your intention to resign. Although you accepted having become extremely drunk and having no recollection of what you may have said or done after a certain time, in the Time Out Bar, you nevertheless refused to accept any responsibility for your actions. You maintained your denial and that was in the face of overwhelming evidence to the contrary. Simply on the grounds that in your opinion that is something that you simply would not have done.

Your story, namely that [name redacted] had either fabricated or wholly misinterpreted your actions and behaviour, well that story was rightly and comprehensively rejected by the Board. What you did that evening was unconscionable. This was not an abuse of trust case, we do not label as that, but we nevertheless do approach this on the basis of a drunken senior officer taking an opportunistic

advantage of a young female, many ranks your subordinate. Someone who had every right to feel safe and secure in a senior officer's presence, be that in an off duty setting or otherwise.

[name redacted] has read out to us in court what is called a victim impact statement. Even when allowing for the causation issues that Mr Bolt has quite right and properly addressed us upon, the impact upon [name redacted] cannot be overstated. Such was the shock at what you did at the time, that she became hysterical to the point of hyperventilating and that was something described in detail by Colonel Mashida in his evidence. Subsequently and to this day she has endured feelings of guilt and embarrassment. She fears being painted as the villain as opposed to the victim which is essentially what you did within your WhatsApp messaging to the 50 or so members of the Int Corps Golfing Group. It is clear that this offence has had a profound and lasting impact upon her. Continues to distress her, she has been prone to self-harm and for that she continues to receive professional help and therapy.

She has become socially isolated, reclusive, suffered a loss of confidence, especially in the company of men and a loss of self-esteem. She feels wholly unjustified guilt and shame which is all too common in such cases. There may also have been some impact upon her career progression, so it is clear that offending of this nature can have, as in this case, a lasting impact. Nevertheless, the Board sincerely hopes that the conclusion of these proceedings might assist [name redacted] in trying to put this particular episode behind her and focus on what the Board hopes to be a promising future for her. They would like to commend [name redacted] for the bravery that she has demonstrated in coming to court, looking her assailant in the eye and delivering her impact statement in person.

The revised Judge Advocate General's Guidance encourages us to apply the Sentencing Council Guidelines but in doing so consider any feature of service life that might serve to either heighten culpability or harm or indeed aggravate or mitigate the offence itself. We must, of course, be careful to avoid any double counting. I will just quote briefly from that revised guidance as follows, and in doing so I try and highlight why offences of this nature are considered to be so serious in a service context. I quote:

“Service personnel have little choice where and with whom they serve. They work, eat and socialise together. Sexual offending undermines the bond of trust which must exist between those who serve together. It affects morale and ultimately operational effectiveness. Dismissal will be appropriate in all but the most exceptional case.”

We turn now to the Sentencing Council Guidelines for the offence of sexual assault. Both Crown and defence are agreed that this matter falls within Category 3B, and the Board does not demure. Notwithstanding the contents of the victim impact that we have heard, and notwithstanding that the harm suffered by [name redacted] is and remains profound, overall, we accept that this offence can properly fall to be assessed by reference to Category 3 harm. In terms of culpability there are no specified factors present in this case that might give rise to a placement within Category A.

A Category 3B offence or rather a categorisation provides for a start point of a high-level community order and a range of a medium level community order to 26 weeks' custody. However, taking into account step two, the service factors present in this case, and they are essentially differential in rank, that is the difference between a Lieutenant Colonel and a Lance Corporal, and the fact that this took place in a host country. We take the view that those service factors justify a start point to the right of the high-level community order within that category.

We have been very careful not to double count by using the same factors as aggravating the offence, but we have taken into account that your rank, experience and seniority, and this is to be distinguished from rank differential, together with the fact that you were heavily under the influence of alcohol at the time, that you committed this assault, but they serve to increase any sentence from that notional start point. The start point that I have already indicated we have adjusted.

On the other hand, in mitigation, you are 44 years of age, an officer serving with the Intelligence Corps with just under 21 years of service. Service which includes numerous operational tours. You have no relevant previous convictions; we ignore the drink driving matter for the purpose of this hearing and so you are therefore of hitherto positively good character. This offending was clearly out of character, and we recognise the impact that this conviction will have upon your loss of good character and indeed your reputation. We have read with care the contents of a pre-sentence report, extremely helpful report the contents are self-explanatory.

In that report we did note what we thought were encouraging signs of what appear to be genuine remorse and a reasonable level of impact awareness upon the victim. However, in light of the WhatsApp messages by you with approximately 50 members of the Int Corps golfing community, those now appear to somewhat shallow words and we are really concerned about the reputational impact that such messages could have upon the victim in what is a closely knit military unit, together with the impact on unit cohesiveness. It is almost inevitable that something of that nature, within such a wide-ranging WhatsApp group would have emerged and come to the attention of [name

redacted]. It was absolutely right that her liaison officer brought those to her attention in the way she did.

Within the pre-sentence report you were assessed as being a medium risk of reconviction and causing harm. We take into account Mr Bolt's very helpful submissions on that point. We have also read a number of character references from a range of colleagues, friends, family and so forth. All of whom, without question, attest to your personal and professional qualities. I do not propose to rehearse the contents here but suffice to say that those references have had a significant impact upon our overall decision making. The fact that over many years you have provided important and, at times, critical service to Queen, King and Country in very challenging conditions is not lost upon us. Nor is the fact that you, amongst other things, are the holder of the Queen's Gallantry Medal.

We have taken into account everything else that has been very ably expressed on your behalf by Mr Bolt, you have much to thank him for. He has brought to our attention a number of matters including the challenges that you have also had with your mental health. I am not going to dwell upon that here, it has been referenced within Professor Greenburgh's evidence. We are also conscious of the fact that at the relevant time, you were, in what could be described as a difficult place emotionally. You appeared to be using alcohol as a coping mechanism, although that of course cannot, on any view, excuse or condone let alone explain this type of sexualised conduct. We cannot, of course, give you any credit for guilty plea.

Would you please replace headdress and stand, thank you. This type of behaviour, Major Stephens, is unacceptable today and women are rightly at the front and centre of the modern armed forces. If our armed services are to be and remain operationally effective, then they must be inclusive. All people, whatever their sex, they must be able to come to work, attend a social event in the safe and secure knowledge that they will not be sexually assaulted but instead be afforded the respect that they properly deserve. I am afraid your behaviour, may have been out of character, but it was inexcusable. It represents a betrayal of the values and standards of the Armed Forces. It tarnishes the reputation of the uniformed services more widely and, of course, the officer corps. You all wear those insignia on your shoulders for a reason. Your job, indeed, your duty, is to uphold and demonstrate high standards of behaviour and integrity. Especially as an officer, you ought to be a living breathing example of a person to whom subordinate soldiers and officers aspire to become. For someone of your seniority to behave in this reprehensible way, is disgraceful. It represents conduct that falls well below the standards to be expected of an officer of your or indeed any rank and seniority. It goes without saying that anyone in the civilian world, convicted of such an offence, would

almost inevitably be dismissed for gross misconduct. You will therefore be dismissed from His Majesty's Armed Forces.

Now, having considered the matter with care, noting the significant victim impact and all the other matters to which I have referred, the Board has concluded, on balance, that the custody threshold had been crossed. This offence is so serious that only a custodial sentence can be justified. We took as our start point 20 weeks' of imprisonment. Aggravated factors that we have identified raise that to 26 weeks and the pendulum then swung in the opposite direction to take account of the significant mitigation in this case, particularly that reflected in the references placed before us. Including but not limited to your lack of previous convictions, your positive good character and the service that you have provided to King and Country. That brought us back to a sentence of 20 weeks' imprisonment.

Major Stephens this case has presented us with a dilemma. Do we sentence you to an immediate term of imprisonment, that would clearly be merited on these facts. It would satisfy the principles of punishment and deterrence, and it is what the victim, [name redacted], and ordinary members of the public would both expect and deserve. If we were to, you could not reasonably complain. This is a serious offence, and the public justifiably expect deterrent sentences to be passed.

That said and having given the matter detailed consideration and having applied the relevant guidance on the imposition of custodial sentences, the Board has decided, with some caution to follow the recommendations set out within the pre-sentence report. Albeit attached to a suspended sentence. In the judgement of the Board, having taken account of all the circumstances of the case, including but not limited to your good character, your length of service, the steps you have taken to address your alcohol dependency, the opinion of the probation officer and the impact that a short period of custody would have upon you, given the current prison conditions, the Board determined that a short period of immediate imprisonment would not be the right nor proportionate sanction in these circumstances.

We consider that society would be better served, and the public better protected, and your prospects of rehabilitation best met by your attendance on rehabilitation activity requirement days combined with unpaid work. There will therefore be a suspended sentence order of 24 months duration. The custodial term is one of 20 weeks, suspended for 24 months. If in the next 24 months you commit any offence, whether or not it is the same type for which you are being sentenced today, you are brought back to court and it is likely that this sentence will be brought into operation either in full or in part.

As a condition of the suspended sentence, you will also be required to undertake 220 hours of unpaid work on behalf of the community. You will also complete an accredited programme comprising 26 sessions together with 10 rehabilitation activity requirement days. All of which must be completed within that same period.

Major Stephens, what that means is you must meet your supervisor when and where you are told. Cooperate fully with any instructions that your supervisor gives you and if you fail to undertake the work, fail to do it properly, fail to cooperate with the programme or supervision or rehabilitation activity requirements you will be in breach of the order. That means you are brought back to court, and you may be given further requirements or resentenced and that could well mean custody. Have you understood everything I have said so far?

DEFENDANT: Yes, your Honour.

JUDGE ADVOCATE: Yes, very good. Finally, I have to certify that you have been convicted of a sexual offence, so you must for a period of 7 years from the date of conviction keep the police informed at all times of your personal particulars, the address at which you are living and any alteration in the name you are using. You will be given full details of those requirements on a form at the end of this hearing. Given the nature of the conviction, we did not consider it appropriate for a service compensation order to be made in this case.

Mr President, could you please pass sentence, thank you.

SENTENCE

PRESIDENT OF THE BOARD: Major Stephens you are sentenced to 20 weeks' imprisonment suspended for 24 months and dismissed from His Majesty's Armed Forces.