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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

31st day of July 2025

in the case of

REX

V

25040147 Private Jeffrey Johann ZUBAYR

156 Regiment the Royal Logistic Corps

JUDGE ADVOCATE

Judge Mitchell

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: In the matter of the King versus Jeffrey Johann Zubayr I direct that on charge 2 on the charge sheet there shall be a not guilty verdict entered. That, as I understand it, was the arrangement for which the matter was adjourned at the plea and trial preparation hearing.

For the avoidance of doubt we have considered all of the relevant guidelines and law pertaining to this sentencing exercise. In particular we have considered the imposition guideline of the Sentencing Council. We have also considered the specific civilian sentencing guideline relating to offences of

general theft. We have also considered version 7 of the Judge Advocate General's guidance on sentence. We have considered the decisions in *Ali* and *Aripa* and all of the relevant Court of Appeal authorities. We have also read and considered at length a pre-sentence report and the character evidence both written and oral provided on the defendant's behalf. Finally, we have also considered at length the submissions well made as they were by Mr Earle on your behalf.

Private Jeffrey Zubayr, you are 53 years old and you have no previous convictions and no disciplinary matters recorded against you. To today you have been a Reserve soldier for 10 years and 291 days. That is a long period of service and that service followed a long period of earlier service in the Regular Army. It is therefore in our judgement a crying shame that it comes to this. You have pleaded guilty at a plea and trial and preparation hearing to stealing £4395.11 worth of military kit. That included four tactical vests with plates; in common parlance that is four sets of body armour. Those materials were destined for use by Ukrainian forces in their existential struggle against the Russian forces. The property was recovered but nonetheless that only happened after you had stolen it. That is the value of your theft in monetary terms but as we recognise there is more to it than merely money.

You had, we accept, no intention to supply those materials and in particular those tactical vests and plates onward to any form of people involved in criminality. We sentence you on the basis that it is probably correct to say that beyond taking those items you had in reality little idea of what you were going to do with them. But we do not find that you were going to use them, as we say, for any other criminal purpose or to allow anybody else to use them for that purpose. But nonetheless it is fair to say that in taking those items destined as they were for Ukrainian forces and in particular four sets of body armour you nonetheless caused harm to Ukraine's struggle. They are our allies and in taking what you took you harmed them and you also created a significant degree of harm to the reputation of His Majesty's Forces.

We have considered the relevant guidance provided by the Sentencing Guidelines Council and our first task is to assess in civilian terms the culpability and the harm. We find in terms of culpability on the theft general guideline that this is a culpability B case. It involved a breach of some degree of trust or responsibility. We do not find in this case that there was a high degree of trust or responsibility invested in you, breach of which would justify a category A culpability conclusion but nor I am afraid do we accept that you had limited awareness or understanding of your offence. You might not have had much plan for the kit that you stole but nonetheless you knew what it was, you knew where it should be going and you knew that it was not yours to take. To that extent you did understand what you were doing albeit, as we say, it may not be the case that you had much idea what you were going to do with it after that. In terms of harm we find this to be a category 2 case. We start with the value

of the goods taken. That puts this case squarely into harm category 3. But there is in this case significant additional harm to, possibly four, members of Ukrainian forces but perhaps also just as importantly to the reputation of His Majesty's Forces. We find that this is significant additional harm to both His Majesty's Forces and indeed others and therefore we find that this case falls squarely into harm category 2.

We have considered the Service factors at play in this case on culpability, harm and those factors increasing and reducing seriousness. We have found that in this case it is appropriate and proper to consider them in conjunction with the civilian guidelines for sentencing of offences of theft. That is the easiest way to make sure that we are not double counting any particular feature or in any way aggravating the sentence beyond what it should be.

We also recognise that you are sorry for what you have done and we also recognise that this is the first time that you have done anything wrong at all in a long period of service. Nonetheless we take the view that the appropriate sentence had this matter been heard to trial and had you been convicted at trial the appropriate sentence would be one of 12 months' worth of imprisonment. That is the B2 starting point indicated by the Sentencing Guidelines Council for an offence of theft of this kind. We take that view and we also take the view that in any event after trial this is not a case that would be appropriately dealt with by way of military detention. In fact we take the view notwithstanding everything that was said so ably on your behalf that nonetheless only custody will do in this case. It is not a case where military detention would be appropriate. Nonetheless we reduce the sentence of 12 months imprisonment to one of eight months imprisonment by way of credit for plea. You get the full measure of that in this case because you pleaded at the plea and trial preparation hearing so that is the full one third. Nothing less than imprisonment is appropriate for stealing items destined for allies including, as we say, equipment that could save lives.

We have then, however, had to consider whether or not that sentence of imprisonment should be suspended and to put you out of your misery and agony we can tell you that we have decided to suspend that sentence for a period of 21 months. We make that decision for the following reasons. We believe that you are a low risk of harm to the public, in fact we believe that we will never and no court will ever see you again. You have never failed to comply with orders before. There is a realistic prospect of rehabilitation in your case. There are strengths to your personal mitigation even if it could not necessarily be described as strong. But most importantly in this case were you to receive a sentence of immediate custody there would be a massive and harmful impact upon your nine year old daughter for who you have effectively sole custody. She relies on you and we will not deprive her of her father. And so in the circumstances we have taken the view that it is appropriate to suspend that

sentence for 21 months. It is suspended on the condition that you nonetheless complete 180 hours of unpaid work within the next 12 months. I am bound to say that that number in terms of reparation could have been higher but in setting the amount of unpaid work that we do we recognise your domestic responsibilities and we believe that dividing that up into six hour chunks as is customary that you can complete that unpaid work within the next year without too much burden being shouldered by your friends and other family.

That is the sentence apart from one other matter. We have to consider the question of dismissal. At this point I turn to paragraph 5.1 of the Judge Advocate General's guidance on sentence; that is version 7. It says this in relation to offences of dishonesty:

"Dishonesty is not consistent with service in the Armed Forces because it is corrosive to unit cohesiveness and morale and breaches the bond of trust which exists between Service personnel. Dismissal will be appropriate in all but the most minor cases."

We have heard everything that has been urged on your behalf by both your counsel and also your Commanding Officer. They have said everything that could possibly be said on your behalf and indeed we have some sympathy with your unit's position. But nonetheless we have to deal with case according to the law. This is not a minor case. You took over £4000.00 worth of military kit, the property that did not belong to you that included equipment that could save life on the battlefield. When one says it out loud in those terms we believe that it is obvious to anybody that in this case, unfortunate as it may be, bearing in mind the length of your service to this country that dismissal is nonetheless warranted. Could I say that this is a specialist tribunal, we do not take that decision lightly but nonetheless having considered the facts of this case in the round and having considered the guidance that relates to it we take the view that in fact dismissal is inevitable and so you will be dismissed from His Majesty's Service.

I will invite the President now to pronounce sentence.

SENTENCE

PRESIDENT OF THE BOARD: Private Jeffrey Johann Zubayr, on charge one for the offence of theft you are sentenced to eight months imprisonment suspended for 21 months on condition that you complete 180 hours unpaid work within the next 12 months. Further, you are dismissed from His Majesty's Service. March out.