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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

23rd day of September 2025

in the case of

REX

V

25095577 Captain Colin John VELLA

Military Provost Staff Regiment

JUDGE ADVOCATE

Judge Mitchell

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: For the avoidance of doubt we have considered all of the documentation that has been placed before, we have considered the character references, we have considered the pre-sentence report, we have considered the information for Service courts, we have considered the

offence specific guidelines and we have considered version 7 of the Judge Advocate General's guidelines. We have also considered the guideline in relation to the imposition of custodial sentences.

Captain Colin Vella, you are 45 years old and have served his Majesty for 26 years and 213 days. Prior to your guilty plea to this matter, you had no previous convictions or disciplinary matters recorded against you and bearing in mind the trajectory of your career it is fair to say that it is a tragedy that it comes to this. You have pleaded guilty at effectively the earliest possible opportunity within this litigation to the offence of fraud and you will receive full credit for your plea.

The case summary in relation to this matter is very full in terms of the way in which you went about this particular fraud, but it really comes to this. Between November of 2022 and June of 2024, you claimed £33,269.40 in continuing education allowance that you were not entitled to. The rules are clear. I have no doubt, we have no doubt, that you knew those rules and so you knew that what you were doing was wrong but nonetheless you did it. This was a claim that was at least initially one that was fair and proper, but it became otherwise and when it became otherwise it was incumbent on you to bring those circumstances to the attention of others and to cease the claim that you made but you did not. And the simple reason you did that is greed, it is as simple as that. You did not want to pay for the extra money and unfortunately this is where that leads. You claimed a valuable benefit and you were not entitled to it.

We have to ask ourselves where this sits in the sentencing guidelines and this is where I remind everybody that this Court is not necessarily tied to the civilian guidelines in the way that civilian courts are. This Court will have regard to the civilian sentencing guidelines, but the Judge Advocate General's guidance is of particular importance when one is dealing with offences of dishonesty. I say this, it has already been quoted but it is worth observing, that on page 64 of version 7 of the guidance it reads as follows under paragraph 5, in particular paragraph 5.1

“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.”

This is not a minor case. Paragraph 5.2 in relation to fraud or theft from the employer:

“These offences should be treated as a breach of a high degree of trust or responsibility demonstrating high culpability. As part of their conditions of Service, Service personnel have the benefit of a range of valuable allowances and benefits which are not available to civilians.”

And continuity of education allowance is one of the benefits which is cited within the guidance.

“Some of them come with restrictions on the claimant which are designed to ensure the benefit of the allowance, which may be worth a significant amount of money, is awarded only in appropriate cases.”

And then specifically it says:

“For example, restrictions on where a CEA claimant may live. These allowances and benefits are administered on the basis that claimants are trusted to make honest and accurate claims and furnish honest and accurate information thereafter. Whilst the details of the rules and regulations are complex in places, the general principles are generally well known.”

That is true in your case, Captain Vella, I am afraid and that is the reason why in our estimation, notwithstanding the submissions made ably on your behalf by your counsel, we take the view that your culpability in this case is high. We say that applying the clear letter of version 7 of the Judge Advocate General’s guidance but also, we interpret that that way when we are looking at the civilian sentencing guideline in relation to benefit fraud. It is high culpability even on that view because you abused a position of trust or responsibility in making the continuing claim in the way that you did. Therefore, in so far as we need to make a decision on the question of the relevant bracket, we find this to be a high culpability case within table 3 of the benefit fraud table guidelines. Category of harm is fairly well established on the basis that you took £33,000.00 that you were not entitled to. That makes this a solid category 4 case. We should say by the way immediately and recognise that that money has now been paid back so effectively there is no continuing loss to the state.

Therefore, we then had to consider what other additional Service factors may apply in this case. We have already recognised the fact that you were a commissioned officer when we were assessing culpability. We do recognise, as the Judge Advocate General’s guidance does, that offending of this kind does have an adverse effect on morale and unit cohesiveness. There are other factors both increasing and reducing the seriousness of what you did. Yes, it was done over a fair length of time and also it embarrasses, if I can put it that way, the system of continuity of education allowance more generally. This system is set up for good reason. People are trusted to deal with it honestly and fairly and any one person who offends that trust and those sensibilities. It effectively offends the trust that is imbued in all members of the Service who are obliged to deal with the system fairly. That said there

are factors reducing seriousness. You did not have prior to this any previous convictions, you had not just positive character to your name but also previously exemplary service.

When we take all of those factors and add them up one way or another what we think is this. They effectively balance each other out and so within the sentence guidelines table 3 the starting point that is indicated by way of a sentence after trial, which is 21 months' custody, is in fact the appropriate sentence that would have applied after trial in this case. From that sentence we deduct the full third credit for plea, that is the measure to which you are entitled, to produce a sentence of 14 months' worth of imprisonment.

Thereafter we have to decide whether or not that sentence is to be suspended or whether or not it should be served immediately. We bear in mind the fact that you have paid the money back. We take the view that there is in your case a realistic prospect of rehabilitation, we do not think that we will see you again, I do not think any court will, since you do not present as a high risk of re-offending. It is not so much that you have strong personal mitigation, we do not think that, but there are elements of your background which certainly produce strengths in your mitigation and your previous service stands in good stead in that regard. In this case we are not persuaded necessarily that immediate custody would cause particular harm to others, but we do not think that you really pose any ongoing risk. You have no history of poor compliance and overall, as far as we see it this is not a case where immediate custody is in fact the only appropriate option.

Having taken account of all the factors that we are obliged to we have decided in this case that the sentence will in fact be suspended but that also bears in mind other matter to which I will turn my attention now and that is the question as to whether or not you will be dismissed.

We have already cited the Judge Advocate General's guidance on this particular subject, and it is clear. In all but the most minor of cases dismissal will be appropriate. This is not a minor case bearing in mind everything else that we have had to say about it. I am afraid in our view you cannot continue to serve in the capacity that you have. We have taken account of all of the financial circumstances and all of the information that has been placed before us but, as I say, as we have already indicated we are of the opinion that this offence is serious enough to warrant dismissal from His Majesty's Service and so you will be dismissed. You will forfeit your commission.

As I say in forming this opinion, we have taken into account all the information available to us about the circumstances of this offence including the aggravating and mitigating factors and including what we understand to be the inevitable financial effect on your livelihood and any pension that you have

accrued. It really comes to this. You cannot continue to serve His Majesty if you are dishonest, and I am afraid bearing in mind what you have done that is what you are, and I am afraid you cannot continue. That being so we also then have to decide in the light of that dismissal what further punishment we shall exact upon you bearing in mind that we are suspending the sentence of imprisonment. We take the view that you are fit to do unpaid work, there is no doubt about that, and so as a condition of the suspended sentence you will perform 240 hours' worth of unpaid work.

The effect of this sentence is this. That if you commit no further offence, no further offence capable of resulting in imprisonment, within the period during which the sentence will be suspended, which will be for a period of 21 months, then you will hear effectively no more about it provided that you do the work. If you do commit an offence which is capable of resulting in your loss of liberty, then the sentence will start at 14 months and to that will be added anything else that you are due for anything else that you do. Equally this. In terms of the unpaid work hours that we are ordering you will complete those and you will complete those well within the next 12 months. If you do not, then you can be breached and returned to court and the suspended sentence can be activated in whole or in part. That is the effect of this sentence and, as I say, you will be dismissed from His Majesty's Service. As I say, we have borne that in mind overall when we were deciding the nature and quality of the punishment that we have now awarded, or that we will award very shortly when I ask the President to formally pronounce the sentence. Captain Vella, stand up please. Mr President, would you announce the sentence please?

SENTENCE

PRESIDENT OF THE BOARD: Captain Colin John Vella, for the offence of fraud you are sentenced to 14 months' imprisonment suspended for 21 months. You will complete 240 hours of unpaid work, and you will be dismissed from His Majesty's Service.