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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

29th day of July 2026

in the case of

REX

V

25054277 Staff Sergeant Michael John Harvey

152 North Irish Regiment, The Royal Logistic Corps

JUDGE ADVOCATE

Judge Mitchell

Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Staff Sergeant Michael John Harvey, we have read the pre-sentence report, the character materials, Version VII of the Judge Advocate General's Sentencing Guidance and the civilian sentencing guidelines which relate to the offences of assault occasioning actual bodily harm and dangerous driving.

You are 46 years old and you have been in service for 19 years and 78 days as a reservist. You have previous regular service from August 1996 to April 2005. You have three dependent children. To be

fair your service was good and it was long and it is a real shame that it ends this way. You have been convicted after trial before the Court Martial of offences of assault occasioning actual bodily harm and dangerous driving. The fact of conviction after trial means that you receive no credit for your plea.

On 14th September 2024, now getting on for two years ago, on a night out in Cirencester you were the non-drinking driver. For reasons that frankly escape us, you found yourself in the company of much junior soldiers who were drinking, including the complainant in this case Private Jayden Berkley. He got far too drunk; you were driving him back to camp in your car with two other junior soldiers. Private Berkley was sick out of and probably inside your vehicle. You stopped and put him out. You left him. You thought better of it. And you went back to collect him. You then thought worse of it and pushed him to the floor.

After that you stamped on Private Berkley's chest and kicked him to the head and shoulder area. You then got back in the car and drove it dangerously by mounting the kerb of the pavement where Private Berkley was standing and drove at him to frighten him. Causing him to jump into a bush. For the avoidance of doubt, we do not sentence you on the basis that you were trying to cause him further injury at that point.

Private Berkley was left with scratches to his body, concussion and breathing difficulties. In the absence of evidence to the contrary or any further evidence explaining it, all the symptoms and difficulties that Private Berkley suffered in the aftermath were caused either by the incident or the anxiety immediately flowing from it. Either way that is harm that was all caused by you. Private Berkley had to go to hospital, experiencing breathing difficulties. He was physically affected for about a month or so with further anxiety that flows to this day, according to the victim personal statement which has been read to us and we accept.

For the sake of totality, we see the driving as an aggravating feature of the overall assault and will therefore pass concurrent sentences.

On the sentencing guideline relating to the offence of assault occasioning actual bodily harm, we find that this was a culpability A case. More than once, you kicked a fallen man to the body and the area of the head with a shod foot. It was remarkably fortunate that you did not really cause him much by way of injury from that alone. It was the concussion involved in the fall that was the more serious injury that he suffered.

What would otherwise be a culpability B case we elevate to culpability A because you were a Staff Sergeant and Private Berkley was indeed a Private. What you did, you did in front of other Private soldiers. We think it better, more understandable and less artificial to take those factors into account at this stage rather than later when considering potential service factors. For the avoidance of doubt again we shall not count those factors twice.

Accepting as we do the this is a category 3 harm case and accepting also that your previous convictions were not similar to these matters and some time ago, after considering all matters of mitigation the starting point for that offence alone after trial would be 9 months' worth of imprisonment.

On the sentencing guidelines the dangerous driving offence is a category B2 case. Category B because you used a moving car to threaten rather than injure someone in a piece of driving that was otherwise short-lived. You mounted a kerb and then you drove away. It is category 2 in terms of harm because in reality little if any real physical harm was done specifically by that action. Of itself, that offence would not merit imprisonment after trial but taken as an aggravating feature of the assault it merits a further three months' worth of imprisonment.

Therefore, the sentence in this case will be 12 months' worth of imprisonment constructed as follows: for the offence of assault occasioning actual bodily harm the sentence is 12 months' imprisonment. For the offence of dangerous driving the sentence is 3 months' imprisonment to be served concurrently. The total is therefore 12 months' worth of imprisonment.

As the law stands this combination of offences is bad but bearing in mind that they were committed together, they are not exceptional to the point that this Court can make immediate what the law now says otherwise must be a default sentence of suspended imprisonment. Had you been more senior in rank, that point would have been arguable. If also we were sure that you used the vehicle in an attempt to cause further physical harm to Private Berkley rather than to scare him, that point would be arguable. Given the seriousness of this case, in any event, you should know that it is the recent change in law that has saved you from what would otherwise have been a sentence of either immediate imprisonment or service detention in the alternative.

Therefore, the sentence of 12 months' imprisonment will be suspended for a period of two years. What that means is this, if you commit any further offence, in the course of the next two years, which is punishable by imprisonment, the sentence will start at 12 months' worth of imprisonment and to that will be added anything else that you are due for any further offence that you commit.

There are further terms, in the next 12 months you will complete 300 hours, that is the maximum amount permitted by law of unpaid work. You will do that, as I say within the next 12 months. You will do that work well. If you do not do that work or do not do it well, you can be breached. If you are breached you will appear before the Court, and you may be resentenced. In your particular position, bearing in mind that this effectively is the outer limit of what can be achieved by way of a suspended sentence of 12 months of imprisonment, you may know that it is overwhelmingly likely in the event of breach that your fate will be immediate imprisonment.

Also, you will be disqualified from driving for 12 months from today. That sentence is the least driving ban that we can impose but follows automatically from the fact that you have been convicted of dangerous driving. What that means is this, you are now disqualified from holding or obtaining both a licence to drive a motor vehicle and a Northern Ireland licence for a period of 12 months. That means you cannot drive any motor vehicle on a road or public place from this moment until the end of your disqualification. If you drive whilst disqualified, you will commit a serious offence, and you may be sent to custody and disqualified again. The length of time you are disqualified is calculated on the basis that the 12-month period is required by law but in any event is the least that we can impose.

Within the next 7 days you must produce to either this court or the service police any and if more than one all of the following documents that you hold. A licence to drive a motor vehicle, a Northern Ireland licence, a community licence. You must apply to the DVLA for a new photo card licence if you wish to drive once your disqualification has ended. You should not drive until you have received your new photocard licence. Your current photocard licence is no longer valid, as I say you must send it in.

Also, because you have been banned from driving as a result of committing the offence of dangerous driving you must also complete an extended retest before you can indeed apply again for a driving licence.

Finally, as to dismissal. We are of the opinion that this combination of offences is serious enough to warrant dismissal from His Majesty's Service and so you will be reduced to the ranks and dismissed. In forming this opinion, we have taken into account all the information available to us about the circumstances of these offences including the aggravating and mitigating factors including what we understand to be the serious and inevitable financial effects on your livelihood and any pension that you have accrued. You will therefore be reduced to the ranks and dismissed. Mr President if you would, please announce the sentence.

SENTENCE

PRESIDENT OF THE BOARD: Staff Sergeant Michael Harvey, for the offence of assault occasioning actual bodily harm the sentence is 12 months' imprisonment. For the offence of dangerous driving the sentence is 3 months' imprisonment. The sentences are to be served concurrently. That is suspended for 2 years on condition that you complete 300 hours unpaid work within the next 12 months. You are disqualified from driving for 12 months from today. You are reduced to the ranks and dismissed from His Majesty's Service. March out.