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Federal Court          Cour d'appel
   of Appeal             fédérale
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Date: 20111214

Docket: A-112-11

Citation: 2011 FCA 353

CORAM: **NOËL J.A.**
              DAWSON J.A.
              TRUDEL J.A.

BETWEEN:

LIEUTENANT-COLONEL R. D. McILROY

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on December 14, 2011.

Judgment delivered from the Bench at Toronto, Ontario, on December 14, 2011.

REASONS FOR JUDGMENT OF THE COURT BY: NOËL J.A.

Federal Court
of Appeal

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CORAM: **NOËL J.A.**
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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on December 14, 2011)

NOËL J.A.

[1]   Substantially for the reasons given by Simpson J. of the Federal Court, we agree that the

Chief of Defence Staff's decision removing the appellant from command was reasonable.

[2]   As to procedural fairness, we agree with Simpson J., for the reasons that she gave, that no

meaningful breach was identified.

[3]   Finally, it was open to Simpson J. to strike the Alden Affidavit given the nature of its

contents.

[4]   The appeal will be dismissed with costs to the respondent.

                                                    "Marc Noël"
                                        _____
                                                    J.A.

DOCKET: A-112-11

APPEAL FROM THE JUDGMENT OF THE HONOURABLE MADAM JUSTICE SIMPSON OF THE FEDERAL COURT DATED FEBRUARY 9, 2011, IN DOCKET NO. T-369-09.

STYLE OF CAUSE: LIEUTENANT-COLONEL R. D. McILROY v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: December 14, 2011

REASONS FOR JUDGMENT OF THE COURT BY: (NOËL, DAWSON & TRUDEL JJ.A.)

DELIVERED FROM THE BENCH BY: NOËL J.A.

APPEARANCES:

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Jacqueline Dais-Visca   FOR THE RESPONDENT

SOLICITORS OF RECORD:

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