

Case Summary
Office of the Judge Advocate General

DEFENDANT: WO2 Menteith
TYPE OF PROCEEDING: Restricted Court Martial
DATE OF TRIAL: 04 July 2022
VENUE: Robertson Barracks, NT
Charges and plea

	Statement of Offence	Plea
Charge 1	Defence Force Discipline Act 1982, s. 35 Negligent performance of duty	Withdrawn
Charge 2	Defence Force Discipline Act 1982, s. 60(1) Prejudicial conduct	Guilty

Pre-Trial: Closed hearing and non-publication orders¹

Application made:	No
Determination:	N/A

Trial: Facts and legal principles

The matter was listed for a trial but the defendant pleaded guilty to one charge and the prosecution withdrew the other.

Findings

	Finding
Charge 1	Not Applicable
Charge 2	Guilty

Sentencing: Facts and legal principles

The defendant was the Squadron Sergeant Major. On an exercise he was handed a live 5.56mm round by a Corporal who had been handed it by a Private soldier. Blank rounds had not at that stage been issued for the exercise and the round had been apparently found on the ground. The defendant threw the live round away in some bushes in front of the Corporal. It was this act which constituted the prejudice to service discipline. The defendant made a full and frank confession to service police and fully accepted he had done the wrong thing.

The Court Martial panel imposed the sentence and are not required to give reasons under the *Defence Force Discipline Act*. However in imposing penalty, the President of the Court Martial expressed to the defendant that the fine was of such an amount to reflect the failure to carry out the correct duty. The President said senior non-commissioned officers were expected to do the right thing and to lead by example, particularly in times of high tempo and exhaustion.

¹ *Defence Force Discipline Act 1982*, sections 140 and 148.

- *This summary is not intended to be a substitute for the reasons of the Service tribunal or to be used in any later consideration of the tribunal's reasons.*

Punishments and orders

Charge 1	N/A
Charge 2	To be fined the sum of \$4,000 to be paid in \$500 fortnightly instalments. To be reprimanded.

Outcome on automatic review

The automatic review was completed on 03 August 2022.

	Conviction	Punishments / Orders
Charge 1	N/A	N/A
Charge 2	Upheld	Upheld

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