

**Case Summary**  
**Office of the Judge Advocate General**

**DEFENDANT:** WGCDCR Ashworth  
**TYPE OF PROCEEDING:** General Court Martial  
**DATE OF TRIAL:** 21 Nov 22  
**VENUE:** Court Martial Facility, Fyshwick, ACT

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	DFDA, s. 60(1A) Prejudicial conduct	Guilty

**Pre-Trial: Closed hearing and non-publication orders<sup>1</sup>**

Application made:	Yes, Prosecution for a non-publication order.
Determination:	The application was refused by the President of the Court Martial.

**Trial: Facts and legal principles**

Nil, as the case proceeded by way of a guilty plea.

**Findings**

	<b>Finding</b>
Charge 1	Guilty

**Sentencing: Facts and legal principles**

The defendant was a Wing Commander and pilot and held the appointment as a Commanding Officer of a Squadron. For a period of approximately 4 months he had an intimate relationship with a junior officer in his direct chain of command. He did not inform his own command and continued the relationship in secret. His failure to inform his chain of command was reflected in the charge of prejudicial conduct particularised as that omission. He had a duty to inform his chain of command. Service discipline was likely to be prejudiced in such circumstances due to his position as a Commanding Officer and the fact the other member was in his direct chain of command.

Commanding Officers are selected and appointed by the Chief of Service. It is a position of great responsibility and trust. By committing the offence particularised by the omission to inform his command of the relationship, he substantially breached that trust placed in him, placing his own gratification before his duty. His relationship with the other member continued after the other member was posted out of the Squadron, but finished some months later. The offending period covered the time the other member was in his direct chain of command. The offending was discovered after the relationship finished and he was charged with the offence. He had been given an administrative termination notice which was held in abeyance pending the outcome of the Court Martial proceedings.

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<sup>1</sup> Defence Force Discipline Act 1982, sections 140 and 148.

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As this was a General Court Martial, the panel were not required to give reasons for imposing the punishments. By dismissing him from the Defence Force the panel concluded he was not fit to remain in Air Force due to the sentencing principles of general deterrence and the need to maintain good order and discipline in the Defence Force.

### **Punishments and orders**

Charge 1	To be dismissed from the Defence Force To be fined the sum of \$12,000.00 That the fine shall be paid in fortnightly instalments of \$1,000.00
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### **Outcome on automatic review**

The automatic review was completed on 11 Dec 22.

	<b>Conviction</b>	<b>Punishments / Orders</b>
Charge 1	Upheld	Upheld

### **Outcome on petition**

The review on petition was completed on 17 Dec 22.

	<b>Conviction</b>	<b>Punishments / Orders</b>
Charge 1	Upheld	Fine punishment quashed

### **Outcome from Reviewing Authority referral to the JAG**

The JAG report on referral from the Reviewing Authority was completed on 20 Feb 23.

	<b>Conviction</b>	<b>Punishments / Orders</b>
Charge 1	Upheld	Fine punishment quashed

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