

Case Summary
Office of the Judge Advocate General

DEFENDANT: AB Underwood
TYPE OF PROCEEDING: Defence Force Magistrate
DATE OF TRIAL: 28 February 2023
VENUE: Garden Island, NSW

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 33A Assault occasioning actual bodily harm	Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	No
Determination:	N/A

Trial: Facts and legal principles

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

Findings

	Finding
Charge 1	Guilty

Sentencing: Facts and legal principles

The defendant was a Seaman. After returning to Sydney after three months at sea he went out socialising with friends and colleagues, including the complainant. There was no animosity in the group. Whilst grossly intoxicated, and without warning the defendant inexplicably struck the complainant to the face chipping his teeth.

The defendant had no memory of this, and when informed of it the next day he apologised and offered to pay for the damage to the teeth.

He pleaded guilty at the first available opportunity, was of good character and had excellent prospects of rehabilitation. He had taken steps to address his relationship with the use of alcohol and showed genuine remorse. His behaviour was out of character but self-induced intoxication could not be relied upon as a mitigating factor. The offence was a serious one due to its unprovoked nature and the injury caused.

The DFM determined that due to the serious nature of the offence that a period of actual detention was appropriate to meet the principals of general deterrence and maintenance of service discipline.

Punishments and orders

Charge 1	To undergo detention for a period of 40 days.
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- *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.*

	Reparation to the Commonwealth in the sum of \$820 pursuant to DFDA s.84
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Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 17 March 2023.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld

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