

Case Summary
Office of the Judge Advocate General

DEFENDANT: CPO Parsons
TYPE OF PROCEEDING: Restricted Court Martial
DATE OF TRIAL: 06 December 2022
VENUE: Court Martial Facility, Fyshwick, ACT

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 33A Assault occasioning actual bodily harm	Not Guilty
Alternative to Charge 1	DFDA, s. 34 Assaulting a subordinate	Guilty

Pre-Trial: Closed hearing and non-publication orders¹

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	No Finding Required
Alternative to Charge 1	Guilty

Sentencing: Facts and legal principles

On 3 Jun 21, the complainant underwent a surgical procedure. As the complainant's Divisional CPO, the defendant was aware of this.

On 19 Jun 21, the complainant attended the defendant's birthday function at a public bar where both parties consumed alcohol. As the evening progressed the defendant became increasingly intoxicated. During the course of the evening two unknown and intoxicated males, not part of defendant's function, started making a nuisance of themselves. The defendant became involved in an altercation with them and had to be calmed down by the complainant and another member. The two unknown males were removed from the venue.

A short time later, the defendant walked past the complainant and gave him a backhand flick to the groin causing the complainant pain and discomfort. The assault was witnessed by others.

At approximately 2330 hrs the defendant left the venue and returned to his hotel room as he was feeling ill.

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

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On 23 Jun 21 the complainant reported the pain and discomfort he was experiencing as a result of the assault to a doctor at HMAS *Stirling*.

As this was a Restricted Court Martial, the panel were not required to give reasons for imposing the punishments. The defendant's previous seniority date in rank was 1 Mar 15 and the fine was equivalent to the most severe the panel could impose (28 days pay).

Punishments and orders

Charge 1	N/A
Alternative to Charge 1	Forfeiture of seniority, new seniority to date from 19 Jun 21. Fine of \$10,274.24 to be paid in one lump sum.

Outcome on automatic review

A Legal Report pursuant to s. 154(1)(a) was obtained on 18 December 2022. The Reviewing Authority requested a further review by the JAG pursuant to s. 154(3).

Outcome from Reviewing Authority referral to the JAG

The JAG report on referral from the Reviewing Authority was completed on 03 April 2023.

	Conviction	Punishments / Orders
Charge 1	Not Applicable	Not Applicable
Alternative to Charge 1	Upheld	Punishment is quashed. New punishment imposed a fine of \$2500 to be paid over four pay periods.

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