

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

**DEFENDANT:** SGT Lomas  
**TYPE OF PROCEEDING:** Defence Force Magistrate  
**DATE OF TRIAL:** 18 April 2023  
**VENUE:** Simpson Barracks, VIC

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	DFDA, s. 34 Assaulting a subordinate	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**

	<b>Finding</b>
Charge 1	Guilty

**Sentencing: Facts and legal principles**

On or about 30 August 2022 the victim (a PTE) was socialising in Darwin with friends. The defendant was not part of the victim's group and had not socialised with him before. At approximately 0200-0300 hours, the victim left a licensed venue in company with a MAJ, a LCPL and a PTE. While walking down the street, this group saw the defendant engaged in an argument with a group of civilians. The victim approached the defendant and suggested that he walk away. The defendant complied and was heavily intoxicated.

The defendant then asked the victim if the two of them could speak privately and they walked a little ahead of the rest of the group. The defendant then pushed the victim into an alcove. Using both hands, the defendant pushed the victim in the back causing him to hit a fence. The victim then felt a heavy sensation on the back of his head and the defendant took him to the ground by sweeping his legs out from underneath him. The victim passed out. When he regained consciousness, he saw the defendant being dragged away by the MAJ. About 15 minutes later the defendant apologised to the victim. On 7 September 2022, the defendant participated in an interview with service police during which he made a number of admissions.

Despite the early plea of guilty and co-operation with service police, the Prosecuting Officer quite correctly drew the DFM's attention to a number of concerning features of the defendant's conduct. The DFM accepted that there was a disparity in rank, experience and age, that the defendant's

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behaviour was cowardly and involved him disgracing himself in a public place and in front of other subordinates.

In mitigation, the Defending Officer confirmed that the defendant was also highly regarded by his superiors, was well reported, only had one previous conviction on his Conduct Record for unlike behaviour and genuinely remorseful for treating the victim like he did.

While accepting that defendant was genuinely contrite and had very good prospects for rehabilitation, the DFM held that the principles of general deterrence and maintenance of discipline and good order could only be satisfied in this matter by reducing the defendant in rank, by one rank, to CPL.

### **Punishments and orders**

Charge 1	To be reduced to the rank of Corporal (CPL) with seniority in that rank to date from 01 January 2016
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### **Outcome on automatic review**

The Reviewing Authority's decision on automatic review was handed down on 10 May 2023.

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

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