

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

**DEFENDANT:** AC Rickard  
**TYPE OF PROCEEDING:** Defence Force Magistrate  
**DATE OF TRIAL:** 31 May 2023  
**VENUE:** RAAF Base Wagga, NSW

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	Defence Force Discipline Act 1982, s. 61(3), and Crimes Act 1900 (ACT) s. 60(1) Act of indecency without consent	Withdrawn
Alternative to Charge 1	Defence Force Discipline Act 1982, paragraph 33(a) Assaulting another person in a public place	Guilty
Charge 2	Defence Force Discipline Act 1982, s. 61(3), and Crimes Act 1900 (ACT) s. 60(1) Act of indecency without consent	Withdrawn
Alternative to Charge 2	Defence Force Discipline Act 1982, paragraph 33(a) Assaulting another person in a public place	Withdrawn
Charge 3	Defence Force Discipline Act 1982, s. 61(3), and Crimes Act 1900 (ACT) s. 60(1) Act of indecency without consent	Guilty

**Pre-Trial: Closed hearing and non-publication orders**

Application made:	No.
Determination:	While no orders were made under the DFDA, due to the nature of Charge 3, it is an offence to publish the details of the complainant under the <i>Evidence (Miscellaneous) Provisions Act 1991 (ACT)</i> .

**Trial: Facts and legal principles**

Nil, as the case proceeded by way of guilty pleas.

**Findings**

	<b>Finding</b>
Charge 1	Not Applicable
Alternative to Charge 1	Guilty
Charge 2	Not Applicable
Alternative to Charge 2	Not Applicable

- *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.*

Charge 3	Guilty
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### **Sentencing: Facts and legal principles**

On the evening of 25 November 2022, the defendant attended a hotel in Wagga with a group of other male trainees. The complainant arrived at the hotel just before sunset. Throughout the evening the defendant drank to excess and engaged in some other consensual horseplay with his male counterparts. At about 2200 as the complainant was walking into the gaming room, the defendant slapped her on the buttock without consent. A short time later the defendant did this again to the complainant while she was standing by the bar. Thereafter, the defendant reached his arm between two other female members of the RAAF and pinched the complainant on the breast. The complainant told others about what had occurred and left the hotel in a taxi. On 15 December 2022 the defendant participated in a digital record of interview. While he did not recall the offences in detail, the defendant co-operated with investigators and made admissions to lack of consent when shown CCTV footage of the incidents.

The DFM accepted that there were a number of mitigating features in the defendant's favour including: the entry of guilty pleas at the earliest opportunity, genuine remorse, co-operation with the administration of justice and otherwise good character. In all of the circumstances, the DFM held that the defendant had good prospects of rehabilitation.

Notwithstanding the mitigating features, the DFM found that the defendant's behaviour also involved a number of objectively serious aspects, notably that the behaviour took place in a public place in full view of other members of the community and trainees, the complainant was much younger than the defendant and that what he did caused her to struggle with her studies for a not insubstantial time. Moreover, the DFM held that the behaviour was appalling and not in keeping with Defence Values.

In order to satisfy the principles of general deterrence and maintenance of good order and discipline, the DFM held that substantial periods of detention were required. Taking into account the mitigating features, the DFM structured the sentences of detention so that 30 days would actually be served with the balance of both sentences suspended.

### **Punishments and orders**

Charge 1	Not Applicable
Alternative to Charge 1	To undergo detention for a period of 60 days. Pursuant to DFDA s. 78, the Tribunal orders that 30 days of the sentence of detention be suspended. The Tribunal further orders that the sentences of detention with respect to Charges 051/2023 and 054/2023 are to be served concurrently.
Charge 2	Not Applicable
Alternative to Charge 2	Not Applicable
Charge 3	To undergo detention for a period of 120 days. Pursuant to DFDA s. 78, the Tribunal orders that 90 days of the sentence of detention be suspended. The Tribunal further orders that the sentences of detention

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	with respect to Charges 051/2023 and 054/2023 are to be served concurrently.
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### Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 22 June 2023.

	<b>Conviction</b>	<b>Punishments / Orders</b>
Charge 1	Not Applicable	Not Applicable
Alternative to Charge 1	Upheld	Upheld
Charge 2	Not Applicable	Not Applicable
Alternative to Charge 2	Not Applicable	Not Applicable
Charge 3	Upheld	Upheld

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