

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

**DEFENDANT:** CPO Uibo  
**TYPE OF PROCEEDING:** Restricted Court Martial  
**DATE OF TRIAL:** 14 June 2023  
**VENUE:** HMAS *Kuttabul*, NSW

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	DFDA, s. 34 Assaulting a subordinate	Not Guilty
Alternative to Charge 1	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 2	DFDA, s. 61(3) and Crimes Act 1900 (ACT) paragraph 28(2)(a) Being acts endangering health, etc.	Not Guilty
Alternative to Charge 2	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 guilty pleas.

**Findings**

	<b>Finding</b>
Charge 1	N/A
Alternative to Charge 1	Guilty
Charge 2	N/A
Alternative to Charge 2	Guilty

**Sentencing: Facts and legal principles**

On 16 Dec 21, the complainant and defendant attended a ship's ball at a venue in Sydney. At approximately 2300 hours, the complainant grabbed the defendant's glasses from his face and put them on. After the complainant gave the defendant his glasses back, the pair engaged in a consensual play-fight. The defendant grabbed the back of the complainant's neck and pushed his face down onto a table for about 23 seconds. The two then went their separate ways. Another member of ship's company witnessed this interaction and took video footage of it on their mobile phone (Charge 1).

- *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.*

On 12 Sep 22, both the defendant and complainant were given shore leave and were together with other members of the ship socialising at a venue in Darwin. The complainant asked the defendant if he could wear his glasses. The defendant referred to the prior incident between them on 16 Dec 21. The complainant then turned his back on the defendant. The defendant then wrapped his arm around the complainant's neck and applied some degree of pressure for 3-5 seconds. The complainant did not consent to the defendant's conduct. The incident occurred in the presence of other members of ship's company. Immediately after, the defendant apologised and all other members of ship's company heard him do so. The complainant did not sustain any injuries, no medical treatment was required, no medication was prescribed and no work restrictions were imposed (Charge 2).

In mitigation of penalty the Defending Officer referred specifically to the defendant's early pleas of guilty, his otherwise good character and genuine remorse. In all of the circumstances the Defending Officer submitted that the offending conduct could be met with the imposition of fines and/or reprimands.

As this was a Restricted Court Martial, the panel were not required to give reasons for imposing the punishments. By imposing the respective punishments, the panel concluded that they were the minimum required to satisfy the principles of general deterrence and need to maintain good order and discipline in the Defence Force.

### **Punishments and orders**

Charge 1	N/A
Alternative to Charge 1	The court records a conviction without punishment on condition that the member undertakes to be of good behaviour for a period of 12 months.
Charge 2	N/A
Alternative to Charge 2	To be fined the sum of \$2,384.84. Pursuant to DFDA s. 79, the court orders the suspension of the whole of the fine imposed. To be reprimanded.

### **Outcome on automatic review**

The Reviewing Authority's decision on automatic review was handed down on 12 July 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	Upheld	Upheld

- *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.*