

Case Summary
Office of the Judge Advocate General

DEFENDANT: LCPL Waterman
TYPE OF PROCEEDING: General Court Martial
DATE OF TRIAL: 12 – 13 June 2023
VENUE: RAAF Base Townsville, QLD

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 61B(1) Intimate observations or capturing visual data, etc	Guilty
First alternative to Charge 1	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 72E Threaten to capture or distribute intimate images	Not Applicable
Second alternative to Charge 1	DFDA, s. 60(1) Prejudicial conduct	Not Applicable
Charge 2	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 61B(1) Intimate observations or capturing visual data, etc	Guilty
Charge 3	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 4	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 5	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 6	DFDA, s. 60(1) Prejudicial conduct	Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	Yes
Determination:	The application was unopposed and was granted. The complainants in charge 1 and 2 had protection of non-publication under the Evidence (Miscellaneous) Provisions Act 1991 (ACT). For charges 3-6 the President made an order under the DFDA prohibiting publication of the details of the complainants. While no orders were made under the DFDA, due to the nature of Charge 1, it is an offence to publish the details of the complainant under the).

Trial: Facts and legal principles

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

Findings

	Finding
Charge 1	Guilty

- *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.*

First alternative to Charge 1	Not Applicable
Second alternative to Charge 1	Not Applicable
Charge 2	Guilty
Charge 3	Guilty
Charge 4	Guilty
Charge 5	Guilty
Charge 6	Guilty

Sentencing: Facts and legal principles

The defendant used his mobile phone to take videos of the female complainants in Charges 1 and 2 whilst they were showering. Both were serving members on duty at the time. The complainant in Charge 1 caught him in the act and seized his mobile phone which he resisted. The investigation involved analysis of his mobile phone during which time the others offences were discovered.

Charges 3,4,5, and 6 involved different female members of the ADF on different occasions. The defendant would video himself with his penis exposed and with the unknowing female member in the background. All of this took place on duty and in the work place.

The defendant admitted some of his behaviour to another member and partially to service police. He provided the PIN number to his phone. He tendered a psychiatric report which diagnosed certain mental health conditions.

The General Court Martial panel were directed on all available punishments and relevant sentencing principles. They concluded that the offending was such a serious breach of service values, and so persistent and brazen that only a sentence of imprisonment could be imposed to meet the sentencing aims of general deterrence and maintenance of service discipline.

Punishments and orders

Charge 1	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. Sentenced to imprisonment for 3 months. Order a minimum non parole period of 1 month. To be dismissed from the Defence Force.
First alternative to Charge 1	Not Applicable
Second alternative to Charge 1	Not Applicable
Charge 2	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. Sentenced to imprisonment for 3 months. Order a minimum non parole period of 1 month. To be dismissed from the Defence Force.

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	The Court orders that the sentences of imprisonment be served concurrently.
Charge 3	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. To be dismissed from the Defence Force.
Charge 4	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. To be dismissed from the Defence Force.
Charge 5	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. To be dismissed from the Defence Force.
Charge 6	To be reduced to the rank of CFN with seniority in that rank to date from 13 June 2023. To be dismissed from the Defence Force.

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 30 June 2023.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
First alternative to Charge 1	Not Applicable	Not Applicable
Second alternative to Charge 1	Not Applicable	Not Applicable
Charge 2	Upheld	Upheld
Charge 3	Upheld	Upheld
Charge 4	Upheld	Upheld
Charge 5	Upheld	Upheld
Charge 6	Upheld	Upheld

Outcome on petition

The Reviewing Authority's decision on petition was handed down on 13 July 2023.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
First alternative to Charge 1	Not Applicable	Not Applicable
Second alternative to Charge 1	Not Applicable	Not Applicable
Charge 2	Upheld	Upheld
Charge 3	Upheld	Upheld
Charge 4	Upheld	Upheld
Charge 5	Upheld	Upheld
Charge 6	Upheld	Upheld

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