

Case Summary
Office of the Judge Advocate General

DEFENDANT: MAJ Pitman
TYPE OF PROCEEDING: Restricted Court Martial
DATE OF TRIAL: 19 June 2023
VENUE: Court Martial Facility, Fyshwick, ACT

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 27 Disobeying lawful command	Not Guilty
Alternative to Charge 1	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 2	DFDA, s. 60(1) Prejudicial conduct	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. 29 Failing to comply with general order	Not Guilty
Alternative to Charge 6	DFDA, s. 60(1) Prejudicial conduct	Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	Yes, by Prosecution non-publication order.
Determination:	The application was unopposed and was granted. The order prohibits the publication of any identifying features of a member of the Defence Force named in the charges, made under s140 (2) (b) DFDA on the ground being necessary in the proper administration of justice.

Trial: Facts and legal principles

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

Findings

	Finding
Charge 1	Not Applicable
Alternative to Charge 1	Guilty
Charge 2	Guilty
Charge 3	Guilty
Charge 4	Guilty
Charge 5	Guilty
Charge 6	Not Applicable
Alternative to Charge 6	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.*

Sentencing: Facts and legal principles

The accused pleaded guilty to 6 charges of prejudicial conduct whilst on a representational duty to France. All but two of the charges related to a serving junior subordinate female member of the Defence Force and his behaviour towards her whilst in his direct chain of command.

Alternative to Charge 1 concerned his consumption of alcohol when all members of the contingent had been instructed not to drink alcohol.

Charge 2 concerned his inappropriate relationship with the other member.

Charge 3 concerned urinating in the river Somme whilst intoxicated in front of subordinates.

Charge 4 concerned his sending of text messages to the other member of an egregious nature.

Charge 5 concerned an incident of texting the same member on a date different to charge 4 and also of an egregious nature.

Alternative to Charge 6 concerned his failure to report an incident involving the other member when he was obliged to do so.

As this was a Court Martial no reasons on sentence were given, although the panel were directed on the need to maintain discipline in the Defence Force, general deterrence, and the serious departure from defence values demonstrated by this officer whilst on a representative duty.

Punishments and orders

Charge 1	N/A
Alternative to Charge 1	To be reduced in the rank of Captain with seniority in that rank to date from 20 Jun 23
Charge 2	To be dismissed from the Defence Force
Charge 3	To be reduced in the rank of Captain with seniority in that rank to date from 20 Jun 23
Charge 4	To be dismissed from the Defence Force
Charge 5	To be reduced in the rank of Captain with seniority in that rank to date from 20 Jun 23
Charge 6	N/A
Alternative to Charge 6	To be reduced in the rank of Captain with seniority in that rank to date from 20 Jun 23

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 11 July 2023

	Conviction	Punishments / Orders
Charge 1	N/A	N/A
Alternative to Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld
Charge 3	Upheld	Upheld
Charge 4	Upheld	Upheld
Charge 5	Upheld	Upheld
Charge 6	N/A	N/A
Alternative to Charge 6	Upheld	Upheld

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