

Case Summary
Office of the Judge Advocate General

DEFENDANT: WO2 Cooper
TYPE OF PROCEEDING: Restricted Court Martial
DATE OF TRIAL: 17 May 2023
VENUE: Blamey Barracks, NSW

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 60(1) Prejudicial conduct	Guilty
Charge 2	DFDA, 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 2, 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

	Finding
Charge 1	Guilty
Charge 2	Guilty

Sentencing: Facts and legal principles

On 25 April 2022, the defendant and complainant participated in the Melbourne CBD Anzac Day parade. The defendant was the Wing Sergeant Major at the Army School of Electrical and Mechanical Engineering (ASEME). The complainant was a trainee at another unit. The defendant was the third most senior staff member of the detachment taking part in the parade. After the parade the defendant and complainant socialised with other members of the detachment at a hotel in the Melbourne CBD. At some point in the evening the defendant placed his arm around the complainant's shoulders and kissed her right cheek/temple area (Charge 1). He then reached over with his opposite hand and placed it on the complainant's left breast (Charge 2). The defendant participated in a digital record of interview (DROI) with military police on 31 May 2002 and 3 Aug 2022 and stated that he did not recall touching the complainant's breast..

In mitigation of penalty the Defending Officer referred to the Defendant's early pleas of guilty, his otherwise good character, past exemplary service and lack of premeditation or planning with respect to his behaviour. Whilst the Defendant was quite obviously intoxicated, the Defending Officer accepted that this did not in any way excuse his conduct. In all of the circumstances the Defending Officer submitted that the offending conduct could be met with dismissal from the Defence Force

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and confirmed that the Defendant was separating from service on medical grounds in a number of weeks' time.

As this was a Restricted Court Martial, the panel were not required to give reasons for imposing the punishments. By reducing him to the rank of SGT in respect of Charge 2, the panel concluded that he was not fit to maintain his current rank due to the sentencing principles of general deterrence and need to maintain good order and discipline in the Defence Force.

Punishments and orders

Charge 1	Severe Reprimand
Charge 2	Reduced to the rank of SGT with seniority in that rank to date from 17 May 2023

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 27 June 2023.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld

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