

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

**DEFENDANT:** SGT Notaras  
**TYPE OF PROCEEDING:** Defence Force Magistrate  
**DATE OF TRIAL:** 03 August 2023  
**VENUE:** Robertson Barracks, NT

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 60(1) Act of indecency without consent	Guilty
Charge 2	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 60(1) Act of indecency without consent	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:	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 <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	Guilty
Charge 2	No Finding Required
Alternative to Charge 2	Guilty

**Sentencing: Facts and legal principles**

As the prosecution consented to the acceptance of the plea of guilty to the Alternative to Charge 2, the DFM proceeded in accordance with s 142(3) of the DFDA and Rule 41(4)(b) of the *Court Martial and Defence Force Magistrate Rules 2020*.

On 11 Feb 23, the defendant attended a social event at RAAF Base Tindal. The complainant attended the same event with some female friends. The defendant and complainant both consumed alcohol and spent time socialising together during the evening. At approximately 2300 hours, the defendant touched the complainant inappropriately on two occasions.

The defendant was a very well reported and highly regarded member of the RAAF. The DFM accepted that he was otherwise a person of good character, the behaviour was very unlikely to be

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repeated and that his prospects for rehabilitation were most promising. The DFM was also able to deal with him as a first offender.

Despite the mitigating features in favour of the defendant, the DFM held that the behaviour was objectively serious considering the nature of the touching, the rank disparity and embarrassment occasioned to the complaint as plainly evident from her victim impact statement.

In order to satisfy the principles of general deterrence and maintenance of good order and discipline, the DFM held that the minimum punishment necessary for both offences was a reduction in rank, by one rank, to that of Corporal.

### **Punishments and orders**

Charge 1	To be reduced to the rank of Corporal (CPL) with seniority in that rank to date from 01 January 2013
Charge 2	Not Applicable
Alternative to Charge 2	To be reduced to the rank of Corporal (CPL) with seniority in that rank to date from 01 January 2013

### **Outcome on automatic review**

The Reviewing Authority's decision on automatic review was handed down on 01 September 2023.

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

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