

Case Summary
Office of the Judge Advocate General

DEFENDANT: WO2 Fowler
TYPE OF PROCEEDING: Defence Force Magistrate
DATE OF TRIAL: 01 June 2023
VENUE: Swartz Barracks, QLD

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 61(3) and Criminal Code Act 1995, s. 132.8(1) Dishonest taking of Commonwealth property	Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	No
-------------------	----

Trial: Facts and legal principles

The matter proceeded as a sentence.

Findings

	Finding
Charge 1	Guilty

Sentencing: Facts and legal principles

The defendant pleaded guilty to one charge of dishonestly taking commonwealth property being computer monitor, terminal and related wiring valued just over \$600. Whilst the Artificer Sergeant Major at the School of Signals in 2019, and undertaking a duty officer duty he entered a classroom which was being refurbished and removed the items to his car. He did not have permission to do so.

He took them home and stored them in a loft space upon regretting his wrongdoing and was fearful of discovery if he returned them. When posted out, the items were found by the next occupants of the service residence. He was interviewed by service police in August 2022 and denied any knowledge. Three days later he asked for a further interview and made full admissions.

The mitigation was that at the time the defendant was under immense stress from his domestic circumstances and not thinking straight. He had no convictions or disciplinary matters and had good prospects of rehabilitation. He initially lied out of panic but then accepted full responsibility.

The defendant had persuasive personal circumstances but the DFM found the minimum sentence which could be imposed was reduction in rank to take into account the need for general deterrence and maintenance of service discipline.

- *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.*

Punishments and orders

Charge 1	To be reduced to the rank of SGT with seniority in that rank to date from 01 January 2011.
----------	--

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 20 June 2023.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld

Outcome on petition

The Reviewing Authority's decision on petition was handed down on 23 August 2023.

	Conviction	Punishments / Orders
Charge 1	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.*