

Case Summary
Office of the Judge Advocate General

DEFENDANT: MAJ G
TYPE OF PROCEEDING: Defence Force Magistrate
DATE OF TRIAL: 27-28 Nov 23
VENUE: Court Martial Facility, Fyshwick, ACT

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 47C Theft	Guilty
Charge 2	DFDA, s. 47C Theft	Withdrawn
Charge 3	DFDA, s. 47C Theft	Withdrawn
Charge 4	DFDA, s. 47C Theft	Withdrawn
Charge 5	DFDA, s. 47C Theft	Withdrawn
Charge 6	DFDA, s. 47C Theft	Withdrawn
Charge 7	DFDA, s. 47C Theft	Withdrawn
Charge 8	DFDA, s. 47C Theft	Withdrawn
Charge 9	DFDA, s. 47C Theft	Withdrawn
Charge 10	DFDA, s. 47C Theft	Withdrawn
Charge 11	DFDA, s. 47C Theft	Withdrawn
Charge 12	DFDA, s. 47C Theft	Withdrawn
Charge 13	DFDA, s. 47C Theft	Withdrawn
Charge 14	DFDA, s. 47C Theft	Withdrawn
Charge 15	DFDA, s. 47C Theft	Withdrawn
Charge 16	DFDA, s. 47C Theft	Withdrawn
Charge 17	DFDA, s. 47C Theft	Withdrawn
Charge 18	DFDA, s. 47C Theft	Withdrawn
Charge 19	DFDA, s. 47C Theft	Withdrawn
Charge 20	DFDA, s. 47C Theft	Withdrawn
Charge 21	DFDA, s. 47C Theft	Withdrawn
Charge 22	DFDA, s. 47C Theft	Withdrawn
Charge 23	DFDA, s. 47C Theft	Withdrawn
Charge 24	DFDA, s. 47C Theft	Withdrawn
Charge 25	DFDA, s. 47C Theft	Withdrawn
Charge 26	DFDA, s. 47C Theft	Withdrawn
Charge 27	DFDA, s. 47C Theft	Withdrawn
Charge 28	DFDA, s. 47C Theft	Withdrawn
Charge 29	DFDA, s. 47C Theft	Withdrawn
Charge 30	DFDA, s. 47C Theft	Withdrawn
Charge 31	DFDA, s. 47C Theft	Withdrawn
Charge 32	DFDA, s. 47C Theft	Withdrawn
Charge 33	DFDA, s. 47C Theft	Withdrawn
Charge 34	DFDA, s. 47C Theft	Withdrawn
Charge 35	DFDA, s. 47C Theft	Withdrawn
Charge 36	DFDA, s. 47C Theft	Withdrawn
Charge 37	DFDA, s. 47C Theft	Withdrawn
Charge 38	DFDA, s. 47C Theft	Withdrawn

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Charge 39	DFDA, s. 47C Theft	Withdrawn
Charge 40	DFDA, s. 47C Theft	Withdrawn
Charge 41	DFDA, s. 47C Theft	Withdrawn
Charge 42	DFDA, s. 47C Theft	Withdrawn
Charge 43	DFDA, s. 47C Theft	Withdrawn
Charge 44	DFDA, s. 47C Theft	Withdrawn
Charge 45	DFDA, s. 47C Theft	Withdrawn
Charge 46	DFDA, s. 47C Theft	Withdrawn
Charge 47	DFDA, s. 47C Theft	Withdrawn
Charge 48	DFDA, s. 47C Theft	Withdrawn
Charge 49	DFDA, s. 47C Theft	Withdrawn
Charge 50	DFDA, s. 47C Theft	Withdrawn
Charge 51	DFDA, s. 47C Theft	Withdrawn
Charge 52	DFDA, s. 47C Theft	Withdrawn
Charge 53	DFDA, s. 47C Theft	Withdrawn
Charge 54	DFDA, s. 47C Theft	Withdrawn
Charge 55	DFDA, s. 47C Theft	Withdrawn
Charge 56	DFDA, s. 47C Theft	Withdrawn
Charge 57	DFDA, s. 60(1) Prejudicial conduct	Withdrawn
Charge 58	DFDA, s. 47C Theft	Withdrawn
Charge 59	DFDA, s. 47C Theft	Withdrawn
Charge 60	DFDA, s. 47C Theft	Withdrawn
Charge 61	DFDA, s. 47C Theft	Withdrawn
Charge 62	DFDA, s. 47C Theft	Withdrawn
Charge 63	DFDA, s. 47C Theft	Guilty
Charge 64	DFDA, s. 47C Theft	Withdrawn
Charge 65	DFDA, s. 47C Theft	Withdrawn
Charge 66	DFDA, s. 47C Theft	Withdrawn
Charge 67	DFDA, s. 47C Theft	Withdrawn

Pre-Trial: Closed hearing and non-publication orders

Application made:	Yes / by Commonwealth / non-publication and pseudonym orders
Determination:	The application was unopposed and was granted.

Trial: Facts and legal principles

Nil, as the case proceeded by way of a guilty plea. The prosecution withdrew all but two of the original charges and reduced the quantum involved substantially.

Findings

	Finding
Charge 1	Guilty

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Charge 2	Not Applicable
Charge 3	Not Applicable
Charge 4	Not Applicable
Charge 5	Not Applicable
Charge 6	Not Applicable
Charge 7	Not Applicable
Charge 8	Not Applicable
Charge 9	Not Applicable
Charge 10	Not Applicable
Charge 11	Not Applicable
Charge 12	Not Applicable
Charge 13	Not Applicable
Charge 14	Not Applicable
Charge 15	Not Applicable
Charge 16	Not Applicable
Charge 17	Not Applicable
Charge 18	Not Applicable
Charge 19	Not Applicable
Charge 20	Not Applicable
Charge 21	Not Applicable
Charge 22	Not Applicable
Charge 23	Not Applicable
Charge 24	Not Applicable
Charge 25	Not Applicable
Charge 26	Not Applicable
Charge 27	Not Applicable
Charge 28	Not Applicable
Charge 29	Not Applicable
Charge 30	Not Applicable
Charge 31	Not Applicable
Charge 32	Not Applicable
Charge 33	Not Applicable
Charge 34	Not Applicable
Charge 35	Not Applicable
Charge 36	Not Applicable
Charge 37	Not Applicable
Charge 38	Not Applicable
Charge 39	Not Applicable
Charge 40	Not Applicable
Charge 41	Not Applicable
Charge 42	Not Applicable
Charge 43	Not Applicable
Charge 44	Not Applicable
Charge 45	Not Applicable
Charge 46	Not Applicable
Charge 47	Not Applicable
Charge 48	Not Applicable
Charge 49	Not Applicable
Charge 50	Not Applicable

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Charge 51	Not Applicable
Charge 52	Not Applicable
Charge 53	Not Applicable
Charge 54	Not Applicable
Charge 55	Not Applicable
Charge 56	Not Applicable
Charge 57	Not Applicable
Charge 58	Not Applicable
Charge 59	Not Applicable
Charge 60	Not Applicable
Charge 61	Not Applicable
Charge 62	Not Applicable
Charge 63	Guilty
Charge 64	Not Applicable
Charge 65	Not Applicable
Charge 66	Not Applicable
Charge 67	Not Applicable

Sentencing: Facts and legal principles

The defendant pleaded guilty at the earliest opportunity to two offences of theft. Charge 1 covered a period of 10 months of taking monies from an army golf club account (of which he was the President) to a total of just over \$16,000. During the period he repaid \$11,000 into the account. In Charge two over a period of a month he stole approx. \$5500 from a Regimental Trust Fund by transferring the monies from that account to the golf club account. Only he and one other had access to the account.

The offences were a serious breach of trust. All monies were repaid. He fully admitted his behaviour when discovered. He had substantial debts and a significant gambling addiction. He had significant medical issues related to his 40-year service and linked by expert psychiatric evidence to his offending.

But for the medical evidence, which was uncontested by the prosecution, he would have been sentenced to imprisonment.

He was reduced in rank and dismissed from the defence force.

Punishments and orders

Charge 1	To be reduced to the rank of Captain with seniority in that rank to date from 28 Nov 23 To be dismissed from the Defence Force
Charge 2	Not applicable
Charge 3	Not applicable
Charge 4	Not applicable
Charge 5	Not applicable
Charge 6	Not applicable
Charge 7	Not applicable
Charge 8	Not applicable

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Charge 9	Not applicable
Charge 10	Not applicable
Charge 11	Not applicable
Charge 12	Not applicable
Charge 13	Not applicable
Charge 14	Not applicable
Charge 15	Not applicable
Charge 16	Not applicable
Charge 17	Not applicable
Charge 18	Not applicable
Charge 19	Not applicable
Charge 20	Not applicable
Charge 21	Not applicable
Charge 22	Not applicable
Charge 23	Not applicable
Charge 24	Not applicable
Charge 25	Not applicable
Charge 26	Not applicable
Charge 27	Not applicable
Charge 28	Not applicable
Charge 29	Not applicable
Charge 30	Not applicable
Charge 31	Not applicable
Charge 32	Not applicable
Charge 33	Not applicable
Charge 34	Not applicable
Charge 35	Not applicable
Charge 36	Not applicable
Charge 37	Not applicable
Charge 38	Not applicable
Charge 39	Not applicable
Charge 40	Not applicable
Charge 41	Not applicable
Charge 42	Not applicable
Charge 43	Not applicable
Charge 44	Not applicable
Charge 45	Not applicable
Charge 46	Not applicable
Charge 47	Not applicable
Charge 48	Not applicable
Charge 49	Not applicable
Charge 50	Not applicable
Charge 51	Not applicable
Charge 52	Not applicable
Charge 53	Not applicable
Charge 54	Not applicable
Charge 55	Not applicable
Charge 56	Not applicable
Charge 57	Not applicable

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Charge 58	Not applicable
Charge 59	Not applicable
Charge 60	Not applicable
Charge 61	Not applicable
Charge 62	Not applicable
Charge 63	To be reduced to the rank of Captain with seniority in that rank to date from 28 Nov 23 To be dismissed from the Defence Force
Charge 64	Not applicable
Charge 65	Not applicable
Charge 66	Not applicable
Charge 67	Not applicable

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 15 Dec 23.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
Charge 2	Not Applicable	Not Applicable
Charge 3	Not Applicable	Not Applicable
Charge 4	Not Applicable	Not Applicable
Charge 5	Not Applicable	Not Applicable
Charge 6	Not Applicable	Not Applicable
Charge 7	Not Applicable	Not Applicable
Charge 8	Not Applicable	Not Applicable
Charge 9	Not Applicable	Not Applicable
Charge 10	Not Applicable	Not Applicable
Charge 11	Not Applicable	Not Applicable
Charge 12	Not Applicable	Not Applicable
Charge 13	Not Applicable	Not Applicable
Charge 14	Not Applicable	Not Applicable
Charge 15	Not Applicable	Not Applicable
Charge 16	Not Applicable	Not Applicable
Charge 17	Not Applicable	Not Applicable
Charge 18	Not Applicable	Not Applicable
Charge 19	Not Applicable	Not Applicable
Charge 20	Not Applicable	Not Applicable
Charge 21	Not Applicable	Not Applicable
Charge 22	Not Applicable	Not Applicable
Charge 23	Not Applicable	Not Applicable
Charge 24	Not Applicable	Not Applicable
Charge 25	Not Applicable	Not Applicable
Charge 26	Not Applicable	Not Applicable
Charge 27	Not Applicable	Not Applicable
Charge 28	Not Applicable	Not Applicable
Charge 29	Not Applicable	Not Applicable
Charge 30	Not Applicable	Not Applicable
Charge 31	Not Applicable	Not Applicable

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Charge 32	Not Applicable	Not Applicable
Charge 33	Not Applicable	Not Applicable
Charge 34	Not Applicable	Not Applicable
Charge 35	Not Applicable	Not Applicable
Charge 36	Not Applicable	Not Applicable
Charge 37	Not Applicable	Not Applicable
Charge 38	Not Applicable	Not Applicable
Charge 39	Not Applicable	Not Applicable
Charge 40	Not Applicable	Not Applicable
Charge 41	Not Applicable	Not Applicable
Charge 42	Not Applicable	Not Applicable
Charge 43	Not Applicable	Not Applicable
Charge 44	Not Applicable	Not Applicable
Charge 45	Not Applicable	Not Applicable
Charge 46	Not Applicable	Not Applicable
Charge 47	Not Applicable	Not Applicable
Charge 48	Not Applicable	Not Applicable
Charge 49	Not Applicable	Not Applicable
Charge 50	Not Applicable	Not Applicable
Charge 51	Not Applicable	Not Applicable
Charge 52	Not Applicable	Not Applicable
Charge 53	Not Applicable	Not Applicable
Charge 54	Not Applicable	Not Applicable
Charge 55	Not Applicable	Not Applicable
Charge 56	Not Applicable	Not Applicable
Charge 57	Not Applicable	Not Applicable
Charge 58	Not Applicable	Not Applicable
Charge 59	Not Applicable	Not Applicable
Charge 60	Not Applicable	Not Applicable
Charge 61	Not Applicable	Not Applicable
Charge 62	Not Applicable	Not Applicable
Charge 63	Upheld	Upheld
Charge 64	Not Applicable	Not Applicable
Charge 65	Not Applicable	Not Applicable
Charge 66	Not Applicable	Not Applicable
Charge 67	Not Applicable	Not Applicable

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