

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

**DEFENDANT:** LS Kepple  
**TYPE OF PROCEEDING:** Defence Force Magistrate  
**DATE OF TRIAL:** 06 December 2023 and 27 February 2024  
**VENUE:** Robertson Barracks, NT and HMAS *Kuttabul*, NSW

**Charges and plea**

	<b>Statement of Offence</b>	<b>Plea</b>
Charge 1	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 2	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 3	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 4	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 5	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 6	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 7	DFDA, s. 47Q Unauthorised use of a Commonwealth Credit Card	Guilty
Charge 8	DFDA, s. 61 and Statutory Declarations Act 1959, s. 11 (Cth) Commission of a Territory Offence being the offence of False Declaration	Guilty

**Pre-Trial: Closed hearing and non-publication orders**

Application made:	No
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**Trial: Facts and legal principles**

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

**Findings**

	<b>Finding</b>
Charge 1	Guilty
Charge 2	Guilty
Charge 3	Guilty
Charge 4	Guilty
Charge 5	Guilty
Charge 6	Guilty
Charge 7	Guilty
Charge 8	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 Offender had been provided with a Commonwealth credit card, namely a Defence Travel Card. In November 2022, on seven separate occasions, the Offender used her DTC to make unauthorised expenditures for personal use, totalling \$409.57. When the authorities were alerted to these transactions, the Offender was questioned about them. She swore a statutory declaration in which she falsely declared that she had no knowledge of the transactions and that another person may have misused her card. Following further investigation, the Offender's story was exposed and she confessed. She pleaded guilty to seven counts of unauthorised use of a Commonwealth credit card and one count of making a false declaration.

The DFM determined that the seven offences relating to the misuse of the DTC fell towards the lower end of the range of objective seriousness. This is because the offending was spontaneous rather than carefully planned, occurred over a short period of time, and involved relatively small sums.

The DFM considered that the offence of false swearing was more serious, given that it involved calculated dishonesty in circumstances where the Offender had been put on notice by the authorities that she was being investigated for the DTC's misuse. He considered that the Offender's nomination of some other person as the guilty party, in an effort to evade detection, was an aggravating factor.

The DFM had regard to the Offender's personal circumstances in determining her subjective case. She had been a member of the RAN since 2016 and in that time had distinguished herself in positions of responsibility. She was well-regarded by her superiors and had been considered highly suitable for promotion. She had no record of disciplinary infractions or criminal offences and was treated as otherwise of good character. Her plea of guilty entitled her to a sentencing discount.

Having regard to the Offender's record of service, her plea of guilty and otherwise good character, the DFM decided not to dismiss the Offender from the ADF. For each of the DTC offences, the Offender was reduced in rank to Able Seaman. For the more serious offence of false swearing, the DFM determined that the minimum sentence he could impose which would satisfy the established sentencing principles was 30 days' detention. A Reparation Order in favour of the Commonwealth for the misappropriated funds was also made.

## **Punishments and orders**

Charge 1	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 2	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 3	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 4	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 5	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 6	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023
Charge 7	Reduction in rank to the rank of Able Seaman with seniority to date from 27 February 2023

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Charge 8	Detention for a period of 30 days and a Reparation Order for the sum of \$409.57 payable in one lump sum
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### **Outcome on automatic review**

The Reviewing Authority's decision on automatic review was handed down on 14 March 2024.

	<b>Conviction</b>	<b>Punishments / Orders</b>
Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld
Charge 3	Upheld	Upheld
Charge 4	Upheld	Upheld
Charge 5	Upheld	Upheld
Charge 6	Upheld	Upheld
Charge 7	Upheld	Upheld
Charge 8	Upheld	Upheld

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