

Case Summary
Office of the Judge Advocate General

DEFENDANT: CPL MacMaster
TYPE OF PROCEEDING: Defence Force Magistrate
DATE OF TRIAL: 18 April 2024
VENUE: Court Martial Facility, Fyshwick, ACT

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 36(2) Dangerous conduct with recklessness to consequences	Not Guilty
Alternative to Charge 1	DFDA, paragraph 35 Negligence in performance of duty	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

	Finding
Charge 1	Not Applicable
Alternative to Charge 1	Guilty

Sentencing: Facts and legal principles

The prosecution accepted a plea to the alternative charge and in doing so substantially reduced the seriousness of the behaviour alleged in the charge. The defendant pleaded guilty to negligence in performance of a duty (which carries a maximum punishment of 3 months civilian imprisonment whereas the original principal offence charged and not proceeded with carries 5 years). The facts were he placed a cardboard box containing black powder onto a campfire in close proximity to trainees who were relaxing at the end of a range day. The training serials had finished and the range had closed. The defendant told a colleague earlier that day he had a 'surprise' for the fire. The defendant was assigned duties as the Ammunition Safety Supervisor.

The prosecution case was he was negligent in his duty in failing to ensure the safety of others. The fact a trainee was hospitalised by the subsequent explosion could not be treated as a circumstance of aggravation due to the nature of the charge proceeded with. The defendant fully admitted his conduct and the subsequent explosion was captured on video.

The DFM found this was a very serious example of negligence in the performance of a duty due to the involvement of an obviously dangerous substance. This was made more serious by the fact the

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defendant was a member of the training staff and had been assigned a safety supervisor role and in intentionally placing the black powder onto the fire he imperilled the trainees.

Punishments and orders

Charge 1	Not Applicable
Alternative to Charge 1	To be reduced to the rank of Private. To undergo detention for a period of 120 days. Pursuant to DFDA s.78 the Tribunal orders 80 days of the sentence of detention be suspended.

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 08 May 2024.

	Conviction	Punishments / Orders
Charge 1	Not applicable	Not applicable
Alternative to Charge 1	Upheld	Upheld

Outcome on petition

The Reviewing Authority's decision on petition was handed down on 01 August 2024.

	Conviction	Punishments / Orders
Charge 1	Not applicable	Not applicable
Alternative to Charge 1	Upheld	Upheld reduction to the rank of Private. Quashed the punishment of detention for a period of 120 days, and substituted a punishment of detention for a period of 40 days.

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