

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

**DEFENDANT:** AB Minns

**TYPE OF PROCEEDING:** Defence Force Magistrate

**DATE OF TRIAL:** 02 – 05 December 2024

**VENUE:** Garden Island, NSW

**Charges and plea**

	Statement of Offence	Plea
Charge 1	DFDA, s. 26(2) Insubordinate Language	Guilty
Charge 2	DFDA, 61(3) and Criminal Code 2002 (ACT) s.60(1) Engaging in conduct outside the Jervis Bay Territory that is a Territory offence, being the offence of act of indecency without consent	Not Guilty
Alternative to Charge 2	DFDA, 25 Assaulting a superior officer	Not Guilty

**Pre-Trial: Closed hearing and non-publication orders<sup>1</sup>**

Application made:	No While no orders were made under the DFDA, due to the nature of Charge 2, the court was closed during the evidence of the complainant; and it is an offence to publish the details of the complainant, pursuant to s.50 and s.74 of the <i>Evidence (Miscellaneous) Provisions Act 1991 (ACT)</i>
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**Trial: Facts<sup>2</sup> and legal principles**

The offender and complainant were both posted to HMAS *Warramunga*, which pulled in alongside in Townsville on 16 Oct 23.

The offender and the complainant (a Leading Seaman) were work colleagues on friendly terms, who both consumed alcohol on 16 Oct 23 from approx. 13.00 onwards. Their paths crossed twice that day at two different venues in Townsville, giving rise to the conduct the subject of the charges; they otherwise spent very little time together that day.

The offender engaged in insubordinate language in respect of the complainant (charge 1) for which he entered a guilty plea.

The offender was also found to have committed an act of indecency in relation to the complainant (charge 2) while she was on the dancefloor at a nightclub, shortly before 22.00. The conduct was captured on CCTV footage: the central issues at trial were precisely what physical contact was made between the accused and the complainant, and whether the conduct amounted to an act of indecency.

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<sup>1</sup> *Defence Force Discipline Act 1982*, sections 140 and 148.

<sup>2</sup> No identifiable personal information of anyone other than the defendant (if convicted) to be included.

- *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.*

## Findings

	Finding
Charge 1	Guilty
Charge 2	Guilty
Alternative to Charge 2	No finding required

## **Sentencing: Facts<sup>3</sup> and legal principles**

The facts of the offending are as set out above.

The defendant was well reported and well regarded member of the RAN. The DFM accepted he was otherwise a person of good character, the charged conduct was out of character, and while it could be explained by reference to intoxication this did not have a mitigatory effect.

The DFM identified mitigating features in the defendant's favour including: in respect of count 1 the entry of a plea of guilty at the earliest opportunity, expression of remorse, his lack of prior conduct record or criminal history. The defendant was very well regarded by those who provided character references and there are strong prospects for rehabilitation.

Despite these mitigating features, having regard to the objective seriousness of the offending conduct (the Defence Force magistrate found charge 1 and charge 2 at the lower end of the range) and the need to satisfy the principles of general deterrence and maintenance of service discipline, the DFM held the minimum punishment necessary for charge 1 was a reprimand, and for charge 2 was a forfeiture of seniority in rank.

## Punishments and orders

Charge 1	Reprimand
Charge 2	To forfeit so much seniority in rank of AB as if his seniority were to date from 13 Nov 2023.
Alternative to Charge 2	N/A

## Outcome on automatic review

The automatic review was completed on 23 January 2025.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld
Alternative to Charge 2	N/A	N/A

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<sup>3</sup> No identifiable personal information of anyone other than the defendant to be included. Do not mention the defendant's actual age, but can refer to whether or not a youthful offender.

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