

Case Summary
Office of the Judge Advocate General

DEFENDANT: PO Butler

TYPE OF PROCEEDING: Defence Force Magistrate

DATE OF TRIAL: 11 April 2025

VENUE: Garden Island, NSW

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 61(3) and Criminal Code, s. 474.17(1) Using carriage service to cause offence	Guilty
Charge 2	DFDA, s. 61(3) and Criminal Code, s. 474.17(1) Using carriage service to cause offence	Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	No
Determination:	N/A

Trial: Facts and legal principles

Nil, as the case proceeded by way of guilty pleas.

Findings

	Finding
Charge 1	Guilty
Charge 2	Guilty

Sentencing: Facts and legal principles

On an unknown date in November 2023, approximately an hour and a half after the complainant had been exchanging messages with the defendant, the complainant received a Snapchat message containing an intimate image of the defendant. The complainant did not raise the incident with the defendant but discontinued contact with him (Charge 1). On 19 May 2024, the complainant received another Snapchat message containing an intimate image (Charge 2). The defendant almost immediately issued an apology to the complainant and the complainant, in direct terms, confirmed that they did not ask to receive such imagery. On 27 Jun 2024, the defendant participated in a Record of Interview with Military Police and made a number of admissions with respect to both offences.

The Prosecuting Officer submitted that while the nature of the offending conduct fell toward the lower end of the spectrum, there were a number of circumstances associated with it that made the conduct objectively serious. Notably, the conduct involved a repetition of offensive behaviour and displayed a significant lack of judgement and insight. The Prosecuting Officer conceded that the punishments of imprisonment and dismissal were, in the circumstances of this case, not appropriate.

- *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.*

By and large, the Defending Officer did not cavil with the submissions of the Prosecuting Officer and focused his attention on the punishment of reduction in rank. Submissions were also made in respect of the numerous mitigating features including but not limited to the pleas of guilty being entered at the earliest opportunity, the defendant's genuine remorse, otherwise good character and the fact that the Defence Force Magistrate (DFM) could deal with him as a first time offender after nearly 20 years of service.

In all of the circumstances, the DFM held that notwithstanding the mitigating features the minimum penalty that would satisfy the principles of general deterrence and maintenance of good order and discipline was reduction in rank by one rank with a new seniority date two years prior to sentence.

Punishments and orders

Charge 1	To be reduced to the rank of Leading Seaman (LS) with seniority in that rank to date from 11 April 2023.
Charge 2	To be reduced to the rank of Leading Seaman (LS) with seniority in that rank to date from 11 April 2023.

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 12 May 2025

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld

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