

Case Summary
Office of the Judge Advocate General

DEFENDANT: Mr Howarth

TYPE OF PROCEEDING: Restricted Court Martial

DATE OF TRIAL: 22-29 September 2025

VENUE: Court Martial Facility, Fyshwick, ACT

Charges and plea

	Statement of Offence	Plea
Charge 1	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 92H Act of indecency in the third degree	Not Guilty
Charge 2	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 92J Act of indecency without consent	Not Guilty
Charge 3	DFDA, s. 61(3) and Crimes Act 1900 (ACT), s. 92J Act of indecency without consent	Not Guilty

Pre-Trial: Closed hearing and non-publication orders

Application made:	Yes. The prosecution applied under the Evidence (Miscellaneous Provisions) Act 1991 (ACT), s. 50 for the hearing to be closed during the evidence of the complainant based on the nature of the charges. There was also a prohibition on publishing the name of the complainant or any identifying information under the same Act.
Determination:	The application was unopposed and was granted.

Trial: Facts and legal principles

The defendant was a fourth year cadet at ADFA in 1998. The complainant was a second year cadet, and only knew the accused in passing. After an Air Force dining in night he followed her to her accommodation block. She shut and locked the door to keep him out. Later while she was sleeping the defendant gained access to the block and went to her room. After she heard knocking she opened the door, and he entered her room uninvited, closing the door behind him. He ignored her requests to leave, restrained her physically on the bed (Charge 1) and then sexually assaulted her (Charge 2). He only desisted after she screamed for help.

Two months later the complainant's boyfriend (now husband) attended his ADFA Graduation Ball with the complainant as his guest. The defendant approached her from behind and committed an act of indecency upon her, witnessed by another member.

The defendant denied the offences. He did not give or call evidence.

He was convicted of all charges.

Findings

	Finding
Charge 1	Guilty
Charge 2	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.*

Charge 3	Guilty
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Sentencing: Facts and legal principles

The defendant separated from the ADF in August 2025, and as he was not a defence member the Defence Force Discipline Act permitted only two sentencing options; imprisonment or a fine. As this was a court martial the panel did not give reasons for sentence, stating that only sentence of imprisonment was appropriate given the seriousness of the charges. Being a restricted court martial the sentencing powers were limited to a maximum of 6 months civilian imprisonment.

Punishments and orders

Charge 1	Imprisonment for 6 months, charges 1, 2, 3 served concurrently
Charge 2	Imprisonment for 6 months, charges 1, 2, 3 served concurrently
Charge 3	Imprisonment for 2 months and 15 days, charges 1, 2, 3 served concurrently

Outcome on automatic review

The Reviewing Authority's decision on automatic review was handed down on 16 October 2025.

	Conviction	Punishments / Orders
Charge 1	Upheld	Upheld
Charge 2	Upheld	Upheld
Charge 3	Upheld	Upheld

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