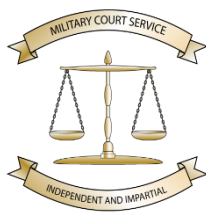


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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

16th day of September 2026

in the case of

REX

V

N029831C Major James Anthony HOOK

29 Commando Regiment Royal Artillery

JUDGE ADVOCATE

Judge Legard

Judge Advocate General

JUDGE ADVOCATE'S RULING ON THE PROSECUTION'S NO CASE TO ANSWER SUBMISSION

JUDGE ADVOCATE: This is a submission made on behalf of the defendant, Major Hook, that there is no case to answer. I have, in an earlier ruling, set out in some detail the background to this case and I do not propose to repeat that here.

The defendant faces a single charge alleging conduct prejudicial to good order and Service discipline. Conduct prejudicial to good order and Service discipline is a Service disciplinary offence peculiar to the Armed Forces and, to be guilty of such an offence, the board must first determine the relevant conduct alleged and secondly conclude that such conduct was prejudicial to both good order and Service discipline.

The assessment as to whether or not conduct is prejudicial to both good order and Service discipline is a matter of objective judgment for the board and the criminal standard of proof applies at each stage.

The Crown's case against Major Hook is essentially this. The prosecution maintain that Gunner Beck told him, both during the conversation in the back of her car and subsequently during their one-to-one private conversation, enough for him to have understood that she may have been sexually assaulted by Warrant Officer Webber.

The Crown say that despite being armed with that information he failed to deal with Gunner Beck's complaint with the seriousness that it deserved. He failed to properly or expeditiously escalate the matter up the chain of command and that, when he did so, he sought to essentially play down the incident.

At one point it was being alleged that by his words and actions he sought to discourage Gunner Beck from formalising a complaint, but the Crown have resiled from continuing with that allegation. In any event, that conduct, say the Crown, when considered in the round, was prejudicial to both good order and Service discipline.

Now, the leading authority on the test a trial judge should apply in determining whether there is a case to answer is found in the well-worn case of *Galbraith*. If there is no evidence to prove an essential element of the offence, a submission must obviously succeed, often referred to as limb A. If there is some evidence which, taken at face value, establishes each essential element, the case should normally be left to the jury, in this context read board. If, however, the evidence is so weak that no reasonable board properly directed could convict upon it, a submission should be upheld.

Weakness may arise from the sheer improbability of what the witness is saying, from internal inconsistencies in the evidence or from it being of a type which the accumulated experience of the courts has shown to be of doubtful value. Again, often referred to as limb B. The question of whether a witness is lying is nearly always going to be one for the jury. In terms where the judge comes to the

conclusion that the prosecution evidence, taken at its highest, is such that a board properly directed could not properly convict upon it, then it is his duty, upon a submission being made, to stop the case.

Where, however, the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability or other matters which are, generally speaking, within the province of the board, and where on one possible view of the facts there is evidence upon which a board could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the board. Taking its case at its highest does not necessarily mean taking out the plums and leaving the duff behind. See Shippey.

I have reminded myself of the evidence, or at least the relevant parts of it, that the court has heard. The court has heard from Lance Corporal Tudor. He says that he left the barbecue at about 3.30 in the morning when Gunner Beck and Warrant Officer Webber were still there. He recalls nothing untoward happening between the two of them until his departure.

He awoke at about half past seven. Gunner Beck was nowhere to be found. He found her asleep on the back seat of her car, knocked on the window, she awoke. He described her as distressed, crying, visibly shaken. According to Lance Corporal Tudor, she explained to him that Webber had tried something on with her. After some prompting and having had his memory refreshed by his 2024 statement, he added this detail, namely that Gunner Beck had told him that Webber had touched or tried to touch her.

He said he could not recall the exact details of what she said, but what she did say made him sufficiently concerned to want to report it. He had to plead with her for some ten minutes before she agreed for him to take this to the chain of command. He went and he found then Captain Hook, told him that something had happened without giving him any specifics, and directed him to Gunner Beck's car. The three of them then sat in the car and Gunner Beck spoke to Captain Hook and, according to Lance Corporal Tudor, she reiterated what she had said to him. Lance Corporal Tudor then left the vehicle.

Lance Corporal Tudor describes Captain Hook as agreeing that the matter was serious and should be dealt with appropriately. After leaving the vehicle they walked up towards the officers' mess, but Corporal Tudor walked on ahead so that they, Gunner Beck and Captain Hook, could have a private conversation.

Lance Corporal Tudor was cross-examined by Mr Hartley. He was cross-examined by reference to both his evidence given at the Service Inquiry and the inquest. On both occasions Lance Corporal

Tudor had, to put it bluntly, struggled to recall what it was that Gunner Beck had told him had happened between herself and Webber.

Lance Corporal Tudor maintained that he felt under a degree of pressure at the Service Inquiry and that his 2024 statement was, in terms, his best evidence. But under further cross-examination he accepted, given the passage of time, that he could not recall precisely what Gunner Beck had told Captain Hook in the back of the car and therefore he had no precise recollection of Gunner Beck using the words “touch” or “trying to touch” to Captain Hook. That said, in re-examination he said that Gunner Beck had reiterated to Captain Hook what she had said to him.

Major Lupton’s statement was read. He, Major Lupton, had not been in attendance at the adventurous training exercise but was aware that Gunner Beck was not particularly keen on going. He could not recall the exact date or time, believes about 9 o’clock in the morning, he received a phone call from Captain Hook who informed him that there had been an incident between Gunner Beck and Warrant Officer Webber and that had occurred in the early hours of the morning. Captain Hook had asked him for his advice on how to correctly report the matter and Major Lupton had told him to contact the Royal Artillery Sergeant Major, WO1 Mealand.

Now, there have also been some agreed facts in this case. Those include the fact that Captain Hook was under no legal obligation to report an allegation of sexual assault, even if he had been made aware of the same. The unacceptable sexual behaviour, so-called zero tolerance policy, only came into effect on 19 November 2022, some one and a half years or so after this incident. There are further facts that have been agreed but have not yet been adduced in evidence. Nevertheless, both parties agree that I can take them into account when determining this submission.

These include some text messages between Gunner Beck and a friend of hers, Kirsty Davis, dated 14 July 2021, in which Jaysley Beck appears to suggest that she would like the matter kept confidential (that is, of course, consistent with Captain Hook’s interview) and that the captain, which we must assume to be Captain Hook, had told her that she had to take action, and later in that same exchange that she did not want the matter taken as far as a court martial.

Finally, my attention has been drawn to a signed statement from Gunner Beck dated 20 July 2021 in which she refers to having reported an incident of unacceptable behaviour to Captain Hook and another, but that she at that time did not want any further action to be taken in respect of it.

Mr Hartley advances his submission of no case by reference to the second limb, limb B. That is to say, it is his position that the evidence, such as it is, is so inconsistent and/or unreliable that no reasonable board properly directed could convict upon it and therefore it ought not to be left before the board.

Mr Hartley further submits that the prosecution has singularly failed to adduce sufficient evidence from which a board could properly and fairly conclude to the requisite criminal standard that Captain Hook, and now Major Hook, had been informed by Gunner Beck of an allegation of sexual touching or attempted sexual touching, or even if he was, that his actions or conduct was such as to meet the section 19 threshold.

Mr Hartley argues that Tudor's evidence is inherently vague, inconsistent and unreliable, Tudor being the only witness upon which the Crown relies essentially in support of this charge, such that it ought not to be left before the board. He argues that Tudor did not confirm with any degree of certainty that Gunner Beck specifically told him, that is Tudor, as well as Captain Hook, that there was touching or attempted touching. Indeed, says Mr Hartley, according to Tudor himself, "The actual details are lost."

He references the inconsistencies in the accounts provided by Lance Corporal Tudor at the Service Inquiry and the inquest and he argues that it is entirely fanciful to suggest that he could not remember the detail in 2022 but then had a better recollection two years later, in 2024. Finally, he invites me to take a more rounded view of the prosecution evidence. There is, he says, no evidence from which the board can draw an inference from the interview that Major Hook sought to dissuade Gunner Beck from making a complaint, although, as I have already indicated, the Crown has accepted that it no longer forms part of their case.

In any event, says Mr Hartley, there is no or wholly insufficient evidence of prejudicial conduct. Major Hook reported the matter to Major Lupton. He was an experienced officer in Gunner Beck's direct chain of command. He did so immediately or certainly very soon after having a conversation with Gunner Beck. He reported the matter to the Royal Artillery Sergeant Major, Warrant Officer Mealand, and to Colonel Shepherd, albeit later in the afternoon. Following that, his involvement and, with it, any responsibility ceased. There is, he says, insufficient evidence for a properly directed board to conclude that Major Hook failed to take the complaint seriously.

Commander Patterson, in response, says that there is more than sufficient evidence upon which a board, properly directed, could convict Major Hook of the charge. There is, he argues, evidence in support of a reasonably cogent quality of Major Hook being informed by Gunner Beck that she had

been the victim of sexual touching or attempted sexual touching. Any inconsistencies in Lance Corporal Tudor's evidence are for the board, not the court, to assess.

In any event, he argues, Lance Corporal Tudor makes clear reference to Gunner Beck complaining of physical touching or attempted touching, at least to him, and his evidence is that Gunner Beck told Major Hook the same thing. The board can therefore safely conclude that Major Hook knew, following his conversation with her, that Gunner Beck had been the victim of a sexual assault or attempted sexual assault.

He concedes fairly, in light of the way in which the case was opened, that if the board were to conclude that Gunner Beck had simply complained of Webber having made a pass at her or similar, then that would be insufficient for the purposes of securing a conviction. It is by reference to what he knew at the time that his subsequent conduct must fall to be assessed.

In terms of the conduct alleged by the Crown, Commander Patterson says this. He ought not to have taken Gunner Beck for a private walk and a one-to-one conversation. He ought properly to have reported the matter straightaway to Warrant Officer Mealand and to Colonel Shepherd, not waited until later in the afternoon, and in the interim to have gone kitesurfing with Gunner Beck. On the contrary, he ought properly to have escalated the matter without delay.

It is not for Gunner Beck to determine what should or should not be done. He is an officer, she is a gunner. It is for him to take responsibility and decisive action. The fact that he did not, says Commander Patterson, amounts to a failure to take the matter seriously and that in itself is prejudicial to both good order and Service discipline, a matter for the objective assessment of the board.

In this case, there are essentially three questions to be determined.

First is the question of Major Hook's knowledge. That is to say, what it was that he knew. Was he informed by Gunner Beck, whether that was in the back of the car and in the earshot of Lance Corporal Tudor, or during a private one-to-one conversation, or both, that she had earlier that morning been the victim of a sexual assault or attempted sexual assault? In other words, an allegation of actual or attempted unsolicited sexual touching.

If they cannot be sure that Major Hook was aware of this, if, for example, they conclude that Major Hook was or may have been told that Webber had done no more than make a pass at her, then Major Hook, as the Crown readily accept, is entitled to be acquitted.

The second question is the conduct question. That is, what did Major Hook do or fail to do when armed with that information? Did he fail to treat it with the seriousness that it deserved? The Crown no longer seek to allege as part of its case that he sought to actively discourage Gunner Beck. That is an unsurprising concession in light of the evidence.

And finally this question, which itself is to be answered in two parts: did that conduct prejudice both good order and Service discipline?

Ordinarily, each of those questions would be questions for the board, not the court. However, the court is entitled to assess the quality or otherwise of the evidence at the close of the Crown's case and determine whether the charge should at that stage be withdrawn from the board.

I deal first with the evidence pertaining to what Major Hook knew and that depends, of course, on what he was told by Gunner Beck. It is a sad but incontrovertible fact that Gunner Beck is, of course, unable herself to provide evidence, not only as to precisely what happened to her at the hands of Webber, but perhaps more importantly in the context of this case, what she told Captain Hook about what Webber had done to her. The Crown therefore, in order to prove that aspect, must rely on the evidence of Tudor and, to a degree, any answers given by the defendant in interview.

I make no criticism of Lance Corporal Tudor whatsoever. On the contrary, I took him to be a wholly credible, honest witness doing his level best to recall accurately events, which include spoken words, of some five years ago.

I have to, however, take note of the evidence he gave at both the Service Inquiry and the Inquest, such as has been adduced by way of cross-examination. That points to a young man, clearly and understandably distressed by events that subsequently unfolded, struggling to accurately recall precisely what it was that Gunner Beck told him and indeed Captain Hook had happened between her and Webber.

At its very highest, he says, and this was only after being invited to refresh his memory, that Gunner Beck told him that Webber may or may have tried to touch her. But he cannot say with any certainty whether she repeated that allegation to Captain Hook when he was sat in the car.

Of course, we only have Captain Hook's version of the private one-to-one conversation. Although there is a vague reference to an attempt to kiss made in his interview, he is adamant that at no point did Gunner Beck allege that there had been any physical contact between herself and Webber. In light of Tudor's evidence, it is difficult to see how the Crown could fairly challenge that assertion.

So, point one: is there sufficient evidence upon which a board could conclude to the criminal standard that Gunner Beck had told Captain Hook that she had been or may have been the victim of a sexual assault, as opposed to a pass or similar, that being a central plank of the Crown's case? The answer must be no.

But the matter does not stop there. Even if that were not the case, the board would have to consider, A, what the conduct was, in other words, what did he do with that information, and B, whether that conduct was prejudicial to good order and Service discipline.

Is there, for example, sufficient evidence from which they could safely conclude that his subsequent conduct prejudiced good order and Service discipline? Now, ordinarily, as I have pointed out, that is a matter of objective assessment for the board.

However, as the board's own question to me earlier today alludes to, there is a danger of assessing evidence of what happened in 2021 in light of what we are now aware, which include the tragic circumstances, of course, of Jaysley Beck's death.

But Captain Hook's actions or omissions, they fall to be judged in light of what he knew at the time and by reference to Army policy in relation to unacceptable sexual behaviour in force at the time. There are significant risks, despite judicial direction, of Captain Hook being judged by the policies of today and with the benefit of hindsight.

Captain Hook was not a commanding officer. He was the OIC of the adventurous training exercise. It was not his duty to report up the chain of command a sexual assault. Bear in mind at that time, 2021, this was prior to the introduction of the so-called zero tolerance USB in Defence. There was no duty upon him to report what he believed to be being complained of, namely an unwanted pass or attempted kiss. That is an agreed fact.

In any event, it is common ground that he did report the matter to Major Lupton and subsequently, albeit later in the day, the same day, to both WO1 Mealand and Colonel Shepherd. The Crown accept that his responsibilities and therefore any future liability ends there.

The Crown say that he did not treat what he had been told by Gunner Beck with the seriousness that it deserved. It is not clear to me what the Crown means by that and I have given Commander Patterson every opportunity to crystallise his position. It is certainly not clear to me how a board could

answer that question and it is a matter, judging by the question I received from the board earlier today, which has already given rise to concern in their minds.

Captain Hook cannot be criticised or held to account in a criminal court for holding an opinion or view that Gunner Beck may have had an ulterior motive or may herself not have been telling the truth. Now, every person is entitled to a view, however wrong or misplaced that may be.

Under current policy, those in positions of responsibility know full well that they are to treat complaints of this type as if they were true. But that was not necessarily the case in 2021, a time when a victim-led approach was still being pursued within the Army. In any event, Captain Hook did not articulate those thoughts or opinions until he was interviewed.

The Crown seek to suggest that going for a one-to-one walk with Gunner Beck was in itself prejudicial conduct, but I cannot see how a board could safely conclude that to be the case. Likewise, the decision to give Gunner Beck time, namely the morning, in which to collect her thoughts and consider what course of action she would like to be pursued cannot, in 2021, on any objective view, be deemed prejudicial to good order and Service discipline.

Lance Corporal Tudor accepts that Captain Hook took the matter seriously. Captain Hook did report the matter to both Gunner Beck's reporting officer, a senior and experienced major, and later to Warrant Officer Mealand and Colonel Shepherd. He did so against the stated wishes of Gunner Beck and there was no legal duty for him to report it to Service Police.

So, having considered the matter with considerable care, I have come to the conclusion that there is insufficient evidence upon which a board, properly directed, could safely convict Major Hook on a charge of prejudicial conduct.

In short, the evidence in this case is of an inconsistent, vague and tenuous nature and both the legal and evidential basis upon which the Crown alleges prejudice is flawed and uncertain. For those reasons, I have come to the conclusion that it is my duty to stop the case and accordingly I am going to allow the application and I will in due course be directing the board to return a verdict of not guilty.