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Our ref: 23004731

17 October 2023

Mr Julian Knight
C/O The General Manager
Port Phillip Prison
PO Box 376
LAVERTON VIC 3028

By express post

Dear Mr Knight

**Julian Knight v Defence Force Ombudsman – Federal Court Proceedings
VID364/2023**

We refer to the above matter and enclose a sealed copy of the Supplementary Court Book filed on behalf of the Respondent.

If you require any extension to file an amended application, please let us know.

Please bring the Court Book with you to the Hearing.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Scott'.

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NOTICE OF FILING

Details of Filing

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Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

NO VID364/2023

JULIAN KNIGHT
Applicant

DEFENCE FORCE OMBUDSMAN
Respondent

SUPPLEMENTARY COURT BOOK

Filed on behalf of the Respondent, Defence Force Ombudsman
Prepared by: Madhav Fisher
AGS lawyer within the meaning of s 551 of the *Judiciary Act*
1903

File ref: 23004731

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FEDERAL COURT OF AUSTRALIA
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INDEX TO SUPPLEMENTARY COURT BOOK

<i>No.</i>	<i>Document Description</i>	<i>Date</i>
1.	Case Summary	Undated



Defence Abuse Response Taskforce

Julian KNIGHT - Case Summary

Sensitive: Personal

Robert Cornall AO
Chair, Defence Abuse Response Taskforce

Complainant:	<p>KNIGHT Julian DOB: 04/03/1968 (service confirmed)</p> <p>The complainant turned 18 in 1986, and is currently 46 years old. He joined the Army Reserves in November 1985 at age 17 as a private. He joined the Regular Army in January 1987 at age 18 as an officer cadet at Simpson Barracks, Watsonia. In January 1987 he attended RMC Duntroon for an 18 month course. The complainant was discharged from the Army on 24 July 1987 (manner of discharge was resignation). The complainant is currently incarcerated at Port Phillip Prison, Laverton.</p> <p>[REDACTED]</p>
Alleged Abuser 1:	<p>BURNSIDE Dale (then Staff Cadet) [REDACTED]</p>
Alleged Abuser 2:	<p>YATES William (then Corporal) [REDACTED]</p>
Alleged Abuser 3:	<p>MUNTZ James (then Staff Cadet) [REDACTED]</p>
Alleged Abuser 4:	<p>THOMPSON Matthew (then Corporal) [REDACTED]</p>
Alleged Abuser 5:	<p>THORP Craig Collis (then Lance Corporal) [REDACTED]</p>
Alleged Abuser 6:	<p>EVERINGHAM Nicholas (then Staff Cadet) D [REDACTED]</p>
Alleged Abuser 7:	<p>REED Phillip (then Officer Cadet) [REDACTED]</p>

Alleged Abuser 8:	HAMBURGER Robert (then Staff Cadet) [REDACTED]
Alleged Abuser 9:	REMIN Siegfried (then Warrant Officer Class 2) [REDACTED]
Alleged Mismanagers:	CSM Phillip REED, SGT Gary STONE, CPL Peter CRANE
Witness:	RIDD Steve (then Staff Cadet)
Witness 2:	STONES Sue (then Captain)
Witness 3:	VERCOE Todd (then Major) [REDACTED]
Alleged conduct	Physical abuse and workplace bullying and harassment ('ongoing bastardisation')
Date(s) of alleged conduct:	January – July 1987
Location(s):	RMC Duntroon and various 'nightclubs' in Canberra
Source of complaint:	Call to DLA Piper Hotline (24 April 2013)
Reference:	Personal Account Summary: D13#316678DOC Assessment Note: D15#2420DOC Draft available outcomes letter: D15#2971DOC DRAFT Reparation Brief: N/A CMS 2013/1350; DLA Piper 906049

COMPLAINT STATUS

1. No Case Coordinator allocated and outcomes discussion has not yet occurred.
2. All relevant documents (PAF, Stat Dec, certified ID and ARP) have been submitted (December 2013).
3. Assessment finalised 14 January 2015: includes a number of allegations assessed as out of scope as they do not amount to 'abuse' (being charged and disciplined for various misdemeanours, witnessing breaches of standing orders re alcohol and circumstances surrounding discharge) and fights with civilians while on local leave).
4. Matter on hold with the Chair.

INCARCERATION – CHARGE/CONVICTION

5. 7 counts of murder and 46 counts of attempted murder (Hoddle Street massacre).

INCARCERATION STATUS

6. Currently serving seven consecutive life sentences with non-parole period of 27 years in Port Phillip Prison.
7. Media reports indicate that Mr Knight is seeking to sue the Commonwealth for compensation (which is different to a reparation payment) for assaults by other cadets at RMC.¹

¹ Canberra Times, 10 February 2015, General News, page 2

8. In a recent media article, it has been reported that Mr Knight has sought leave to appeal from the ACT Court of Appeal against the decision by Associate Judge Mossop of the ACT Supreme Court denying his compensation claim against the ACT and Commonwealth governments for the abuse he suffered at Duntroon. The appeal has been adjourned to allow time for the filing of written submissions.²
9. On 27 May 2014, the Victorian Parliament enacted amendments to the Corrections Act 1986 (Vic), introducing s74AA, which bars parole being granted for Julian Knight, except in cases of permanent physical incapacity or imminent death:

Conditions for making a parole order for Julian Knight

- (1) The Board must not make a parole order under section 74 in respect of the prisoner Julian Knight unless an application for the order is made to the Board by or on behalf of the prisoner.
- (2) The application must be lodged with the Secretary of the Board.
- (3) After considering the application, the Board may make an order under section 74 in respect of the prisoner Julian Knight if, and only if, the Board—
 - (a) is satisfied (on the basis of a report prepared by the Secretary to the Department of Justice) that the prisoner—
 - (i) is in imminent danger of dying, or is seriously incapacitated, and as a result he no longer has the physical ability to do harm to any person; and
 - (ii) has demonstrated that he does not pose a risk to the community; and
 - (b) is further satisfied that, because of those circumstances, the making of the order is justified.
- (4) The **Charter of Human Rights and Responsibilities Act 2006** has no application to this section.
- (5) Without limiting subsection (4), section 31(7) of the **Charter of Human Rights and Responsibilities Act 2006** does not apply to this section.
- (6) In this section a reference to the prisoner Julian Knight is a reference to the Julian Knight who was sentenced by the Supreme Court in November 1988 to life imprisonment for each of 7 counts of murder.³

CORRESPONDENCE WITH THE TASKFORCE

10. All correspondence has been by mail. Complainant has been in written contact with Taskforce since November 2013. Mr Knight has published parts of his submission to the Taskforce on his website: <http://www.julianknight-hoddlestreet.ca/julians-submission-to-dart.html>

² *The Canberra Times*, 21 May 2015: <http://www.canberratimes.com.au/act-news/hoddle-street-killer-julian-knight-appeals-in-fight-for-victim-compensation-from-act-government-20150520-gh5jgl.html>

³ <http://www.legislation.vic.gov.au/>

11. Mr Knight wrote to the Taskforce on 14 April 2015 seeking advice about the status of his reparation payment (whether a determination has been made) and providing an update on his legal proceedings. He also wrote to the Minister for Justice, Michael Keenan, on 13 April 2015 about lack of action by the Taskforce in response to his complaint (and other Taskforce complaints in general) and asking that the Minister raise a Question on Notice on what action is being taken by the Taskforce.
12. The Taskforce provided information to ACT Policing in October 2014 to assist with their investigations in relation to correspondence from Mr Knight requesting ACT Policing investigate two allegations of assault upon him in 1987 at the Private Bin. The Taskforce provided the requested information (not already published on Mr Knight's website) to ACT Policing in October 2014.

ALLEGATIONS OF ABUSE

Physical abuse and workplace bullying and harassment (Assessment Note: D15#2420DOC)

13. The complainant alleges he was targeted specifically for 'bastardisation' by 2nd and 1st class cadets while he was a 3rd class cadet at RMC Duntroon. The complainant notes that some of the conduct alleged was "*minor and vexatious in nature*", but occurred on a daily basis, making his "*tenure at the college unviable*." Main elements of the conduct alleged by the complainant include:
 - Regular repeated 'Show Parades'. On one occasion, the complainant alleges SCDT Dale BURNSIDE required him to conduct Show Parades until 0200 hours (the complainant notes this was against Standing Orders).
 - Leaps and Jumps – during one session of leaps, the complainant alleges he was punched twice in the stomach by CPL William YATES.
 - Being yelled at in corridors, sent on nonsensical/impossible errands or given extra duties which were designed to delay the junior cadet and get them in trouble, including being charged for being 'absent from duty'.
 - Regular theft of personal property and articles of clothing – the complainant notes one example where a 1st class cadet, SCDT James MUNTZ, stole his cummerbund because his was dirty, which meant the complainant could not attend the dinner Mess for a week.
 - Orders for the complainant to take off items of clothing the 1st and 2nd class cadets objected to – for example, a jumper while on local leave, and trouser braces during a sports carnival.
 - Having his room bished, including having his room hosed, and 'bombed' with cocoa/flour/shaving cream.
 - Being bashed (repeated punches, kicks and knees to the head and body) by five senior cadets from Kapyong Company after the complainant tackled a Kapyong Company senior cadet to prevent him from bishing his room during March 1987.
 - Being singled out for 'special treatment' by 1st class cadets CPL Matthew THOMPSON, LCPL Craig THORP and SCDT Nicholas EVERINGHAM – including being 'harrassed' whenever the complainant crossed their paths, for example verbal abuse and attempts at tripping the complainant as he passed them in the hallway. On one occasion, LCPL THORP poked the complainant in the chest with a bayonet and verbally abused him for disregarding an order from SCDT EVERINGHAM the previous night.
 - SCDT Robert HAMBURGER 'constantly' harassed the complainant during parade rehearsal, by verbally abusing the complainant and kicking his heels throughout the rehearsal. On another occasion, SCDT HAMBURGER grabbed the complainant by the front of the shirt, and pushed him into the wall after the complainant attempted to walk away from SCDT HAMBURGER yelling at him. The complainant notes SCDT HAMBURGER, while holding the complainant against the wall, repeatedly threatened – "*I oughta' punch you in the head. I oughta' punch you in the fuckin' head.*" The complainant notes: "*I believed I was going to be attacked at any moment.*" The complainant eventually pushed SCDT HAMBURGER away from him.

- A group of 3rd class cadets, at the instigation of senior cadets, allegedly held the complainant down in his room and completely shaved off his sideburn on the right side of his face.
 - As retaliation for stabbing CSM REED (see Out of Scope allegations, below), the complainant notes senior cadets disabled his car by removing essential engine parts and stole \$250 worth of army-issue uniforms and equipment from his rooms.
14. The complainant also alleges some abuse by instructors at RMC Duntroon, including the following incident:
- Threatened with physical abuse by WO2 Siegfried REMIN – on being caught cheating on a written exercise, WO2 verbally ‘abused’ the complainant, who noted that if the complainant failed to improve, the complainant would be taken on one of WO2 REMIN’s walks, where *“the person who’s with [WO2 REMIN] falls down and breaks their nose and [WO2 REMIN] grazes [his] fist and knee helping them up.”*

Defence management

15. The complainant notes after the assault by five Kapyong Company senior cadets, he presented to CSM REED and asked how to press charges for assault, showing his injured hand. According to the complainant, CSM REED detailed SCDT Peter EDWARDS to escort the complainant to 5 Camp Hospital for treatment. However, on being treated by CAPT Sue STONES, the complainant reported he had sustained the injury by falling over in the barracks, due to *“a mixture of loyalty towards fellow cadets and a fear of retribution from senior cadets if the actual cause of my injuries was reported.”* The complainant notes he was later advise the senior cadets involved were *“spoken to”* by the Kapyong Company cadet CSM, UO Michael FULHAM.
16. The complainant additionally alleges Defence were aware of the practice of ‘bishing’ at Duntroon, and the risks it posed to junior staff cadets, two days prior to the complainant’s room being bished, and his subsequent assault (see TRIM ref D14#77340DOC). According to *Smith v Department of Defence (unreported, Supreme Court of NSW, Sperling J, 6 April 1998: BC 980 1079)*⁴, Staff Cadet Kelly SMITH fell down some stairs on 16 March 1987, which had been made wet through the nearby rooms being bished the night before. As she sustained injuries to her back, the incident was reported, including role of ‘bishing’ in leaving the stairs slippery. As the complainant notes, this report was taken two days prior to the complainant being subject to bishing and an assault.
17. During the wall incident with SCDT HAMBURGER, the complainant notes his platoon sergeant, SGT Gary STONE and his section leader, CPL Peter CRANE, were present during the altercation and did not attempt to intervene. The complainant was later disciplined by CSM REED over the incident, as the complainant had assaulted a superior in pushing SCDT HAMBURGER away from him.
18. According to the complainant, a fellow 3rd class cadet in his company made a report of abuse to MAJ VERCOE. In response, the complainant alleges all 3rd class cadets in Kokoda Company were ‘harangued’ for half an hour by 4-6 senior cadets, in particular LCPL NOBLE, as a warning not to go to the authorities with complaints of abuse or they would *“get in the shit.”*

ASSESSMENT

In scope and plausible allegations of physical abuse and workplace bullying and harassment and mismanagement (Assessment Note: D15#2420DOC).

⁴ http://www.austlii.edu.au/au/cases/nsw/supreme_ct/1998/101.html

Out of scope allegations

19. The complainant has included a number of incidents in his account which do not form part of the overall campaign of alleged abuse by senior cadets and staff at RMC Duntroon as have been assessed as being out of scope. These include:
- Being disciplined for various misdemeanours. The complainant accepts partial responsibility for these, but notes a few occasions where he believes he was charged unfairly, including being charged for Absence from Duty three times due to a miscommunication, misunderstanding and the actions of third parties. On another occasion, the complainant notes he was charged for having a loose bayonet even though the complainant's room did not have proper lockable drawers.
 - The complainant notes he witnessed a number of senior cadets contravening RMC Standing Orders against the consumption and storage of alcohol – for example, SCDT FITZPATRICK turned up to ANZAC Day memorial service drunk and no action was taken against him.
 - The complainant notes he was involved in a number of fights with civilians in nightclubs in Canberra – according to the complainant, he did not instigate these incidents.
 - The complainant also notes he, along with other RMC cadets, got into a fight with six ADFA cadets during a night out in Canberra. The complainant admits he initiated the fight (after some verbal sledging), by throwing the first punch. The complainant notes he suffered a broken nose and two chipped front teeth as a result of the altercation.
 - During a night out in Canberra on 30 May 1987, the complainant got involved in a fight with CSM REED, LCPL THORP and other 1st class cadets. During the fight, the complainant was punched in the face by LCPL THORP and possibly CSM REED. After the fight was broken up by bouncers and the parties removed from the bar, the complainant returned to the nightclub and was informed CSM REED and LCPL THORP were returning with ten others to bash the complainant, either at the club or when the complainant returned to barracks. Deciding to 'strike first', the complainant subsequently stabbed CMS REED twice in the side of the head with a switchblade knife.
 - The complainant details his discharge process during July 1987, and notes he was laughed at by LTCOL Stacey ROPE when he pointed out that he was required to have an interview with a psychologist as part of his discharge procedure. The complainant was allegedly advised: "Don't worry about it. You're not mad, are you?"
20. In relation to the complainant's allegations of being involved in fights with civilians, it is noted these allegations are out of scope because the alleged abusers were not members of Defence at the time of the abuse.
21. The complainant's allegations concerning his being disciplined for various misdemeanours are not considered to contain incidents of 'abuse' as accepted by the Taskforce Terms of Reference. Despite the complainant's submission that some of these charges were 'unfair', from the evidence available it appears these charges were administered and heard according to Defence processes following misdemeanours committed by the complainant.
22. The complainant's allegations involving the contravention of RMC Standing orders against the consumption and storage of alcohol does not contain an incident of 'abuse' against the complainant, but rather provides commentary of the complainant's account of RMC Duntroon culture at the time of the alleged abuse.
23. The complainant's allegations relating to his involvement in fights with ADFA cadets and CSM REED/LCPL THORP while on local leave also do not contain incidents of 'abuse' under the Taskforce Terms of Reference. The complainant admits in his account that he largely initiated these fights, and threw the first punch in relation to the altercation with ADFA cadets. It is considered the

complainant's account of these events is largely commentary by the complainant of his deteriorating state of mind prior to his discharge from RMC Duntroon.

24. Finally, the complainant's detail of his discharge process involves Defence administrative procedures and does not involve 'abuse' as accepted by the Taskforce.