

Army officer accused of sexually assaulting private



Nick Ralston

An Australian Army captain allegedly pulled rank, pointing to insignia on his clothing, and ordered a lower ranking female private to walk into a park on Anzac Day where he sexually assaulted her, a court martial has heard.

Captain Michael Diaz on Tuesday pleaded not guilty at a hearing in Sydney to five charges, including sexual assault without consent, two counts of acts of indecency without consent and assaulting a subordinate over an alleged incident at a park in Townsville in far north Queensland in April 2010.

At the time of the alleged offences Captain Diaz held the rank of Lieutenant and had only been stationed at Townsville's Lavarack Barracks for a number of weeks.

The female private, who cannot be named for legal reasons, said she bumped into Captain Diaz while out on Anzac Day with a relative at the popular Mad Cow nightclub. After briefly dancing with Captain Diaz earlier in the night, he then approached her and offered her a lift home. She said she initially resisted, saying she would take a taxi but then eventually agreed.

She told the hearing that on the drive home, Captain Diaz began to inappropriately touch her. The officer then pulled his car into a library car park where he demanded she "get out" and walk through a gate to a nearby park.

When she said no, the woman told the court martial that Captain Diaz pointed to the "two pips" on his clothing indicating he was a lieutenant and of superior rank.

"He said 'look, what's this?' and pointed his fingers to his chest," the private told the hearing.

"I said 'that's two pips'. He said 'what does that tell you?'. I said 'that you're my boss'."

The woman told the hearing Captain Diaz then replied: "That's right and I'm giving you the order to go through that gate."

She told the court that Captain Diaz then sexually assaulted her on a bench in the park before he drove her home and told her "see you at work".

When she returned to the barracks on April 27, Captain Diaz is alleged to have called her into his office and asked if she had told anyone what had occurred.

The private said after she told him no, he then said: "Good, because if you tell anyone this is it. If you tell anyone this is the end of your career."

During cross examination, Captain Diaz's counsel asked why it had taken 18 months for the private to report the incident to anyone.

Captain Diaz's counsel also asked how "crystal clear" the private's recollections of that night could be given she had consumed 26 rum and cokes between noon and 12:30am without eating before the incident occurred.

The private also rejected suggestions during cross examination that she had approached Captain Diaz that night and also that she had asked him to drive her home.

The hearing continues in Sydney on Wednesday.

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