

**DEFENCE FORCE DISCIPLINE APPEALS TRIBUNAL**

**Havord v Chief of Navy [2001] ADFDAT 1**

**TIMOTHY PETER HAVORD v CHIEF OF NAVY  
NO DFDAT 2 OF 2001**

**HEEREY P  
2 MAY 2001  
MELBOURNE**

**DEFENCE FORCE DISCIPLINE APPEALS TRIBUNAL**

**DFDAT 2 OF 2001**

**BETWEEN:           TIMOTHY PETER HAVORD  
                          APPLICANT**

**AND:                 CHIEF OF NAVY  
                          RESPONDENT**

**JUDGE:             HEEREY P**

**DATE OF ORDER:   2 MAY 2001**

**WHERE MADE:      MELBOURNE**

**THE COURT ORDERS THAT:**

1.     Leave to file the notice of appeal is granted.
2.     Time for filing the notice of appeal is extended to 20 March 2001.

**BETWEEN:                   TIMOTHY PETER HAVORD  
                                  APPLICANT**

**AND:                         CHIEF OF NAVY  
                                  RESPONDENT**

**JUDGE:                     HEEREY P**

**DATE:                      2 MAY 2001**

**PLACE:                     MELBOURNE**

**REASONS FOR JUDGMENT**

1                   The applicant applies for an extension of time to file and serve a Notice of Appeal  
from the judgment of Wing Commander T P Burke, Defence Force Magistrate given on 11  
August 2000 at HMAS Stirling, Garden Island, Western Australia.

2                   The proposed notice of appeal was lodged with the Defence Force Discipline Appeal  
Tribunal on 19 March 2001 and filed on 20 March 2001.

3                   An extension of time is required because a notice of appeal was not filed and served  
within the time limit set out in the *Defence Force Discipline Appeals Act 1955* (Cth) (the  
Act).

4                   Counsel was under the misapprehension that he had 90 days after 23 January 2001 to  
file the Notice of Appeal after being so advised by the Deputy Fleet Legal Officer, Lieutenant  
Paul Kerr RAN.

5                   Counsel subsequently lodged the Notice of Appeal on 19 March 2001 within two days  
of learning that the appeal had to be lodged within 30 days of the conviction pursuant to  
s 21(2) of the Act.

6                   As Counsel acted quickly to file the Notice of the Appeal the Tribunal orders that  
leave to file and serve the Notice of Appeal shall be granted. The respondent does not allege  
any prejudice and does not object to the extension of time. Accordingly the time for the

filing of the Notice of Appeal will be extended to the 20 March 2001.

I certify that the preceding six (6) numbered paragraphs are a true copy of the Reasons for Judgment herein of President Heerey.

Associate:

Dated: 2 May 2001

Counsel for the Appellant: Commander GLW Vickridge

Solicitor for the Appellant: Kott Gunning Lawyers

Counsel for the Respondent: Mr P J Corbould

Solicitor for the Respondent: Australian Government Solicitor

Date of Judgment: 2 May 2001