

STATE OF TASMANIA v JAY TAYLOR EBERT
COMMENTS ON PASSING SENTENCE

WOOD J
3 JULY 2020

Jay Taylor Ebert has pleaded guilty to one count of dangerous driving, and summary offences involving two charges of evade police (aggravated circumstances), two charges of drive whilst disqualified, one charge of use unregistered motor vehicle and one of use a motor vehicle with no premium cover, one charge of use a controlled drug, and one of drive a motor vehicle whilst a prescribed illicit drug is present in oral fluid.

At approximately 8 am on Friday 13 December 2019, the defendant was seen by police driving on Thorne Street in Acton, in Burnie. He was driving a Hyundai Lantra station wagon in a westerly direction. He had a male passenger. The vehicle did not have any registration plates affixed to the front or the rear of the vehicle. The defendant was subject to a period of licence disqualification. On 5 September 2019 the Burnie Magistrates Court had imposed a 15 month licence disqualification for driving related offences.

Police officers activated their lights and sirens and pursued the Hyundai. The defendant accelerated to an approximate speed of 110 km/h in a westerly direction along Thorne Street. The speed limit in that area is 60 km/h. The defendant overtook another vehicle without indicating which caused the other vehicle to swerve in order to avoid a collision.

The defendant turned into Woniora Road, Shorewell Park only narrowly avoiding mounting the footpath. He accelerated in a southerly direction along Woniora Road towards Three Mile Line Road and the police lost sight of it.

That course of driving amounts to dangerous driving and the first count of evade police. He drove for an estimated distance of 2.9km and there were a number of vehicles on the road. As noted, one of them was required to take evasive action. The defendant also risked the safety of his passenger.

The defendant committed a second offence of evade police later that morning. The same police officers observed the Hyundai at approximately 11:10am travelling in an easterly direction along Lyons Street in Hillcrest. It began accelerating towards Belton Street before turning towards Hayes Street. Police officers performed a U-turn in an attempt to pursue the Hyundai. They found the vehicle parked on Hayes Street, with the front passenger door ajar and the vehicle empty. Members of the public offered information that the occupants were hiding in the front garden of a nearby residence. The defendant was arrested and given an oral fluid test which returned a positive reading for methylamphetamine.

He was interviewed and admitted to police that when he saw police, he took off down the hill and there were other vehicles on the road that he was flying past. He estimated he was travelling at 120 km/h on Thorne Street and Woniora Road and that if there had been another car at the intersection on Woniora Road he would have hit it. He said his manner of driving was stupid. He said he was homeless and was making some money giving people lifts. He said that later in the morning, he left his car when the battery died, and he was trying to get away from police. He had used approximately 5 points of "meth" the previous night.

He was remanded in custody on 16 December 2019 and has been in custody since then on these matters.

The defendant was 24 at the time of offending, due to turn 25 this month. He has a very poor history of driving offences: 10 for driving whilst disqualified, two prior convictions for evade police, an offence of driver involved in crash and failing to stop, four convictions for the offence of drive a motor vehicle whilst a prescribed illicit drug is present in blood and 4 for exceed prescribed alcohol limit or drive with alcohol in body without a licence, as well as other offences such as unlicensed driving and driving an unregistered motor vehicle. I note he does not have any prior convictions for dangerous driving or reckless driving. He has received immediate terms of imprisonment in the past, as well as suspended terms. He received a comprehensive probation order in 2017. In September 2019, he received a term of four months' imprisonment for driving offences. He reoffended soon after his release.

The defendant had a difficult family life growing up and was exposed to violence and illicit substances at a very young age. He left school halfway through grade 9. He has had no further education since and has not been employed. There has been a decade now of no education and no employment.

The defendant receives a disability support pension. He is the father of one child. He has little contact with his son, he is no longer in a relationship with the child's mother. He has been assessed as having an intellectual disability. He has recently begun receiving support through the National Disability Insurance Scheme. His support coordinator, Ms Kellie Gale, organised a referral to an occupational therapist for a report. That report highlights the need for support, workers to assist with life skills, budgeting and attending appointments and accommodation.

At a young age, the defendant abused drugs, particularly methamphetamine. In the last three to four years his drug use has escalated and he developed a serious addiction to amphetamines. The offending before the Court today was committed only a fortnight after his release from prison. His circumstances were that he had no accommodation, he was staying with associates, he was exposed to and began again abusing methamphetamine. He purchased a vehicle the day before the offending on 13 December.

Since offending he has been remanded at Risdon Prison. He has expressed a desire to turn his life around and live a life free from drugs. While on remand he was provided with some support and he requested to complete programs including EQUIPS Foundation, EQUIPS Aggression and Gottawanna programs and a parenting program.

The defendant has experienced lengthy periods of homelessness in the past, often using a vehicle to provide a roof over his head. Accommodation is a pressing need and of key importance to his rehabilitation.

He has not before had the opportunity of a court-mandated drug diversion order. He now has significant supports through the NDIS which were not previously available to him, which will provide him with assistance to break free of his drug addiction and chaotic lifestyle. I received a drug treatment order assessment report. If an order was made he would need intensive

support from the court mandated drug diversion team and that would be provided. He was considered suitable subject to the availability of supported accommodation. Since that report was provided, his NDIS worker, Ms Gale, has been exploring options and applying for funding on his behalf. A recent addendum report provides that suitable accommodation has now been organised. Mr Ebert, I have decided to make a drug treatment order having regard to the statutory requirements for the making of an order and noting that now, all the necessary supports are in place, but I need to impose a different sentence on the charges of evade police.

Jay Ebert, you are convicted of all offences on complaint and the count of dangerous driving on indictment.

For the two offences of evade police, I impose a term of imprisonment on each. The totality principle has a role given that the offences were committed close in time, on one day. I impose three months' imprisonment on the first in time, count 1 on 54891/19 and cumulative term of three months' imprisonment on the second in time, count 2. That term of six months' imprisonment is backdated to the day that you were remanded in custody. Mr Ebert, you have served that term of imprisonment.

In relation to the crime of dangerous driving, I make a drug treatment order. If not for this order I would have imposed an additional period of 12 months' imprisonment, with none suspended.

As for the order, the custodial part of the order is a term of 12 months' imprisonment. You will not be required to serve any part of that sentence unless you are ordered by a court to do so as a result of you not complying with the treatment and supervision part of the order which has the following conditions.

The core conditions of the drug treatment order are as follows:

- (a) You must not, in Tasmania or elsewhere, commit an imprisonable offence;
- (b) You must attend a court whenever the court directs;
- (c) You must report to a court diversion office at Community Corrections, Level 3, 46 Mount Street Burnie Tasmania, within 2 clear working days of today;
- (d) You must undergo such treatment for your illicit drug use problem as is specified by a court;
- (e) You must report to, and accept visits from your case manager or court diversion officer;
- (f) You must, unless there are special circumstances, give your case manager and court diversion officer at least 2 clear working days' notice before any change of address;
- (g) You must not leave Tasmania except with the permission, granted either generally or in a particular case, of a court;
- (h) You must comply with all the lawful directions of a court;
- (i) You must comply with all reasonable directions of your case manager and court diversion officer concerning the conditions of this order.

I impose the following program conditions as part of the order

- (j) You must submit to drug testing involving random drug testing, urinalysis and oral fluid testing as directed by your case manager or court diversion officer;
- (k) You must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or court diversion officer.
- (l) You must attend counselling and treatment as directed by your case manager or court diversion officer;
- (m) You must participate in and complete the EQUIPS Addiction Program;
- (n) You must attend vocational, educational, employment, rehabilitation or other programs as directed by your case manager or court diversion officer;
- (o) You must submit to medical, psychiatric or psychological treatment as directed by your case manager or court diversion officer;
- (p) You must not associate with persons or classes of persons as directed by your case manager or court diversion officer;
- (q) You must not use any illicit substance;
- (r) You must maintain a working mobile phone for the purpose of notification of all court mandated drug appointments and you must remain contactable by means of that phone at all times;
- (s) You are to complete a weekly journal or similar document as directed by your case manager.
- (t) You are not to consume alcohol;
- (u) You are to reside at the accommodation provided by "Possability" between the hours of 9pm and 7am or as directed by your case manager or court diversion officer;
- (v) You must appear in the Magistrates Court at Devonport on the 9th day of July 2020 at 2:15 pm and at every time and place to which proceedings against you may be adjourned;
- (w) You must attend the Magistrates Court in Burnie or Devonport at any other time and place as directed by the Court, your case manager or court diversion officer.

On the charges of evading police, you are disqualified from driving for two years on each offence, one year of the second period is to be concurrent, that is a total of 3 years licence disqualification from today. On the charge of dangerous driving, I impose an additional period of disqualification of 6 months. On the driving whilst disqualified charges and the drive with illicit drug in your system, I impose an additional period of six months licence disqualification. The total period of disqualification is four years from today. Your licence is cancelled.

The order takes effect when you sign the order. You will need to sign the drug treatment order to say that you consent.