

STATE OF TASMANIA V STEVEN KEVIN JONES
COMMENTS ON PASSING SENTENCE

ESTCOURT J
19 AUGUST 2019

The defendant, Steven Kevin Jones aged 37 years has pleaded guilty to one count on indictment of dangerous driving.

On Wednesday 16 January 2019 at 4:00am, police located a vehicle they were looking for parked on the front lawn at 5 Boronia Place at Gagebrook. The vehicle was a gold 2010 Holden Commodore.

They shone their headlights directly at the car and observed the defendant in the driver's seat. Upon seeing police, the defendant drove the car on the footpath that runs into Briar Crescent. Police drove around the area looking for the car. They were advised that the car had been seen on Sattler Street. By this time police were authorised to deploy road spikes. One of the officers who was in the car got out to set the road spikes up on Tottenham Road, near the Chris Fitzpatrick Community Park.

Constable Gordon, who was in the police vehicle, saw the defendant driving through grassland at the Chris Fitzpatrick Community Park. The vehicle was travelling at an estimated 60-70km/h with its headlights off. The defendant drove through the length of the park on at least two occasions, before leaving the park and driving onto Tottenham Road.

The defendant drove the vehicle on Tottenham Road in excess of 80km/h. The speed limit for the road is 50km/h. The defendant continued to drive along Tottenham Road and drove over the road spikes. The spikes deflated the front two tyres of the car. Despite the damage to the tyres, the defendant continued to drive along Tottenham Road towards Gage Road. The defendant was still driving with the headlights off. The defendant drove along Gage Road and through the roundabout which connects Gage Road to the East Derwent Highway. He continued towards Lamprill Circle.

The defendant turned right into Lamprill Circle travelling on the incorrect side of the road. In taking the right turn into Lamprill Circle he travelled in the east bound lane (as divided by the centre traffic island) on Gage Road whilst travelling west. At the time the defendant was driving with the headlights off and with two deflated tyres.

The defendant continued to drive on Lamprill Circle. He drove along an unnamed stretch of road which connects Lamprill Circle to the East Derwent Highway. Whilst travelling north he drove on the incorrect side of the road before turning right onto the East Derwent Highway. The defendant turned left into Gage Road and then left into Tottenham Road, before coming to a stop near 16 Tottenham Road. Police observed the defendant get out of the car and ran into the yard of 16 Tottenham Road. He failed to stop the car properly and it rolled along the footpath. One of the police officers nearby managed to stop the vehicle.

Other police officers arrived in the area to search for the defendant. They found him hiding behind a bush in the front yard of the residence. One of the police officers called out "*here he is*" and the defendant came out, put his hands behind his back and said "*alright, you've got me*". The defendant was placed under arrest at the scene. He was taken to the Hobart Police Station and participated in an oral fluid test. He later returned a positive result for methylamphetamine and cannabis.

The defendant was arrested and detained for court. He appeared on 18 January. He made an application for bail which was refused, and he has been in custody since this date.

During a large period of the journey that the defendant was observed by police he was driving without headlights on. There was however a portion of driving, prior to the road spikes being deployed, that a police officer observed the defendant to be driving with the headlight on. Due to the deflated tyres, both front tyres were removed from the rims, which would result in a driver having very limited control over the steering and braking functions.

The defendant has seven prior convictions for dangerous driving and three for negligent driving. He also has in excess of sixty convictions for driving whilst disqualified. In 2012 he was convicted of committing an unlawful act intended to cause bodily harm as a result of a driving incident. He was sentenced to four and a half years' imprisonment in 2012 for that offence, and after his release he accumulated a further prior conviction for dangerous driving, which was imposed on 20 September 2017 along with a conviction for evading police and driving whilst disqualified.

The defendant was born into a life deprivation and has known little other than that for most of his life. His family is well known to the courts, they are from the lowest socioeconomic level in our society, and have high rates of illiteracy, high rates of drug use, and high rates of recidivism.

Offending with others in his family at their direction, particularly as a very young person, resulted in the defendant, as a twelve or thirteen year old, being remanded to the Ashley Youth Detention Centre, and from thereon throughout his life until now there have been only very short periods of time that he has not been in custody.

Not surprisingly, he has found life difficult to cope with outside of prison and drug use has been an issue for him from time to time, and is a factor in this present offending.

The defendant's brother was assaulted at Ashley and later died, in circumstances where the defendant was not, but felt that he was responsible for that death. It led to him suffering depression and he lost any sense of purpose in his life and he committed the very serious offences that I have enumerated.

Upon his last release he went to live with his sister and her partner, she was then pregnant and the child has since been born. The defendant found that to be a very stable and accommodating arrangement. He was not using drugs and he stayed out of trouble.

The next intervening event however, was in November last year. His mother, who had been his closest family member throughout his life, had started a new life. She had married and moved to the northwest coast but on 23 November she came to Hobart to visit the defendant and his sister for a day trip. During the trip back to the northwest coast she suffered a heart attack. She was taken to the Launceston General Hospital. The defendant and his sister were notified, they were en route to Launceston but unfortunately his mother passed away and they didn't get to see her before she died.

The defendant's life then went out of control. He returned to drug use as a method of coping with his loss. His conduct is exemplified by the present episode of dangerous driving.

Since going to prison he has enrolled in a drug and alcohol course, and I have been shown a letter from the Drug and Alcohol Counsellor in the prison. He is currently a leading hand in the prison kitchen which involves daily employment from 8am until 11:30am and then on a rotating roster during the afternoons. He organises his prison programs when he's not rostered on in the afternoon, so he's occupied through proper channels at the prison.

This is not a particularly bad example of dangerous driving, given the time of day and the corresponding lack of traffic, the areas concerned and the speeds involved. Moreover the defendant had a unobstructed view of the East Derwent Highway as he entered it, and it is not suggested that he drove for any great length or distance on the wrong side of the road.

The defendant's accumulation of so many relevant prior convictions cannot however, be ignored. Of course he is not to be punished for his record however, it would seem that his risk of re-offending must be regarded as high and he is at the times he lapses into this conduct, a danger to the motoring public. I take into account his plea of guilty and his expressed remorse.

Sentences for dangerous driving, and the principles to be applied, were recently reviewed by this Court in *Banks v Tasmania* [2019] TASCCA 1. Only a relatively small number of sentences have been imposed since dangerous driving was made a crime under the *Criminal Code* in September 2017. The degree of culpability may vary widely because of the wide range of behaviour which may constitute the offence of dangerous driving.

The equivalent offence in New South Wales was the subject of a guideline judgment in *Jurisc v The Queen* (1998) 45 NSWLR 209. In that case, Spigelman CJ, at 231, listed the following relevant factors:

- extent and nature of the injuries inflicted;
- number of people put at risk;
- degree of speed;
- degree of intoxication or of substance abuse;
- erratic driving;
- length of the journey during which others were exposed to risk;
- ignoring of warnings;
- escaping police pursuit.

Similar considerations were considered relevant to dangerous driving causing death and grievous bodily harm in this State in *Shipton v The Queen* [2003] TASSC 23, 39 MVR 143.

Taking all matters into account the defendant is convicted and sentenced to a term of two years' imprisonment backdated to 18 January 2019, and is not to be eligible for parole until he has served half of that sentence. He is disqualified from holding or obtaining a driver's licence for a period of three years from the date of his release from imprisonment.