

STATE OF TASMANIA v DAVID JEFFREY BURRIDGE
COMMENTS ON PASSING SENTENCE

21 JULY 2021
BLOW CJ

Mr BurrIDGE has pleaded guilty to a charge of dangerous driving and to eight summary offences that I am dealing with under s 385A of the *Criminal Code*. All of these offences were committed on 12 May 2020. On that day Mr BurrIDGE smoked some Ice at his partner's home in Ulverstone. They had an argument. For no apparent reason, he decided to drive to Hobart.

Near Brighton he overtook two police officers in unmarked police vehicles. They were both travelling at the speed limit of 110 Km/h. They followed him. At the junction of the Midland Highway and the East Derwent Highway he suddenly accelerated as he entered the roundabout, and erratically swerved in front of another vehicle. At the next roundabout, at the junction with Boyer Road, he accelerated rapidly, cutting in front of another vehicle. When he was on the Brooker Highway, approaching the Hilton Road overpass, and travelling at 115 Km/h in a 100 Km/h zone, one of the police officers, Sgt Shepherd, decided to intercept him. He activated his emergency lights, but Mr BurrIDGE did not stop. He activated his siren, but Mr BurrIDGE still did not stop. He turned left onto Abbotsfield Road, Claremont without indicating. He slowed as if he was about to pull over, but did not pull over, and continued on. That happened twice. Eventually Mr BurrIDGE stopped his vehicle.

Sgt Shepherd got out, went to Mr BurrIDGE's window, and spoke to him. Mr BurrIDGE refused to turn off his ignition or to provide his licence. He appeared confused and agitated. Sgt Shepherd told him he would need to submit to an oral fluid test and a breath test. Mr BurrIDGE refused. Sgt Shepherd warned him that he could be arrested and asked him to turn off the ignition. Mr BurrIDGE started moving his car forward. It looked as though he might try to drive away. The other officer, Constable Kirkby, started to move forward to block his vehicle in, but he accelerated towards her vehicle and she had to swerve to avoid a collision. Mr BurrIDGE drove off, running over Sgt Shepherd's foot as he departed. His vehicle pushed the sergeant aside. He accelerated down Abbotsfield Road, pursued by the two officers.

At the intersection of Abbotsfield Road and Main Road in Austins Ferry Mr BurrIDGE stopped because vehicles in front of him had stopped to give way to other traffic. Constable Kirkby went to his car and attempted to open the passenger side door to arrest him, but he drove off, accelerating around the cars that had stopped. He drove north on Main Road, swerving around, overtaking on double white lines on two occasions, and travelling at over 80 Km/h in a 60 Km/h roadworks zone. He threw an Ice pipe out of his window at that stage. The two officers abandoned pursuit of Mr BurrIDGE for safety reasons. Subsequently they saw his vehicle opposite the York Hotel in Granton. Two other officers in a marked police car had arrived. They got out of their vehicle and approached Mr BurrIDGE, but he reversed slightly and then drove towards those two officers. They had to take evasive action.

Mr BurrIDGE's vehicle fishtailed in gravel as he accelerated back towards the sealed roadway. He drove back onto Main Road, but then swerved left into a power pole, which broke off and fell onto the road. He did not drive any further. He told the police that he had run into the power pole to kill himself.

The dangerous driving charge relates to the period commencing when Mr BurrIDGE drove towards Constable Kirkby's car, and ending when he drove into the power pole. The summary offences to which he has pleaded guilty are as follows:

- Driving whilst disqualified. He was disqualified from driving for a period of 2 years commencing on 25 November 2019 pursuant to a notice under s 18B of the *Road Safety (Alcohol and Drugs) Act 1970*.
- Negligent driving on the Midland Highway.
- Speeding on the Brooker Highway.
- Evading police on the Brooker Highway.
- Refusing a requirement to undergo a breath test.
- Evading police on Main Road, Austins Ferry.
- Possessing the Ice pipe.
- Using methylamphetamine.

I was not provided with a victim impact statement in relation to the injury to Sgt Shepherd's foot. I note that he was able to drive after that injury was inflicted.

Mr Burrridge was 35 years old on the day in question and is now 37. He has been dealt with by the courts for drink driving offences on four occasions. On the fourth of those occasions he was sentenced to imprisonment in New South Wales. He has two convictions for driving whilst disqualified. The second of those resulted in imprisonment in New South Wales. He has four convictions for driving whilst unlicensed. The last of those resulted in a suspended sentence of 6 weeks' imprisonment in 2014. In 2017 he pleaded guilty to a charge of driving with an illicit drug present in his blood, received a wholly suspended sentence of 4 weeks' imprisonment, and was ordered to perform 42 hours' community service. He has been to prison in relation to dishonesty offences in 2005, and a crime of violence in 2014.

Mr Burrridge has used illicit drugs all of his adult life. He has been a user of methylamphetamine for about 6 years. He has made attempts to overcome his drug use from time to time, without any lasting success. He has never had any mental health problems apart from those caused by drug use.

I have obtained a report from a court diversion officer as to his suitability for a drug treatment order. It appears that he maintained regular employment throughout his adult life until about 12 months ago, when he became unemployed as a result of his drug problem. He and his partner have been together for about 15 years and have three children, but there are difficulties in their relationship which also appear to be related to his drug problem. His counsel told me that he regarded himself as a "functioning drug addict". However it seems to me that he has reached the stage where his drug abuse has been causing problems in all aspects of his life. The court diversion officer considers that he has a very high risk of reoffending. He has been deemed eligible and suitable for admission to the Court Mandated Drug Diversion Program. If he had been considered unsuitable, I would definitely have sent him to prison.

Despite Mr Burrridge's poor criminal record, and despite the seriousness of his dangerous driving, I am satisfied that this is an appropriate case for me to make a drug treatment order. I have to impose separate sentences on each of the charges of evading police. As it happens, Mr Burrridge spent 6 days in custody shortly after the day that I am concerned with, from 14 – 19 May 2020 inclusive. I have therefore decided to dispose of the charges of evading police by imposing concurrent backdated sentences of imprisonment to cover that period, as well as imposing disqualifications from driving.

David Jeffrey Burrridge, I convict you on all charges. On count 5 on complaint 51794/20 (the first charge of evading police), I sentence you to 6 days' imprisonment with effect from 14 May

2020 and disqualify you from driving for a period of 2 years from today. On count 10 on the same complaint (the second charge of evading police), I sentence you to 6 days' concurrent imprisonment commencing on 14 May 2020 and disqualify you from driving for a cumulative period of 2 years. On the other charges I make a drug treatment order. As the custodial part of the drug treatment order, I sentence you to 20 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 conditions of the order that I am now imposing.

The core conditions of the order are as follows:

- (a) You must not, in Tasmania or elsewhere, commit another imprisonable offence.
- (b) You must attend a court whenever the court directs.
- (c) You must report to a court diversion officer at the office of Community Corrections in Hobart within two clear working days after today.
- (d) You must undergo such treatment for your illicit drug use problem as is specified in this order or from time to time specified by a court.
- (e) You must report to, and accept visits from, your case manager or court diversion officers.
- (f) You must, unless there are special circumstances, give your case manager at least two 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 lawful directions of a court.
- (i) You must comply with all reasonable directions of your case manager and court diversion officers concerning the core conditions and program conditions of this order.

I impose the following program conditions as part of the order:

- (j) You must not drive or be found in the driver's seat of a motor vehicle.
- (k) You must be contactable by telephone at all times, and must inform your court diversion officer within 24 hours of any changes to your contact details.
- (l) You must not consume alcohol.
- (m) You must submit to breath testing as directed by a court diversion officer or an officer of Tasmania Police.
- (n) You must reside at [address] and be at this address between the hours of 9pm and 6am each night, unless you have been given prior approval by CMD to be absent.

- (o) You must not use, or associate with anyone who uses, otherwise than in accordance with a medical practitioner's prescription, any illicit or other drugs, synthetic drugs, unidentified drugs or mind-altering or mood-altering drugs without the permission of a court diversion officer.

Your compliance with this order will be supervised by a magistrate. I direct you to attend the Magistrates Court at Hobart on Monday 2 August 2021 at 10.30am.

I order to you to pay Tasmanian Networks Pty Ltd \$6100 compensation in respect of the damage to the power pole.