

STATE OF TASMANIA v TOM ANDREW HICKEY
COMMENTS ON PASSING SENTENCE

6 DECEMBER 2021
ESTCOURT J

On 12 June 2020, Tom Andrew Hickey (the respondent) pleaded guilty to one count of causing grievous bodily harm by dangerous driving, and on 10 August he also pleaded guilty to some six related summary driving offences.

On 10 August 2020, the respondent was convicted and I sentenced him to a Home Detention Order with electronic monitoring for a period of 18 months to take effect from 11 August 2020.

At 11:33am on 28 August 2021 the respondent advised that he had cut the monitoring device the previous evening with a pair of pliers because he was "frustrated".

On 30 August 2021, he was directed to attend Highfield House (Community Corrections) and bring to bring the device and monitoring equipment with him. He attended and returned the equipment. The damaged strap was photographed and retained. The respondent was spoken to and he advised that he no longer consented to the Home Detention Order, and refused to be subject to electronic monitoring. He declined to be refitted with a device and left Highfield House without any monitoring equipment.

On 30 August 2021, the Monitoring Unit contacted the respondent in an attempt to monitor his whereabouts, but the call was answered with a rude comment and terminated before anything of substance occurred. The matter was referred to the Office of the Director of Public Prosecution for breach action the following day.

The State asserts that the respondent's behaviour demonstrates his unwillingness to comply with a core condition of his order, and I agree. It is a serious matter and it flies in the face of the spirit and intention of home detention. It is recommended that the order be cancelled and I now take that course. I am then to deal with the respondent in respect of the offences in relation to which the order was made, in any manner in which I could have dealt with them when the matter was first before me.

I propose to take that course, however, in determining how to deal with the respondent, I must take into account the extent to which he complied with the home detention order, and notwithstanding some minor breaches in March 2020, March 2021 and July 2021, I note that he in fact served over two thirds of his home detention before these serious breaches occurred.

In those circumstances I sentence the respondent to six months' imprisonment from today, which sentence I wholly suspend on condition that he commit no offence punishable by imprisonment within a period of twelve months from today.