

The defendant, Edward Adam Rollins, has pleaded guilty to an indictment containing one count of dangerous driving, and to one charge of evading police in aggravated circumstances, one charge of motor vehicle stealing, one charge of attempted motor vehicle stealing, one charge of speeding and one charge of driving whilst disqualified, all on complaint 1975/2021 with which I have agreed to deal under s 385A of the *Criminal Code Act 1924*.

On 1 February 2021 the defendant was disqualified from driving under the *Vehicle and Traffic Act 1999* until 30 April 2021 for speeding.

At about 6.00am on 13 March 2021, the defendant used an old key he had in his possession to gain access to a white Honda motor vehicle parked on Collins Street, Hobart.

Shortly afterwards police observed the Honda drive through a red traffic light on Harrington Street. Police activated emergency lights in an attempt to intercept the vehicle, which took off at speed. They recorded the Honda travelling on the Brooker Highway, between Risdon and Bowen Roads, at 140kph in the sign posted 80kph zone.

Around 6:40am the Honda was observed by an off-duty police officer, travelling at excessive speed north on the Brooker Highway and driving through a red traffic light at the intersection with Derwent Park Road.

Around 6:49am the Honda was travelling south on Main Road, Berriedale outside Mood Food service station when it crossed onto the incorrect side of the road, turned its lights off and then accelerated at speed to pass several cars in front of it.

The defendant then conducted a handbrake turn near MONA before the Honda stopped due to mechanical problems. He got out of the car and walked to 2/649 Main Road, Berriedale where he used old keys in his possession to unlock and enter a white Datsun utility that was parked in the driveway. He opened its bonnet and reconnected the battery, which had been disconnected by the owner.

Police located the defendant getting out of the Datsun nearby, and he was placed under arrest. He spent one day in custody in relation to this matter.

The defendant is aged 25. He grew up in Tasmania, and attended school until grade 11. He had a fairly straightforward childhood until his parents separated at the age of 15, when he experienced some difficulties but for the most part he had a stable and supportive upbringing. He maintains a good relationship with his mother.

After completing grade 11, the defendant held a number of jobs in retail and hospitality. He has recently obtained an apprenticeship at Wells Bodyworks.

He has a history of drug addiction, beginning at a young age when he was given an inappropriate pain medication by his mother. He has previously used methyl amphetamines and cannabis, as well as the occasional use of other recreational drugs.

He has a history of mental health issues, including suicidal ideations and unsuccessful suicide attempts. He has presented previously with complex moods and risk taking behaviours, but

until speaking with clinical and forensic psychiatrist Ms Jennifer Wells, who has provided a report dated April 2022, he had never received a formal diagnosis.

The defendant made admissions to police as to his offending, which contained some bizarre statements such as he was "dancing" with the car whilst driving it, that he has a "tendency to freak and cannot stop himself being himself" and that he gained entry to the Datsun "with his mindset" among other things.

When he saw Ms Wells on 15 February 2022 she diagnosed the defendant with Borderline Personality Disorder, noting that there are nine criteria of which a minimum of five are to be met in order for that diagnosis to be made. She states that he meets seven of those criteria, namely:

- 1 a pattern of unstable and intense interpersonal relationships characterised by alternating between extremes of idealisation and devaluation;
- 2 identity disturbance with marked and persistent unstable sense of self;
- 3 impulsivity with substance abuse, and reckless driving;
- 4 recurrent suicidal behaviour, gestures, threats or self-harming behaviour;
- 5 chronic feelings of emptiness;
- 6 inappropriate, intense anger or difficulty controlling anger; and
- 7 transient stress related paranoid ideation or severe dissociative symptoms

In addition to experiencing symptoms of Borderline Personality Disorder, Ms Wells states that the defendant was also experiencing drug induced psychotic symptoms at the time of his offending. She expressed the following opinion:

"...in my opinion if the defendant was not experiencing the combination of his Borderline Personality Disorder and substance-induced psychosis, these offences would have been unlikely to have occurred. He held grandiose delusional beliefs whereby he had special abilities and he was protected. In my opinion, these beliefs drove him towards greater acts of recklessness than usual in regard to his own safety, but not in regard to the safety of others of which he maintained some awareness. Verdins principle 1(f) is applicable in the defendant's case in my view, in that his symptoms of a depressed mood state, suicidal thoughts, tendency towards reckless driving when distressed, and drug-induced grandiose beliefs in his own invincibility contributed causally to his actions that day, even though he had formed no intent to drive dangerously or harm other parties, and knew that it was wrong to do so."

Counsel for the defendant, Ms Monk, accepts that a mixed diagnosis – Borderline Personality Disorder, coupled with substance induced psychosis – complicates the question of Verdins, however, counsel for the State, Ms Belonogoff, concedes that the defendant's moral culpability is reduced as a result of the causal connection between the defendant's borderline personality and his offending. Ms Belonogoff notes however, that even though the defendant had formed no intent to drive dangerously or harm other parties, he knew that it was wrong to do so.

In relation to the dangerous driving, it is submitted, contrary to the State's submission, that whilst the driving was dangerous, it was "not the most high end example of this offence", noting:

- The excessive speeds occurred on a major highway or on roads in the relatively early morning hours, so the risk to other road users was lessened; and

- Turning off the lights occurred at 6.49am in March, as opposed to during hours of darkness.

Moreover, it is submitted that although the interval and distance travelled between the first observation of the Honda and the last were significant, there is no material before me as to the nature of the driving outside the limited sightings of the vehicle.

In relation to the charge of evading police, again it is submitted that the offending is at the lower end of the scale for offences of its type, noting that the evading was momentary, at the beginning of the driving episode, as opposed to a continued police pursuit resulting in dangerous driving.

I accept each of Ms Monk's submissions.

I am told the defendant has not offended in any way since his release on bail on 2 February 2021. He has not used drugs since his release on bail, which no doubt has contributed positively to his overall stabilisation. In addition, he has abstained from alcohol use.

I am told that the defendant has been grateful to receive a diagnosis of Borderline Personality Disorder. He instructs his counsel that he has never known what has been the cause of his mental health issues and what he can do about them, and to have a definitive diagnosis and a treatment plan is something he intends to take seriously and pursue. He is hopeful of being able to attend specialised therapy with Ms Wells upon the finalisation of these proceedings, with a specific focus on his Disorder. Ms Wells is content to do this once she is no longer a potential witness.

The defendant has an interest in cars and mechanics and, as I have said, intends to pursue employment in that vocation. It is submitted that in light of the significant disqualifications that are inevitable, that the pursuit of his employment could be taken into account when determining whether any disqualifications are to be served cumulatively or concurrently. In that regard, I note that his apprenticeship with Wells Bodyworks does not require him to drive, although it would be useful for him to do so.

The defendant has a limited criminal history, although it is accepted that he is not a first offender. He does not have a history of dangerous driving.

In relation to the timing of the plea, the defendant has never disputed the physical elements of the offending. A psychological report was received in 2021, and current counsel for the defendant sought a new report upon taking over the file which is the report from Ms Wells. It has been the pursuit of these reports that has taken time to finalise.

In the light of all of these circumstances, I sought an assessment of the defendant's suitability for home detention. The defendant is not considered suitable but is considered suitable for community service.

In those circumstances, on all counts the defendant is convicted and on all counts, save for the aggravated evade police, he is sentenced to a single sentence of 12 months imprisonment, wholly suspended on condition that he commits no offence punishable by imprisonment for a period of two years.

In addition, I make a Community Correction Order with an operational period of two years. The order includes all of the core conditions and a special condition that the defendant must,

within that operational period, satisfactorily perform 98 hours of community service as directed by a probation officer or a supervisor. Further special conditions are that the defendant must, during the operational period of the order, submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer and that the defendant must, during the operational period of the order, undergo assessment and treatment for alcohol dependency as directed by a probation officer.

The defendant is to make contact today with the office of Community Corrections by close of business and advise them of this sentence.

On the charge of evading police, I record a conviction and the defendant is sentenced to a period of three months' imprisonment, to be served concurrently with the suspended sentence just imposed and wholly suspended for the same period. The defendant is disqualified on that charge from holding or obtaining a driver's licence for a period of two years.

Finally, taking into account the three months licence disqualification for speeding already served, and the defendant's new found employment, I impose no further period of disqualification.