

22 NOVEMBER 2022
JAGO J

Keegan Brunssen-Whiting, you have pleaded guilty to one count of dangerous driving contrary to s 172A of the *Criminal Code* and related summary offences committed on the same day namely: learner driver driving unaccompanied by licensed driver, using an unregistered and uninsured motor vehicle, two counts of injure property, being a driver involved in crash and failing to stop, resist a police officer, threaten a police officer, using a controlled plant and drive a motor vehicle whilst a prescribed illicit drug was present in your oral fluid. All of these offences occurred on 24 March 2022, with the exception of using a controlled plant, which occurred the evening prior.

At the time of the offending, you were 19 years of age. You were living in Tugrah Road in Devonport. On 24 March 2022, you were due to attend a driving assessment to obtain your provisional driver's licence. When you woke up, you realised that members of your family had taken the motor vehicle that you were intending to use for that assessment. You had an argument with your mother over the phone about that issue and became angry. You then got into your Holden Commodore utility and proceeded to drive it for quite some time and distance in a dangerous manner. Initially, you accelerated your vehicle along Tugrah Road in excess of 100 kilometres in an 80 kilometre zone. You were also crossing your vehicle from one side of the road to the other. As you approached the roundabout at the intersection of Tugrah Road and Stoney Rise Road, you failed to indicate as you turned right onto Stoney Rise Road. You then accelerated your vehicle to a speed of in excess of 100 kilometres along Stoney Rise Road, which is a 60 kilometre speed zone. As you drove past the Homemaker Centre, which is a busy shopping centre, you crossed onto the incorrect side of the road and overtook another vehicle. You then approached and entered the roundabout at the intersection of Stoney Rise Road and Middle Road. Again, you failed to indicate as you turned left onto Middle Road. You also failed to give way to a vehicle that was travelling through the roundabout at the same time.

You entered onto Middle Road, which is again a 60 kilometre speed zone, and a populated residential area. You accelerated your vehicle to a speed in excess of 90 kilometres. You crossed a continuous centreline on the incorrect side of the road in order to overtake a vehicle. In doing so, you travelled around a blind corner with no clear vision of oncoming traffic. After overtaking this vehicle, you accelerated to a speed estimated to be in excess of 110 kilometres in a 60 kilometre speed zone. You then turned in front of oncoming traffic, failing to give way to those vehicles, as you exited Middle Road and turned right onto the on ramp to the Bass Highway.

You became stuck in traffic for a short period of time before overtaking vehicles as you crossed Victoria Bridge. You then accelerated to a speed in excess of 110 kilometres in an 80 kilometre speed zone. As you approached the off ramp to East Devonport, you failed to give way to vehicles travelling in the same direction as you by forcefully merging from the right lane to the left lane, causing vehicles in the left lane to have to slow down to allow you to merge in. You then travelled from the Bass Highway off ramp to the intersection of Tarleton Street, East Devonport. Here, you disobeyed a red traffic light facing your vehicle and travelled through the intersection at speed, turning right onto Tarleton Street. As you did this, your vehicle's tyres squealed.

You again became stuck in traffic and repeatedly swerved onto the incorrect side of the road in an attempt to overtake the vehicles in front of you. Eventually, you managed to overtake

them and then accelerated to an estimated speed of 80 kilometres per hour on Tarleton Street, which again is a 60 kilometre speed zone. You turned right from Tarleton Street into Brooke Street, at speed, again causing your vehicle's tyres to squeal.

You then entered into the Yum Tasmania carpark. Here, you momentarily stopped your vehicle before excessively revving it and doing a burn out for a prolonged period of time. You caused your vehicle to spin in a circle approximately three times. Whilst doing this, the gravel car park was damaged and rocks were sprayed about the car park. You also damaged a potato bin when you collided with it. This is one of the counts of destroy property. You then drove out of the car park and back onto Brooke Street. You accelerated your vehicle heavily on Brooke Street and travelled through the intersection of Brooke and Tarleton Street without giving way at a Give Way sign. You entered into Wright Street and accelerated to an estimated speed of 80 kilometres per hour in a 50 kilometre speed zone.

You then entered into Murray Street, where again you accelerated to a high speed. As you entered the intersection at Caroline Street, you locked up your brakes and skidded your vehicle. Your vehicle left the roadway and travelled across the road side verge and through a fence into farm land. You did not stop, but drove your vehicle south, through the farm land before deliberately driving through another fence to exit the farm land and make your way back onto Caroline Street. The damage to the fences amounts to the second count of destroy property. By this point in time, your vehicle was no longer handling correctly.

You drove from Caroline Street and turned right into John Street and, in doing so, failed to stay to the left of the central traffic island at a roundabout. You travelled through the roundabout against the flow of traffic. You then stopped your vehicle and revved your engine loudly and did another burnout in John Street. You revved your engine loudly as you changed through the gears in an attempt to blow your vehicle's engine.

You turned onto Tarleton Street and travelled south through the intersection at Tarleton Street and Wright Street. Here, you failed to stop for a red traffic light, and you narrowly avoided a collision with a van travelling through the intersection. You overtook several vehicles as you travelled along Tarleton Street and back onto the Bass Highway on ramp and entered back onto Victoria Bridge. You then accelerated to an estimated speed of 110 kilometres across the bridge where an 80 kilometre speed zone applies. This time, you were weaving between vehicles and at one point collided with the rail on the left hand side of the bridge.

You exited the bridge on the off ramp and entered Formby Road. You turned left initially but then performed a U-turn and began travelling on the incorrect side of the road, along Formby Road and through a set of traffic lights, travelling against the flow of traffic for approximately 300 metres. You then crossed your vehicle onto the correct side of the road at the Formby Road and Elizabeth Street intersection. You continued to travel along Formby Road at an estimated speed of 80 kilometres. Formby Road is a 60 kilometre speed zone and is a major arterial road into and out of Devonport. As you drove along Formby Road, you were revving your vehicle loudly as you changed through the gears.

You entered Steele Street, travelling wide as you negotiated the corner, crossing the centre dividing line onto the incorrect side of the road and into on-coming traffic. Again, you narrowly avoided a collision with another vehicle. You then turned left into Wenvoe Street, where again you crossed the centre dividing line onto the incorrect side of the road and collided with a road side kerb.

You travelled along Wenvoe Street and momentarily stopped outside the Devonport Police Station. Here again, you revved your vehicle loudly and began doing another burnout. Your vehicles tyres were spinning and emitting loud squealing sounds and excessive amounts of smoke. As you were doing these burnouts, you leaned out of the window of your vehicle and were yelling and slapping the side of your car. You then skidded your vehicle into the driveway of a business carpark, again hitting the kerb and narrowly avoiding colliding with the fence and cars that were parked at the business. You reversed your vehicle into a second business carpark, before travelling north along Wenvoe Street, again spinning your tyres and performing a burnout. You accelerated your vehicle to an estimated speed of 70 kilometres in Wenvoe Street where a 50 kilometre speed zone applies. Eventually, you lost control of your vehicle, crossed the footpath and crashed into a business building.

Police attended the crash scene and found you in the driver's seat. You were placed under arrest but you resisted by pulling and pushing your arms and struggling against police. You also threatened police by saying "I'll fucking take you all down". Eventually, you were removed from the vehicle and taken into custody. At the Devonport Police Station you were given an oral fluid test, which was positive for THC. You participated in a record of interview. Essentially, you admitted your driving behaviour telling police that when you had woken up and realised the motor vehicle that you needed to undertake your provisional driver's licence test had been taken by a family member, you became very angry. You admitted taking your Holden Commodore, which was unregistered and uninsured, and driving it erratically and in the manner that I have just outlined. You admitted using cannabis the evening before. You told police that you had a conversation with your mother in which you told her that you were going to hurt or kill yourself. You told police that you did not wish to hurt anyone else and you were ashamed of your actions and regretted what you had done.

At all times, you were the holder of a learner's driver's licence and you were unaccompanied. The vehicle was unregistered and uninsured, although I note the registration had only expired some ten days earlier. Subsequent analysis of the oral fluid sample taken revealed THC in your oral fluid at the time of driving.

The total distance travelled by you was approximately 16.5 kilometres. At the time of the offences, the weather was fine and the traffic flow was moderate to heavy in terms of both the vehicular and pedestrian traffic.

You were 19 at the time of the offending. Principles relevant to sentencing youthful offenders therefore apply. You have no prior convictions at all. This behaviour appears out of character for you. I am told that in the lead-up to this incident you had been experiencing some drug use issues. In particular, he had been using methyl amphetamine. To your credit, you have now ceased your use of methyl amphetamine completely. You have also obtained employment and I am told have commenced a relationship, which is stable and supportive. You have expressed genuine remorse for your driving behaviour and you have entered a plea of guilty at an early opportunity. Because of the good progress that it appears you have made since the commission of the crimes, I had you assessed for home detention. The report indicates that you were experiencing quite a high level of emotional dysregulation after discovering a family member had taken the motor vehicle you needed to use that day. You embarked upon the driving behaviour with, it seems, an intention to annoy the family members that you considered responsible for the taking of the car, and perhaps also with an intention to cause harm to yourself.

In terms of your attitude to the offending, you told the author of the Home Detention report the following, *"It's shameful. I'm disgusted. If I had a time machine, I would go back in a heartbeat and change it. My actions were disgusting. I wish I didn't do it at all. I wish I calmed myself before I did it."*

There is no question that this was a very serious example of dangerous driving. It involved you travelling 16.5 kilometres in built up areas, including both residential and business areas. High speed was involved and a large number of people were put at risk. I do not overlook the fact you also had THC in your oral fluid and you were obviously driving in a very angry and elevated state. The behaviour you displayed towards police at the end of your driving is testament to this. You were also an inexperienced driver being on your learner's permit and unaccompanied.

You displayed a selfish disregard for the clear danger you presented to other motorists. It is most fortunate, and probably because of the evasive actions taken by other drivers, that a serious accident or tragedy did not eventuate. General deterrence is obviously a most important consideration and ordinarily, a lengthy term of actual imprisonment would be imposed for driving behaviour of this nature. However, there are a number of positive considerations that apply here. You have no relevant prior history. You have addressed your use of methyl amphetamine. You have obtained employment. Your employer is willing to work with you to make sure you are able to obtain lifts to work in light of the inevitable licence disqualification. You are now in a stable and positive relationship and you are young and your rehabilitation should be encouraged. You have been assessed as eligible for a Home Detention Order. You are not considered to require a supervision condition because of the positive steps that you have undertaken of late. I have determined it is appropriate to impose such an order and allow you to remain in the community and continue with the positive endeavours that you have made in recent times.

Mr Brunssen-Whiting, you must understand however that a Home Detention Order is a type of imprisonment. It is imprisonment within your own home. If you breach the conditions of the Home Detention Order I impose upon you, the consequences will be most serious. The Home Detention Order can be cancelled and a sentence of imprisonment put in its place. I make the following orders. I record convictions in respect to all crimes and offences to which the defendant has pleaded guilty. With respect to the crime of dangerous driving, I impose a Home Detention Order of 14 months. The terms of the Home Detention Order will be set out in a written document that will be provided to you. The Home Detention Order is to take effect from today.

The core conditions of the Home Detention Order apply during the 14 month period and reflect the terms that are set out in the Home Detention Assessment Report, including the following: you must not commit an offence that is punishable by imprisonment; you must reside at the home detention premises of [address supplied]; you must for the duration of the operational period of the order submit to electronic monitoring and have any electronic monitoring device fitted and comply with reasonable and lawful directions given to you with respect to such monitoring.

There are also special conditions that attach to the Home Detention Order:

- 1 You must be at the home detention premises at all times, except when you are not there for a "relevant reason" as specified in s 42AB ss 4 of the *Sentencing Act* 1997, this includes going somewhere, including going to your employment, with your probation officer's permission.
- 2 You must permit a probation officer, a police officer, or other prescribed officer to enter those premises.
- 3 You must permit a police officer to conduct a search of the premises, conduct a frisk search of you and take a sample of any substance found on the premises or on your person.
- 4 You must submit to electronic monitoring, including the wearing or carrying of an electronic monitoring device.
- 5 You must not remove, tamper with, damage, disable or interfere with the proper functioning of that device or equipment used for the purpose of electronic monitoring.
- 6 You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of that device or equipment used for the purpose of electronic monitoring.
- 7 You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring device, including directions relating to the installation, attachment or operation of the device, if those directions are given to you by a police officer, a probation officer, another prescribed officer or any other person whose functions involve the installation or operation of the electronic monitoring device, or a system used for that purpose.
- 8 You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through that device at all times.
- 9 You must not take any illicit or prohibited substances.
- 10 You must not take any medication containing an opiate, benzodiazepine, buprenorphine, hydrochloride or pseudoephedrine unless you provide written evidence from your medical practitioner that you have been prescribed that medication.
- 11 You must not during the operational period of the order consume alcohol and you must, if directed to do so by a police officer, or community corrections officer, submit to a breath test, urine test or other test for the presence of alcohol.
- 12 You must submit to the supervision of a Community Corrections Officer as and when required by that Officer.

I order that you must attend the Community Corrections office at Reece House Burnie by 10 am tomorrow for the fitting of an electronic monitoring device and induction in respect to this order.

In respect to the dangerous driving, I impose a period of licence disqualification of two years. For the offence of drive a motor vehicle with a prescribed illicit drug present in oral fluid, I impose a fine of \$362.00. I impose a licence disqualification of three months. That licence disqualification will however operate concurrently with the disqualification imposed upon the dangerous driving. On all other summary offences, having recorded convictions, I impose no other penalty having regard to totality and the fact that many of the behaviours associated with the summary offences have been taken into account in imposing the sentence I did for the dangerous driving charge.

I make a compensation order in favour of Yum Tasmania in the sum of \$1,780.00. I make a compensation order in favour of Richard Boville in the sum of \$200.00.

Mr Brunssen-Whiting, the documentation will be provided to you. The Home Detention Order commences today, but you are to present to Community Corrections by no later than 10.00 am tomorrow for induction into the Order. The licence disqualification commences immediately.