

Mr Nguyen you appear for sentence in respect of a charge of dangerous driving contrary to s 172A of the *Criminal Code* and some summary matters. The facts in relation to the dangerous driving matter are these.

At approximately 1pm on Wednesday 16 February 2022, you drove to your former matrimonial home. You and your wife of 10 years had recently separated.

You parked your motor vehicle, a black Dodge, behind your wife's work vehicle, a white Subaru Outback. Your wife went outside and observed you holding what appeared to be a black handgun. You placed the gun to your head and said to your wife "I am going to kill myself". She went back inside the house and called 000. Two associates of yours arrived at the address and entered the Subaru vehicle with you. One sat in the front passenger seat and the other in the rear passenger seat.

About 1.25pm police observed you driving north on Redwood Road in Kingston. In an attempt to intercept the vehicle they performed a u-turn and activated their emergency lights. You accelerated to an estimated speed of 80 km per hour on Redwood Road which is 60 km zone.

The police contacted one of your passengers on his mobile phone and said that they wanted to speak to you. He handed the phone to you, telling you that the police wanted to speak with you. You took the phone and terminated the call. The police vehicle followed you on to the Channel Highway driving towards Kingston. They continued to have the vehicle lights and the siren activated in an attempt to intercept you. You continued driving at an estimated speed of 80 km per hour along the Channel Highway. You crossed on to the incorrect side of the road on Channel Highway in the vicinity of Dollery Drive. You overtook several vehicles when it was unsafe to do so. Your passengers told you to stop the car and pull over, but you refused. You drove over a traffic island on the Channel Highway and again crossed on to the incorrect side of the road immediately prior to its intersection of Summerleas Road. You drove around a roundabout against the flow of traffic and exited from the Channel Highway heading towards the Channel Court Shopping Centre. You turned left onto the Huon Highway at the traffic lights on the Channel Highway. When you reached the roundabout at the Huon Highway on the Southern Outlet intersection, you drove around it three times before exiting onto the Southern Outlet bypass heading south. As you approached the Summerleas Road overpass you slowed down and police drove their vehicle next to yours. At this point you drove your vehicle into the police vehicle impacting on the passenger's side of that vehicle. You then drove your vehicle off the road and into an embankment. A second police vehicle collided with the rear of the vehicle you were driving. Police approached the vehicle. You were seated in the driver's seat and was asked to exit your vehicle. You refused to do so and you were forcibly removed by police. Your passengers were not injured but both feared for their lives during the course of your driving.

You were arrested and conveyed to the Hobart Police Station. An oral fluid test was conducted which resulted in a positive result of THC.

You participated in a video recorded interview and under caution you made admissions. You said that you saw the police vehicle with its lights and sirens activated and that you panicked. You said that you were in flight mode. You did not want to be arrested in a crowded area where others would see you being arrested as you were embarrassed. You agreed that you drove around the roundabout at McDonalds intersection the wrong way and against the flow of traffic.

You agreed that you overtook other vehicles and the road was busy. You agreed that you drove around the roundabout at Huon Road, Southern Outlet intersection three times. You said that you were deciding what to do. You said that you were aware that police cars were following you. You told police that you suffered from poor mental health and you were told that you were bi-polar and ADHD although you did not agree with this diagnosis claiming that you thought other people were trying to label you. You said that you refused to take any medication for your mental health, but you used cannabis to help you sleep. At the conclusion of the interview you were charged and processed and detained for court.

You are 36 years old and married with three young children although separated. I note the information I received today in respect to you having access to those children. You are of Vietnamese heritage and you grew up in Sydney. Your mother lives in Tasmania and your father and two brothers continue to reside in New South Wales.

Your relationship with them all is a good one.

You went to university where you graduated with a bachelors degree in social work. You moved to this state in 2010 where you worked as a social worker.

You met your wife in the course of that work. She is also a social worker and both of you were engaged in highly stressful work with children from traumatic and disadvantaged backgrounds.

You continue to work as a social worker in this state - working with children enduring a multitude of issues though I note you are presently suspended due to the loss of the registration which permits you to work with vulnerable people. When you are working you are making a positive contribution to the community.

It appears that for a short period around 2008 you had some issues with drug use in New South Wales and your drug use resumed in 2020. You were under the influence of cannabis at the time of this offence. You use cannabis as a form of self medication and to help you sleep. I am told that you no longer use that drug.

According to the report that I have received, and this is confirmed by your counsel, you were struggling with your mental health at the time of this offending, you had been suicidal and felt like your life was spiralling out of control.

You have been diagnosed with a major depressive disorder and you now take medication for that. I have a report prepared by Dr Jordan who opines that your mental health began to decline in late 2019 or early 2020 as you struggled to cope with work responsibilities, the stress of being exposed to children in difficult circumstances and your own parenting pressures. This culminated in your reducing your working hours but you continued to experience high levels of stress and you regularly took sick leave.

You began to develop delusional beliefs that you could establish various businesses even in areas in which you had no experience and you took out a loan to finance some of these business ideas, borrowing \$100,000 to do so believing that you could operate a business which would assist disadvantaged youth and perhaps establish some positive notoriety for you.

The secondary result of your stress was a decline in your marriage a development which itself exacerbated your mental health condition.

I am told too that you experienced considerable stress in the wake of a primary school tragedy in the north-west of the state and that this further destabilised you.

By February 2022 you had been asked to leave the family home and your psychosis at this stage was in full flight. You began hoarding bizarre items and becoming obsessed with the idea of building unusual collections such as silver spoons.

In the midst of a psychosis you travelled to your wife's home and behaved as set out in the facts I have already outlined.

There is a proper and uncontested evidentiary basis for finding that at the time of this offending you were in fact in the midst of an ongoing psychosis. It is put to me, and I accept that that psychosis reduces the moral culpability of your driving. I accept your decision not to stop the vehicle when you heard the police vehicles sirens was an impulsive one borne out of panic and fear. I also accept Dr Jordan's opinion that in substance it is likely that but for the psychosis you would not have committed these offences.

That brings this case within the first limb of *Verdins*.

Other limbs of *Verdins* are also engaged according to Dr Jordan and the state does not take issue with this.

In relation to the second limb, which is whether your mental health condition should have a bearing on the kind of sentence the court imposes, Dr Jordan concludes that a community based order is more appropriate for you.

In relation to the 4th limb which deals with specific deterrence he opines that consideration of your psychotic state provides a basis for a reduction in the need for a sentence which addresses that consideration. As to that I note too that you are remorseful for your actions, ashamed of them, and that you are receiving treatment which addresses the underlying cause of the conduct (and explains it), making repetition unlikely.

As well, because of your fragile mental state, Dr Jordan considers that a sentence of imprisonment will weigh more heavily on you than it would a person of normal health, engaging the 5th limb of *Verdins*.

In the wake of your offending you spent 43 days in custody. This was difficult for you but you were, fortunately, identified as suffering from psychosis and given medication for it. By the time you were bailed on 31 March you were no longer experiencing the symptoms of the psychosis.

It is put to me that a return to custody would further impact your mental health and it could have significant consequences for you.

As I say the state does not challenge Dr Jordan's opinion with respect to the effect of such sentence put upon you and I sentence on the basis of that report.

I note that your employment as a social worker is jeopardised by reason of this offending. You are presently suspended without pay and your ongoing employment prospects remain uncertain given that you are not eligible for a working with vulnerable persons card as things stand.

It will only be through your own hard work that you restore yourself to the requisite status to be eligible to return to that employment.

I note that you continue to engage with the private psychiatrist and you are well supported by your general practitioner. There has been an adjustment to your medication with positive results.

You have also engaged in relation to the issues which emerged in the family dynamic and which resulted in a family violence order.

All of that is positive as is the fact that you have complied with bail orders since you were released to bail in March this year.

Whilst offences involving dangerous driving are serious and the need for general deterrence is a paramount sentencing consideration it is my view that all of the circumstances which are in play in this case and in particular the medical evidence from Dr Jordan a sentence which is different from that which might normally be imposed for this category of offending is appropriate.

This was by no means in the worst category of this type of offending. Apart from the collision with the police vehicle it is not suggested that your driving caused any other vehicle to take evasive action. Your manner of driving did however cause great fear to your passengers and the fact that it occurred with passengers in the vehicle aggravates the objective seriousness of it. The duration of the driving was not insignificant and the risks associated with it were real and you ought to have had regard for them and but for your psychosis ordinarily you would have.

I have already mentioned that you spent nearly six weeks in custody and I accept your counsel's submission that that goes to the issue of general deterrence: addressing the need for a sentence that recognises the need to deter others from such offending. I have decided in all the circumstances of this case to accept the opinion of Dr Jordan and the content of the presentence report and have determined a community based order represents an appropriate sentencing response.

You are assessed as suitable for such an order.

In the circumstances I have decided that an order requiring you to perform 175 hours of community service is appropriate, and I direct that is to be completed over a period of 30 months.

In relation to the charge of evading police I record a conviction and disqualify you from holding or obtaining a drivers licence for a period of two years to commence on the date that you were bailed at which time a condition was imposed that you not drive. In relation to the charge of driving with an illicit drug in your system I record a conviction, and suspend you from holding or obtaining a drivers licence for a period of three months cumulative to the period of disqualification I have just imposed, making for a period of two years and three months licence disqualification. I impose the minimum fine.