

STATE OF TASMANIA v LUKE JACK WALKER
COMMENTS ON PASSING SENTENCE

15 DECEMBER 2022
PEARCE J

Luke Walker, you have pleaded guilty to an assault committed on 3 October 2020 and to driving offences committed on 21 June 2021.

I will first address the assault which was committed against a young female, Tegan Smith. You were staying overnight with your partner Julia Tonks at her rented house in Trevallyn. Ms Smith lived in a unit in a neighbouring complex. Her friend Sefton Bottomley was visiting her. Although you pleaded guilty to assaulting Ms Smith you were tried and acquitted of other serious charges arising from the events of that evening. There is some dispute about the circumstances of the assault so it is necessary I make some factual findings. Differing versions of the lead up events were given at trial. You admit that at around 3.00 am you walked with Ms Tonks to Ms Smith's unit. Why you did so was in issue but I am satisfied that it was because you believed that Mr Bottomley had been disturbing you by loudly hooning on his motor cycle on the road nearby. You wanted to complain about it. Ms Smith said that she was woken by a male yelling outside her unit which I think is likely true. She claimed to have then gone out to her car to retrieve her phone, having realised she had left it there and when she did so you approached her, wanting to know where "that bloke" was. She said that you became increasingly aggressive and when she told you she didn't know who you were referring to you punched her once to her face, knocking her glasses off. She said that you then threatened to put her in hospital and said "Don't you know who I am. My name is Luke Walker, I run this town."

Your evidence was that you went to the unit about the motor cycle and Ms Smith emerged from her unit. You asked her who was riding the bike and when she made smart comments you became angry and slapped her face with an open hand.

I do not have complete confidence in either version of events but except in one other respect the discrepancies are of little consequence. I am not satisfied beyond reasonable doubt that you punched Ms Smith. She did not sustain any substantial injury beyond what appears to me to be a minor bruise. Even in the absence of medical evidence I think that it can safely be inferred that if you punched her hard in the face she would have suffered a greater injury. Although I have some reservations about her credibility and reliability I think it reasonably possible that she may even have thought that she was punched because that is what she reported on the 000 call later made to the police. What is clear is that, regardless of whose version of events is accepted, the blow was aggressive and unjustified and made in circumstances in which you wanted to assert some superiority over her. There was no occasion for a man as big and strong you to strike her. Although I will proceed on the basis that you hit her with an open hand I have no doubt that it was a forceful blow which bruised her face and knocked her glasses off. I also have no doubt that the situation of being confronted by a male in the middle of the night outside her unit was frightening for her. She was not responsible for Mr Bottomly's conduct, whatever it was.

I have a victim impact statement which describes serious ongoing psychological and other effects on Ms Smith but it is likely that the impact substantially relates to the matters of which you were acquitted and possibly contributed to by an assault not committed by you. You have a long criminal record, as I will further detail, but not particularly so for violence. You committed two common assaults as a youth and two as an adult, the most recent in 2017.

The driving charges to which you pleaded guilty are dangerous driving and the summary charges of evade police with aggravated circumstances, driving while disqualified and breaching bail. In my view it is a very serious example of dangerous driving. On 21 June 2021 you were at the Beauty Point Hotel with your friend Gamdur Dhillon. Just after midday you left the hotel driving Mr Dhillon's white BMW sedan and headed south on the West Tamar Highway towards Launceston about 50 kilometres away. At the time you were aged 27 and had a very bad record for committing driving offences. You had never held a driver licence. You had 13 prior convictions for evading police, three for evading police in aggravating circumstances, one for reckless driving, nine for driving while disqualified, 12 for driving without a licence, eight for driving an unregistered vehicle, one for failing to stop at the scene of a crash and one for a hooning offence. You had been disqualified from driving by courts on many occasions, the most recent then being on 10 March 2020 when you were disqualified for two years. On that occasion you were sentenced imprisonment for a total period of 19 months for numerous offences of dishonesty, breaching bail, firearm offences and driving offences committed throughout 2019 culminating in your evading police on 3 December 2019. The limited details of that offence which emerge from the record of your prior convictions give some idea of the significant risk you posed on that occasion. A separate charge of reckless driving was dismissed but only because it was taken to have been covered by the evade police charge. It must have been the case that on 21 June 2021 you had not been out of prison for long. You were already in breach of bail for other offences committed following your release, there was a condition of your bail that you not drive and you knew that a warrant had been issued for your arrest.

So, it could hardly have been a surprise to you that, when on 21 June 2021 the police became aware of where you were and that you were driving again, attempts were made to apprehend you. You were first seen by the police just south of Sidmouth about 12 kilometres into the journey. The police officer driving that car activated the lights and sirens and began to follow you, but you sped away. Your object from the start was to try to escape. Near Loira you came to roadworks on a narrow two lane section of the highway which was reduced to one lane. Road workers were there both on foot controlling the traffic and operating machinery. The works extended for about a kilometre and were controlled by a 40 kph speed limit and traffic lights. Ignoring all of the controls you sped through the section of road, narrowly missing a car stopped at a red light and against a line of cars travelling in the single lane in the opposite direction. Road workers and the drivers of those cars were forced to take evasive action to avoid being struck. When you came to a truck travelling in the opposite direction you drove onto the closed section of the road and continued on.

The police set up road spikes just south of the roadworks. You drove over them at about 80 to 90 kph. The front tyres of the BMW began to smoke and deflate. Although your car was sliding in and out of its lane including over double white lines you continued on at about 120 kilometres per hour. When you got to Exeter, by which time you had travelled about 20 kilometres from Beauty Point, the driver side front tyre came away from the rim and other debris was falling off the car. You drove through the main street of Exeter at between 40 and 50 kilometres per hour but, as you passed the police station, you accelerated, drove onto the incorrect side of the road on the wrong side of two concrete traffic islands and continued south on the highway.

Just past Exeter you encountered more road works, again controlled by a 40 kph speed limit and traffic lights. You drove through at about 70 kph although your car was continually sliding around. Another set of road spikes was set by the police near Brady's Lookout which

you drove over at between 80 and 90 kph. After that the other front tyre came off its wheel rim. One of the police cars which was following you drew back because debris from your car struck the windscreen. A third set of road spikes was set up on the highway near Grindelwald. You drove over them at 70 kph and kept going through more roadworks at about 110 kph despite the 80 kph speed limit and the condition of your car. One of the rear tyres then came off leaving only one tyre remaining. This caused you to cross double white lines as you struggled to maintain control of the car. You drove over traffic islands and onto the wrong side of the road. Other drivers were forced to veer off to avoid a collision. Limited only by the presence of other cars on the road you sped through this area, going around the roundabout at Legana on the wrong side causing more traffic to veer off. Your speed increased to 120 kph. Between Legana and Riverside you overtook other cars, at one stage reaching 130 kph. You drove through heavy traffic on the highway past Riverside and Trevallyn at 90 to 100 kph where the speed limit is 70 kph. Just south of the Trevallyn Power Station the condition of the car was so bad that the front collapsed and began emitting sparks and small flames as you sped on. Large pieces of metal were falling off. Other drivers had to take action to avoid your car and the debris as you weaved in and out of traffic and crossed double white lines.

The police expected that you would finally be brought to a stop at the intersection of the highway and Margaret Street, where the highway approaches the central business district of Launceston. Police officers in a number of vehicles were waiting for you there. Traffic had banked up in both lanes. However, you drove up onto the footpath around the stationary traffic, between a power pole and a building and again sped off. In the course of this manoeuvre you drove close to a police officer on the footpath and as you drove through a red light you narrowly missed a pedestrian and a truck travelling on Margaret Street. A block further on you drove through another red light. The police were able to follow you from the grooves which the wheels of your car left in the road way.

From the intersection at Margaret Street you drove to the northbound highway on the other side of the river. You swerved around cars at one point driving onto the grassed central verge area. The front of your car collided with the right rear of another car travelling slowly in the heavy traffic backed up on the Charles Street bridge approaching traffic lights. You shunted the car forward but still did not stop. You then collided with the right rear of another car as you attempted to avoid the cars stopped in both lanes by driving up onto the central concrete lane dividers. Only then did your car eventually come to a stop.

Still that did not deter you. You ran off, on foot, east along the street before going into the home of people you did not know and demanded that they hide you. You were eventually caught and arrested by the police at 12.50 pm, about 45 minutes and 48 kilometres after you left Beauty Point. Along the way multiple police vehicles and police officers were deployed to try to apprehend you but to no avail. There were gouge marks in the highway from the time you lost the first tyre. Other road infrastructure was damaged as well. Mr Dhillon's car was severely damaged if not destroyed although I am not sentencing you for that. Throughout the journey he was urging you to stop but you ignored him. Unsurprisingly he feared for his life.

The driver of the first car you hit was shaken and upset and her car was damaged. The driver of the second car you struck experienced neck and chest soreness.

You have been in custody since your arrest on 21 June 2021. On 17 May 2022 you were sentenced by a magistrate to imprisonment for a total term of 12 months from 3 June 2021 for other offences committed in the first half of 2021 following your release from prison. The

result is that the sentence I impose should commence on 2 June 2022. Those offences included multiple counts of driving while disqualified, breaching bail conditions that you not drive, unlicensed possession of a firearm and ammunition and abusing the police. Notably the offences included evading police and reckless driving on 13 May 2021, only a month before the crime for which I am now to sentence you. Again the reckless driving charge was dismissed but only because it was taken, incorrectly in my respectful view, to be subsumed by the evade police charge. Reckless driving is sometimes treated as less serious than dangerous driving but that is not necessarily so because it involves a mental element, that is a realisation of danger and a decision to act regardless of the risk. That you have been in custody for that period is relevant to totality. In other words, I should take into account that you have already served a 12 month term before any sentence I impose will commence. However the other sentences involve quite serious and separate criminality. In addition I will take into account the total effect of the sentences for the two separate matters I am considering. The only mitigating factor is your relatively early plea of guilty. The evidence against you on the driving charges was overwhelming but your plea has at least avoided the need for a trial and indicates some acceptance of responsibility. There has been some delay in the finalisation of the matter but that was so other charges against you could be resolved, some of which were resolved in your favour.

Your counsel asked that I consider having your suitability for a drug treatment order assessed. You come from a difficult family background characterised by violence and dislocation and neglect. You quickly descended into a pattern of offending and re-offending commencing as a youth and contributed to by abuse of illicit drugs. You first spent time in custody as an adult in 2015 and since then you have spent significant periods in prison. Your counsel suggests that you have become institutionalised and have never had the benefit of a concerted attempt to rehabilitate you. You are medicated for PTSD as a result of other events I need not detail, and the multiple causes of your offending behaviour have never really been addressed.

All of that is to be regretted. However, although you profess a willingness to take advantage of rehabilitative programmes and added maturity might increase the prospects of successful rehabilitation, you have done nothing through your actions to demonstrate any genuine intention to reform. There have been two previous drug treatment orders made, neither of which succeeded. You are no longer to be regarded as a youthful offender. Rehabilitation is properly addressed by allowing eligibility for parole but not before you have served the term which sufficiently provides for the need for punishment and deterrence and protection of the public which I think are the most important sentencing considerations.

I think this is a more serious case of dangerous driving than any other example that I have dealt with or been aware of since the penalties for this type of offending were increased in 2017. That amendment was made by Parliament to reflect increasing community concern about serious driving offences of this nature. The circumstances of it mean that the maximum custodial term which may effectively be made under a drug treatment order falls well short of the type of sentence which is required. Pedestrians, police, road workers, your passenger, and the occupants of a considerable number of vehicles, were put at grave risk. You drove for a prolonged period over a considerable distance. You ignored police requests to stop and the impact of the three different sets of road spikes. You ignored repeated requests by your passenger to stop. Having regard to the nature of the roads on which you were driving and the condition of your vehicle, the speeds at which you drove were extreme and dangerous particularly when the condition of your car meant that you were unable to fully control it. There were repeated instances of real danger and two actual collisions which involved

damage to vehicles and some injury and trauma to the drivers. You were motivated only by your self-interest and a wish to avoid the consequences of your criminal conduct. Your counsel indicated that you were paranoid about having to return to custody, a reaction exacerbated by illicit substance abuse. That is not mitigating. Had it been established that you were affected by illicit substances that would have made your crime even worse. The law requires that you be separately sentenced for evading police. In your case, the term which may be imposed for that offence is imprisonment for up to five years. You must not be punished twice for the same conduct, but escaping from the police adds the element of desperation to the driving and decision-making thereby adding significantly to the potential danger you posed. It is pure luck that no one was more seriously injured or killed. As you had done on many previous occasions you demonstrated a complete disregard for the law and for authority and for the safety of the community.

Luke Walker, on indictment 80/2022, count 1, the assault, you are convicted. You are sentenced to imprisonment for two months from 2 June 2022.

On complaint 32580/21, you are convicted on counts 1, 2 and 4. On count 1, evading police, with aggravated circumstances you are sentenced to imprisonment for nine months also from 2 June 2022, that is, concurrently with the sentence just imposed. I order that you not be eligible for parole until you have served six months of that term. You are disqualified from driving for four years from your release from prison. On counts 2 and 4 on the complaint, driving while disqualified and breaching bail, I impose one sentence. You are sentenced to imprisonment for six months to be served concurrently with the term just imposed. On indictment 10/2022, dangerous driving, you are convicted. I make compensation orders in favour of Belinda Jane Young and Elizabeth Lea Burston but adjourn the further terms of those orders to a date to be fixed. You are disqualified from driving for four years from your release. You are sentenced to imprisonment for three years to be served cumulatively to the terms just imposed. I order that you not be eligible for parole until you have served half of that term.

The total period of imprisonment that you are liable to serve as a result of these sentencing orders is three years and nine months from 2 June 2022 with eligibility for parole after having served two years of that term.