

29 MARCH 2023
BLOW C.J.

Mr Westbrook has pleaded guilty to charges of escape and dangerous driving, and to four related summary offences which I am dealing with under s 385A of the *Criminal Code*. All of these offences were committed on 16 September 2021.

On that day Mr Westbrook was serving a sentence of imprisonment in the prison at Risdon. It was a sentence of 3 months' imprisonment that had been imposed by a magistrate in Launceston on 3 September 2021 on charges of driving whilst disqualified and driving with prescribed illicit drugs in his oral fluid.

Mr Westbrook planned to escape from the prison garden. Inmates who worked in that garden wore high-vis clothing. He did not work in the garden. He acquired a high-vis hat and a high-vis jumper.

On the morning of 16 September 2021, the 14th day of his sentence, he removed all the bedding and other items from his cell, placed them in an empty cell, and poured disinfectant on them. He also poured disinfectant in his empty cell. He took those steps so that, after he escaped, tracker dogs would not be able to familiarise themselves with his scent.

He put on the high-vis clothing and took a wheelbarrow to the door of the prison garden. There was a correctional officer there who appeared to be new to the job. He told that officer that he was part of a horticultural class, which was not true, and asked him to let him into the garden, which he did.

He started work in the garden, but other correctional officers got him to leave, saying that he could return later with the horticultural class. Instead of returning to his cell, he went to another area of the garden where he climbed onto the roof of the old prison hospital. From there, he scaled the perimeter fence, using his hands to push over the razor wire on top of that fence, and jumped to the ground.

He ran through bushland to a street in Risdon Vale where a house was being renovated and vehicles were parked in the driveway. He saw a Ford Ranger with keys in the ignition, got into it, and drove it straight through a back fence, gaining access to Grasstree Hill Road. He has pleaded guilty to charges of motor vehicle stealing, driving without a licence, and destroying property. The charge of destroying property related to the fence. When he was sentenced on 3 September 2021, the magistrate cancelled his driver's licence and disqualified him from driving for a period commencing upon his release from prison. Therefore when he drove off through the fence he was an unlicensed driver, not a disqualified driver. His disqualification had not commenced.

He drove to the East Derwent Highway and headed along it in a northerly direction. In the area of Otago Bay there were some roadworks and a signposted speed limit of 40 Km/h. Police Officers saw him driving erratically through the roadworks at speeds between 70 and 120 Km/h, overtaking a number of vehicles. Near the intersection with Kandos Drive a constable attempted to stop him by parking a divisional van in the northbound lane of the highway with its lights and sirens activated. He drove at speed towards the constable, and narrowly avoided a collision with the van as he continued along the highway. In respect of that failure to stop he has pleaded guilty to a charge of evading police.

He overtook a bus and passed a second police car. After that he clipped a road sign, lost control, and swerved into the path of oncoming traffic. The driver of an oncoming vehicle had to swerve to her left to avoid a collision. He regained control of the vehicle and continued north on the highway.

Another police officer did a u-turn and followed him at a distance. That officer had to travel at 130 Km/h to keep up with him. He overtook two more vehicles at about that speed.

He turned right onto Baskerville Road, which has a speed limit of 70 Km/h. He later told the police that he believed he was travelling at about 120 Km/h along that road. At its intersection with Briggs Road some police officers were deploying road spikes. Mr Westbrook drove over the spikes. Both right hand tyres of the Ford Ranger began to deflate. He turned left onto Briggs Road, and travelled on the incorrect side of the road at times, sometimes on corners and sometimes on double white lines.

As he approached the intersection with Gage Road he crossed onto the incorrect side of the road. Two drivers had stopped their vehicles there in the hope of avoiding collisions with his vehicle. He tried to drive between the two vehicles, but collided with the passenger side of one and the driver's side of the other. The tray of the stolen vehicle fell off as a result of those collisions.

Mr Westbrook continued in a westerly direction along Gage Road, and then turned right onto the East Derwent Highway and headed north again. He continued to drive erratically, almost colliding with a number of southbound vehicles. By this time both tyres on the right hand side of the vehicle were completely deflated. He went onto the wrong side of the road before the Jordan River bridge, pulled into a gravel area, and then returned to the highway, travelling at about 20 Km/h. A number of police vehicles attempted a "rolling road block" in the hope of stopping him. Mr Westbrook pulled the stolen vehicle to the side of the road, hit a metal pole, and then attempted to drive up an embankment to get away, without success. Four or more police vehicles surrounded the stolen car.

One police officer got out of his vehicle, drew his firearm, and approached Mr Westbrook. Mr Westbrook reversed the stolen vehicle into a marked police vehicle, pinning the officer in its doorway. The Crown accepts that he did not see the officer. The officer's ankle was caught under the police vehicle. Mr Westbrook continued reversing, causing the officer to be dragged along for two or three metres. The officer suffered minimal physical injuries, but feared that Mr Westbrook was trying to run him over. In this reversing manoeuvre, Mr Westbrook caused damage to three police vehicles and drove over a speed limit sign. He escaped from the "rolling road block" and drove another 200 metres along the East Derwent Highway before veering left and driving through a metal fence into a grassed area where the car was finally stopped by police officers. He was arrested and has been in custody ever since. He had been driving dangerously for about 15 Km.

Mr Westbrook was taken to the Royal Hobart Hospital for treatment. He had a cut to his leg which required stitches. From the hospital he was taken to the Hobart Police Station where he participated in a video recorded interview and made full admissions. He said that he had been getting a hard time from other prisoners, and that his plan on escaping was either to be shot by police officers or to escape to the Mole Creek caves and go into hiding there.

In the course of this escapade Mr Westbrook caused damage to the stolen vehicle, six police vehicles, and the two vehicles that he decided to drive between.

Mr Westbrook was 35 years old on the day in question and is now 36. He has four prior convictions for drink driving offences, three for driving with an illicit drug in his body, three for driving whilst disqualified, and three for driving whilst unlicensed. He was given a wholly suspended sentence for driving offences in 2016, sent to prison on driving charges for the first time in 2019, and sent to prison for a second time on 3 September 2021. He has been consuming alcohol since he was about 12 years old, and using illicit drugs since his early teens. All of his prior convictions are related to his abuse of alcohol and drugs.

Mr Westbrook's mental health had been deteriorating in the years and months leading up to the day of his escape. I have been provided with a thorough and helpful report by an experienced forensic psychiatrist. Mr Westbrook had not had any treatment for his mental health before this escapade. The psychiatrist considers it likely that he had been suffering from depression over an extended period. Since being injured in a motor vehicle accident about 8 years previously he had experienced sleep problems, disturbing dreams, and a deterioration in his mood. It appeared that his problems had been compounded by a former partner dying of cancer several years ago, and possibly by the spiking of a drink on his birthday in August 2021. In the weeks leading up to his incarceration on 3 September 2021 he experienced unusual psychotic reactions to illicit substances, an extended period of abnormal perceptual experiences, perceptions of seeing shadows, and unusual ringing in his ears. He reported that he had made several requests to be seen by a doctor after going to prison, because of his concerns about his mental state, but nothing was done for him. By the day of his escape he had become suicidal. He saw getting shot, or "suicide by cop", as a possible outcome of his escape.

Following his brief escape, he was prescribed anti-depressant medication. An appropriate anti-depressant was found, and he has benefited greatly from that medication, as well as from enforced abstinence from illicit substances. He regrets all that he did on the day of his escape. He has gained insight into his offending and into the consequences of his abuse of alcohol and drugs. He has a good work record, and comes from a supportive family. He pleaded guilty once discussions as to the appropriate charges led to a resolution.

The only appropriate sentence in this case is a sentence of imprisonment. I have to impose a separate sentence on the charge of evading police, and must disqualify him from driving for at least two years on that charge. Because the sentences I am going to impose follow on from the three-month sentence imposed by the magistrate, I will backdate the first of my sentences so that the first month of it is concurrent with the last month of the magistrate's sentence. Because of Mr Westbrook's mental health problems and the progress made in relation to them, I will impose shorter sentences than I would otherwise have imposed and fix the shortest possible non-parole periods. The sentences that I will impose will result in him becoming eligible for parole next week.

Michael Douglas Westbrook, I convict you on the six charges. On the charge of evading police I sentence you to 2 months' imprisonment with effect from 3 November 2021, and disqualify you from driving for 2 years after your release from prison. You will be eligible for parole after serving 1 month of that sentence. On the other charges I sentence you to a cumulative term of 2 years 8 months' imprisonment. You will not be eligible for parole until you have served 16 months of that sentence. I make three compensation orders, in favour of the proprietor of the

business B & W Appliances, the proprietor of the business Old Beach Electrical, and Tasmania Police. In respect of each order I adjourn the assessment of compensation sine die.