

STATE OF TASMANIA v MATTHEW DAVID FREE
COMMENTS ON PASSING SENTENCE

21 AUGUST 2023
JAGO J

This is an application for breach of a suspended sentence. On 21 December 2021 the respondent was sentenced in respect to one count of wounding to six months' imprisonment, the execution of which was wholly suspended on condition that he not commit another offence punishable by imprisonment for two years. Mr Free breached the conditions of the suspended sentence when he committed the offence of dishonestly displaying a plate in a way that was calculated to deceive contrary to s 64(1)(d) of the *Vehicle and Traffic Act* 1999. Such an offence is punishable by a period of imprisonment not exceeding six months.

This offence was committed by the respondent on 19 August 2022, so approximately eight months after he received the period of suspended imprisonment. The breaching offence involved the respondent placing his number plates onto a different vehicle and then submitting that different vehicle to the Motor Registry when he was called upon to submit his vehicle for a compliance check. By doing this, the respondent avoided having a number of modifications he had made to his vehicle, which were unlikely to be compliant, detected and/or examined. He, therefore, was able to preserve the registration of his vehicle. It was a relatively serious example of the offence. He was sentenced in the Magistrates Court on 20 April 2023 and was fined.

The suspended sentence remains, as at this date, active. It does not expire until December 2023. It seems the breaching offence I have referred to is the only offence committed by the respondent contrary to the terms of the suspended period of imprisonment. It is an offence very different in nature to that for which the respondent was sentenced. Whilst a serious example of the offence of dishonestly displaying a plate in a way calculated to deceive, such an offence, generally is not of the seriousness or gravity of the wounding charge.

I am told the respondent is employed. He is apparently doing well in that employment and pursuing leadership possibilities. Other than this breaching offence, he has been living a stable pro-social life since the imposition of the suspended period of imprisonment.

I bear in mind the matters referred to in *Tanner v Brown* 2011, TASSC 59. I bear in mind that that the starting position is that the suspended sentence will be activated unless the Court is of the opinion that it is unjust. Taking into account all of the circumstances, and the indications of reform that, save for the breaching offence, the respondent has exhibited I am of the view that it would be unjust to activate the sentence. Pursuant to s 27(4)(c) sub-paragraph (d), I make no order in respect to the suspended sentence.