

By a unanimous verdict Trent Henricks, the defendant, has been found guilty of one count of causing death by dangerous driving. His driving caused the death of Yuanping Wang – a visitor from China – on 6 May 2020 on Montrose Road, Montrose. The facts as I find them are to be as follows. At the time, the defendant lived at Montrose Road and had done so for many years. About three weeks before the incident he purchased a Holden Vectra sedan with a view to correcting some mechanical issues with the engine, and then using it for daily driving or to sell it. On 6 May 2020 he had completed the repairs and detailed the car. At about 4.30pm he – along with his brother as a passenger – took the car in order to, as he put it in his evidence, dry the car off and to test that the engine was working properly. He turned right at the bottom of his driveway and drove down Montrose Road in an easterly direction. The road runs slightly downhill in that direction and the speed limit was 50 kph. At this time Yuanping Wang and her husband Honglin Wang were walking down Montrose Road in the same direction but at a point further to the east of where the defendant had entered the roadway. That walk had been a regular thing since arriving to stay with their daughter a few months earlier. A resident of 113 Montrose Road said he saw the couple walking down the roadway at a point where there were no footpaths. Shortly after he heard a loud revving sound and a car travelling towards his house and then saw a vehicle travelling down the road at what he thought to be an excessive speed. A few seconds later he heard tyres screeching and a loud impact before silence. He looked but could not see anything and then spoke to a neighbour before going down the road a short time later at which point police were in attendance and the road was closed. Other witnesses, including Honglin Wang, said they heard a loud revving sound or engine noise from a car, undoubtedly that being driven by the defendant. There is a right hand bend in Montrose Road between about 112 and 108 Montrose Road as one travels east. That is further to the east of the defendant's home. The evidence of the expert police accident investigator was and I find, consistently with the jury's verdict, that the vehicle was driven by the defendant at such a speed that he lost control of the vehicle in negotiating that corner, and started to rotate in a clockwise direction before broadsiding at 90 degrees to the direction of travel, at which point the vehicle collided with the deceased before continuing on a short distance to hit a culvert on the right hand side of the road and then rotated 180 degrees before coming to rest at a point about opposite 102-104 Montrose Road. The deceased had been walking on the right hand side of the road, from the defendant's perspective, and was about to follow her husband across the road to where the footpath commenced. He had gained the footpath by the time of the collision. Yuanping Wang was killed instantly. The critical facts are that the right hand curb has a critical curve speed of 64 kph which is the speed at which a vehicle is not able to negotiate the corner without going into yaw – which is what happened in this case. At the time the vehicle was in yaw it was travelling at 77 kph, 27 kph above the speed limit. From a point roughly 15 metres or so from the commencement of the marks on the road indicating commencement of yaw, the speed was calculated at an average of 69 kph over a distance of about 21 metres to the west. That was calculated using CCTV footage obtained from 103 and 103A Montrose Road. I think the only reasonable inference is that the car was speeding up as it went through that measured distance. The jury rejected the reasonable possibility that, as claimed by the defendant, he saw Honglin Wang on the roadway and reacted but instead of braking he put his foot on the accelerator. The defendant said he was driving in low gears, which may explain the loud engine noise, but the estimates of his speed were not in dispute. The evidence of the police expert, in cross-examination, was that using a fair range of reaction times and the distances to where the yaw marks commenced, at the point at which a driver could have seen Honglin Wang, he was

already on the footpath on the northern side, and at the point at which the defendant lost control, Yuanping Wang could not be seen.

I have victim impact statements from Honglin Wang and his daughter Xiaoshu Wang. Mr Wang describes meeting his wife in the 1970's describing her as his "soul mate" as soon as he got to know her. They married in 1983 and had their daughter the following year. They shared a deep and harmonious love, rarely argued and were widely recognised as a model couple. He says that in every aspect of life he was looked after by Yuanping with the upmost attention and now, at over 60 years of age, he is having to learn to look after himself. He was immediately traumatised after the accident. On returning to China he was diagnosed with cardio-vascular disease with required treatment in hospital. At first he was unable to sleep at home due to the memories of his wife. He ultimately sought help from a psychologist and has been prescribed medication to help him sleep. He is now fearful of loud car engine noises which he says has crippled his ability to live a normal life. He has become isolated and unable to interact with old friends because of memories of his wife. He finds it financially difficult because of the loss of Yuanping's salary. He says the impact of her departure is indescribable in words. The sorrow is so intense that causes heartache and he hopes the offender may come to understand the pain he is suffering. Xiaoshu Wang also speaks of the great loss she feels; having become particularly close to her mother, describing them as best friends. Her mother assisted her over a long period with a particularly acute personal matter, and after the accident she felt like her world had crumbled. She had to manage all of the funeral arrangements including the return of the body to China. Ultimately she too sought help from a psychologist. She feels guilt that it was the visit to see her in Australia that ultimately lead to the tragedy.

The defendant is now 44 years old. He has a recorded history of traffic offending that extends to 15 speeding infringements and three for making undue noise. While these may be significant in number, the offences were committed between June 1998 and February 2012, so they are of some age. That the defendant was required to drive extensively in the course of his employment in various positions over a number of years – amounting to about 40,000 to 50,000 klm per year – also puts this in context. He is the sole registered owner of the house in Montrose Road where he has lived for about 20 years and while his brother and 23 year old daughter live with him, he is the sole source of the mortgage payments and other household expenses. He was employed up until the time I remanded him in custody. This was in a supervisory role in a line marking company for which he had worked for two and a half years. He has been employed for his entire adult life and all of that employment has involved managerial or supervisory roles. Counsel noted that a term of imprisonment will obviously lead to the loss of employment and the creation of a risk of being unable to find employment in the future. Having always been employed, this a very significant matter for the defendant. There is also a fair degree of risk that the mortgage payments will not be maintained, with the consequent prospect of a mortgagee sale. That would mean his brother and daughter having to find alternative accommodation. I am told that the defendant is horrified that his act of driving has caused the death of someone, and believes this will deeply trouble him for the rest of his life. I have regard to all of those matters. He is not to be punished of course for taking the matter to trial but he does not obtain the mitigatory effect of a plea of guilty.

The proper approach to this and similar crimes has been made clear by the Court of Criminal Appeal. Factors of general deterrence and denunciation are prominent in the sentencing exercise. Of the common factors that are recognised to aggravate this type of offence, many are absent. The defendant had not been drinking or taking illicit substances, nor was he evading police, or racing another driver or engaging in other thrill-seeking behaviour. Apart from those

matters, there are other factors that may incline a person to drive dangerously, such as rage. Here, I find the reason for the speed involved was primarily to test the vehicle but also to dry it off after washing it. The entire course of driving was over a relatively very short distance; some 250 metres, with the danger particularly manifest on entering the bend at excessive speed. This is not a case of a prolonged episode of dangerous driving. On the evidence, the number of people actually put at risk was low but it did include his brother, and the potential risk of some significance was there. It was late in the afternoon on a weekday in a residential area. I accept that vehicular traffic in the area was frequent, that people often walked in the area, capable of being observed by the residents, and seeing wildlife at dusk was common. There were no formed footpaths until just beyond the point of impact. The loss of Yuanping to her family has been very traumatic for them. For sentencing purposes it is bearing in mind the sanctity of life in general that is important. No sentence of imprisonment will be able to return the life that has been lost or repair the harm that has been caused. Sentences in a case like this often seem nowhere near as severe as the harm that the offender has caused, and at the same time, seem overwhelming from the point of view of the offender and those close to the offender. I am required to take into account the defendant's personal circumstances. The sentence I am about to impose is intended to strike an appropriate balance, and to be consistent with other sentences in this State for serious driving crimes, bearing in mind the factors that I have referred to. Of course, sentence is to be imposed on the basis that death was neither intended nor actually foreseen as a possible consequence.

Mr Henricks, I have set out the relevant facts and the circumstances that need to be taken into account. Obviously, causing someone's death by dangerous driving is a very serious matter. A term of actual imprisonment is almost always inevitable but in your case there is an absence of factors that would see the appropriate sentence a particularly lengthy one, as some sentences have been in relation to this crime. You are convicted of the crime and sentenced to two years' and three months' imprisonment to commence on 18 September 2023. I order that you not be eligible for parole until you have served one half of that sentence. I also order that you be disqualified from driving for a period of 18 months to commence upon your release, but your licence will be suspended, not cancelled.