

STATE OF TASMANIA v CASEY ELIZABETH HARWOOD 7 SEPTEMBER 2023
COMMENTS ON PASSING SENTENCE **WOOD J**

Casey Elizabeth Harwood has pleaded guilty to one count of dangerous driving contrary to s 172A of the *Criminal Code* and three summary offences which arose out of the same incident, namely drive a motor vehicle while exceeding prescribed alcohol limit, drive under the influence of intoxicating liquor and a drug, and drive whilst a prescribed illicit drug is present in blood.

On 27 August 2022 at approximately 10:00 pm the defendant drove a vehicle, a Holden Cruise, on Rosny Hill Road towards the Tasman Highway. She was driving towards the Tasman Bridge in the wrong direction and towards oncoming traffic.

The complainant, Ms Burnett, was driving a Holden Acclaim on the Tasman Highway towards Rosny Hill Road. Her son, Kevin Braslin, was seated in the front passenger seat and his girlfriend, Ms Maynard, was seated directly behind him in the back seat.

Rosny Hill Road is one way. The section where Rosny Hill Road meets the Tasman Highway is three lanes.

The defendant reached the bend in the road in front of Rose Bay High School, just as Rosny Hill Road meets the Tasman Highway, against the traffic as the complainant approached in the middle lane.

Ms Burnett tried to avoid the defendant's vehicle by driving into the left-hand lane, however, the defendant also veered into that lane causing a head-on collision with Ms Burnett's vehicle. Ms Burnett was travelling at approximately 70 km/h, which is the speed limit on that section of road.

The airbags were deployed in both vehicles and both vehicles were damaged extensively. Police, ambulance, and fire services attended the scene.

Ms Burnett was trapped in the vehicle and had to be freed by Tasmania Fire Service. She was then transferred to the Royal Hobart Hospital. Mr Braslin was able to get out of the car without significant injuries.

The defendant sustained only minor injuries but was taken to hospital and provided a sample of her blood for analysis. The results showed major metabolites of cocaine present in her blood. Her blood alcohol content was 0.17 grams of alcohol per 100 millilitres of blood.

The defendant attended Bellerive Station voluntarily on 3 September 2022 and admitted being the driver but declined to provide any further information. She was unable to say much about the accident because her memory was limited.

Ms Burnett suffered multiple injuries as a result of the crash and was hospitalised for three days. She sustained a transverse process fracture of her L3 and L4 vertebrae, posterior rib 6 and 7 fractures, and an isolated fifth toe fracture.

Ms Maynard was hospitalised for two days. She was pregnant at the time and very worried she would lose her baby. Fortunately, there was no harm caused to her or her unborn child. She was in a lot of pain during the time she was in hospital recovering. She experienced panic and anxiety and has needed treatment. At the time, she was working towards getting her

learner's licence but after the crash was too frightened to drive again. She is more isolated at home with a baby than if she had been able to obtain her licence.

The defendant's act of driving arose out of a chaotic evening. She had had an argument with her partner during the day. She attended a party at the Rosny Bowls Club, where she drank to excess and was involved in an altercation with her partner's cousin. She was held on the ground and punched to the face. She was injured and she was driven to her partner's house at Rokeby. There, she became panicked, she felt unsafe and she had thoughts that the relationship with her partner was over. Her partner's car was at the address. In a heightened emotional state, she made a terrible decision to drive. She does not recall where she was intending to drive, or even if she had a destination in mind. I note that in the days before she had been experiencing anxiety and had been prescribed medication for it.

The defendant was in the habit of using cocaine sporadically on social occasions and had done so for a period of about 12 months. She was not usually a heavy drinker.

Since then, she discovered the identity of one of the occupants of Ms Burnett's vehicle and arranged for an offer to be made to pay for the damage to the car. An apology was conveyed on her behalf and compensation has been paid. I regard that as a sign of her remorse.

The defendant entered pleas of guilty at the earliest possible stage. She is genuinely remorseful. After the crash, she took stock of what led to the accident and, of her own initiative, has taken significant steps towards rehabilitation. In September 2022, well before any charges were laid, she engaged with Holyoake for the purpose of maintaining abstinence from drugs. A report from Holyoake notes that the defendant expressed "deep regret, shame and guilt" about the events. She has insight and attributes her actions to poor decision-making.

She has ceased using cocaine and she has reduced her alcohol consumption to drinking occasionally and in moderation. The Holyoake report recommends a future treatment plan of counselling, either individual or group counselling, and six months of "after care".

The defendant is 33 years of age. She has held a drivers licence since the age of 18. She has three minor traffic convictions. She has steady employment as a business systems officer in a large organisation. She has a son aged nine and has an amicable share-care arrangement with her former partner.

I have a report from Community Corrections which indicates Ms Harwood is suitable for a range of community-based options and, also, that she would benefit from a period of supervision for the purpose of providing her with structured support, continued engagement with an alcohol and drug program, and individual counselling.

This incident of dangerous driving is particularly serious and involved a driver who was very intoxicated, so much so that she was oblivious to the fact that she was driving in the wrong direction on a one-way road, and who drove into the path of an oncoming vehicle, resulting in a head-on collision. The collision was traumatic for the occupants of the other car, and resulted in serious injury to the driver, noting there is no suggestion, fortunately, of permanent injury or symptoms. I note, Ms Harwood, that you are aware of the seriousness of your actions and relieved that they did not cost someone their life.

The sentence must be heavy enough to deter others and mark the seriousness of this crime, and the potential for terrible harm. However, it must also reflect the fact that there is minimal need

for specific deterrence. It seems to me, Ms Harwood, that you have learnt a salutary lesson, you are motivated to remain abstinent from drugs, and you will co-operate with court orders to promote your reform.

Given your circumstances, including your lack of relevant prior convictions, your positive attitude, and your commitment to your reform, I conclude that a wholly suspended sentence is a just and appropriate sentence.

I record convictions. In relation to the crime of dangerous driving, I impose 12 months' imprisonment which is wholly suspended on condition that you must not commit an offence punishable by imprisonment for the operational period of two years from today and conditions as follows:

- That you must satisfactorily complete 63 hours of community service as directed by your probation officer within the period of 18 months;
- That you submit to the supervision of a probation officer as required by the probation officer for a period of 18 months;
- That you must report to a probation officer at 75 Liverpool Street, Hobart no later than tomorrow at 4pm;
- That you must comply with the reasonable and lawful directions of a probation officer, and must not leave or remain outside Tasmania without the permission of your probation office;
- That you must give notice of any change of address or employment within two working days of the change to your probation officer;
- That you must undergo assessment and treatment for drug dependency as directed by your probation officer, and comply with directions regarding referral to individual drug and alcohol counselling and drug rehabilitation programs at Holyoake or a similar organisation in order to achieve and maintain drug abstinence.

In relation to the crime of dangerous driving, you are disqualified from driving for a period of 2 years from today and your licence is suspended for that period.

For the summary offences, I have already taken into account the defendant's intoxication in sentencing for the dangerous driving. Consequently, periods of licence disqualification will be concurrent.

For the offence of driving while exceeding the prescribed alcohol limit, I impose 12 months' disqualification and a fine of \$975.

For the offence of drive with illicit drug present in blood, I impose 6 months' disqualification and a fine of \$400.

For the offence of drive under the influence of intoxicating liquor, I impose 15 months' disqualification and the minimum fine of \$975.

All periods of disqualification imposed on the summary offences are concurrent with the 2-year period imposed on the dangerous driving.