

HKR you have pleaded guilty to one count of dangerous driving. The crime was committed on 1 July 2022. At the time, you were 17 years of age and the holder of a P1 provisional licence. You are now 18. You and some friends had arranged to meet at Moorland Beach near Wesley Vale. This is a public beach where the driving of motor vehicles is permitted. The plan was that you and your friends would travel in two vehicles along the beach and drive around for some fun. You and IF travelled in your vehicle to the beach. Three others, BH, AM and NW travelled to the beach in a separate vehicle. BH was also a P1 Licence holder. The plan was, initially, for her to take her vehicle onto the beach, but when she arrived she changed her mind with the result that all five of you travelled in your vehicle. Your vehicle was a single cabin utility. Three people rode in the cabin and two people were in the tray of the utility. I am told you were initially reluctant for this to occur but because you had all arrived at the beach and everyone was keen to have some fun, you succumbed to pressure and agreed to allow it to occur. You commenced driving without incident. At one point during the journey, BH drove your utility and you rode in the tray.

At a point after you had resumed driving, you began swerving the utility on the beach, whilst NW and BH were in the tray of the utility. You swerved the vehicle for a distance of approximately 400 metres. The patterns left in the sand by the vehicle suggested each swerving action was approximately 75-100 metres apart. The swerving motions therefore involved quite obtuse angles. It is certainly not suggestive of tight cornering or circling. You were travelling on average at 40-50 kph. One of the youths apparently had an application on their phone which recorded speed. It noted a top speed of 55 kph, but it is unclear how accurate this application was or for how long this speed was maintained. I will sentence on the basis the speed involved when swerving the vehicle was not obviously excessive, but given the conditions, was too fast.

As you neared the end of the beach, you endeavoured to turn the vehicle. The utility tipped and rolled onto its passenger side and then onto its roof. The two youths in the utility tray were thrown from the vehicle. NW landed on his feet and was able to roll out of the way of the vehicle, but as he attempted to run, he collapsed due to pain in his left ankle. BH was thrown from the tray of the utility and landed face down on her stomach. The three of you inside the vehicle were able to exit unharmed. BH was initially unconscious. When she regained consciousness, she began to scream in pain. You stayed with her to calm her and to assist her.

Emergency services were called. Both NW and BH were transported to the North West Regional Hospital by ambulance. NW had a fractured ankle. It was treated with a plaster cast. Surgery was not required. BH had a fracture of the left occipital bone, a compression fracture of the C7 vertebrae, fractures of the left and right sacrum, and fractures to part of her pelvic bone. These injuries were treated conservatively and she did not require surgical intervention in respect to any of them.

Subsequent crash scene investigation disclosed that the speed range at the time of the crash was between 29 and 38 kph. The rollover occurred either because you were travelling too fast for the conditions or because of a sudden and severe steering input. Again I will sentence on the basis the speed was not obviously excessive, but given the conditions were sand, and therefore traction was less, it was too fast. A sample of your blood was taken for analysis. No alcohol nor drugs were detected in your system.

It counts in your favour that you have pleaded guilty to the charge at an early stage. The plea of guilty has value in mitigation. The other youths, your friends, have been saved the ordeal of giving evidence about the matter. They continue to support you and in no way blame you for the incident. This was a mutual decision that all five of you travel in the one vehicle on the beach. You have pleaded guilty to the crime of dangerous driving on the basis that you were driving at a speed which was unsafe in the circumstances, that you were driving with unrestrained passengers in the cabin and the tray of the utility, and that you failed to maintain proper control of the vehicle by causing it to lose traction when you cornered at the end of the beach. The extent of danger associated with your driving is a matter about which minds may differ. In my view, the dangerous aspects fall towards the lower end of the scale of seriousness, with the most obviously dangerous aspect being that you allowed persons to travel in the tray of your utility when they were clearly unrestrained and at risk of injury should anything untoward occur. I note there was some initial reluctance on your part to allow this to occur, but you were the driver, it was your vehicle, and it was your responsibility to ensure that anyone that was allowed to travel within your vehicle was going to be safe during any journey.

I note you have no prior convictions. You are a young man of good character, with significant potential to lead your life as a law abiding and contributing member of our community. You have good family support. You live with your mother and stepfather in a supportive home environment. You successfully finished your schooling and then commenced an apprenticeship as an electrician. You are now in your third year of that apprenticeship and are well regarded by your employer. He considers you to be an industrious young man who is an asset to his business.

I accept you are genuinely remorseful and have learned a very valuable lesson from this experience. You have taken responsibility for the incident from the beginning. After emergency services were alerted, parents were also advised. You awaited their arrival and immediately told the truth about what had occurred. I accept that your actions were out of character and it is unlikely that you will commit a crime such as this again. As I said, this was a group of friends setting out to have some fun. Unfortunately, in the course of that, you made a poor error of judgment but I have no doubt you have learned a difficult lesson from this and will be far more aware of your obligations as a driver of a vehicle going forward. I do not think that personal deterrence is a significant sentencing factor, nor do I think it is necessary to make provision in the sentence for your rehabilitation. I accept that you are a young man of good character with bright prospects. I am confident that you will behave appropriately and lawfully into the future.

Of course, personal factors are only one of the relevant considerations in sentencing for a matter of this nature. It is a matter of community concern and well within the experience of courts that dangerous driving is a prevalent crime, often committed by young men in company with others. Fortunately here, the consequences were not particularly grave but far too often the consequences of driving of this nature can be death or serious injury of passengers, or other innocent road users. It is not uncommon for persons to be injured when travelling in the rear trays of motor vehicles in remote or rural areas. Young people need to understand that poor choices can, and often do, lead to tragic consequences.

I note that many of the serious aspects of driving often seen in cases of dangerous driving, are not present here. For example, this was not a case of prolonged or erratic driving through built up areas. Rather, it was a brief journey, of approximately five minutes and involving a travel distance in the vicinity of a little over 400 metres. The speeds involved were not excessive.

This incident occurred on an isolated beach. There is no evidence of any other vehicles or pedestrians being present on the beach, and the likelihood of large numbers of members of the public being exposed to danger was limited in my view. No aspect of your driving involved an endeavour to escape from police, and there is no suggestion that you were driving with drugs or alcohol in your system. Nevertheless, I am conscious that general deterrence remains an important sentencing consideration.

People who drive dangerously and put themselves and others at risk, are usually sent to gaol. This not unregularly occurs even in circumstances where they are young and lack a criminal record. However, in your case, I am satisfied that a period of imprisonment is not warranted. As I have already noted, in my view, the dangerous aspects of your driving were relatively limited. When I have regard to that, coupled with your lack of prior convictions, your young age, your otherwise good character, and your obvious remorse, I am satisfied that a more lenient approach is justified. I think an appropriate sentencing response is to convict you, which in itself has a punitive consequence, impose a Community Corrections Order and a licence disqualification. Given your employment, the disqualification will be harshly felt.

HKR, you are convicted of the crime of dangerous driving. I make a Community Correction Order. You must comply with the order for a period of 18 months, commencing today. The statutory core conditions of a community correction order are imposed. These conditions will be set out in a document that will be provided to you. In summary, they will include the following conditions that will apply for the entire operational period:

- You must not commit an offence punishable by imprisonment;
- You must report to a probation officer as required by the probation officer;
- You must comply with the reasonable and lawful directions of a probation officer or a supervisor;
- You must not leave or remain outside of Tasmania without the permission you're your probation officer; and
- You must give notice to a probation officer of any change of address or employment before or within two working days after the change.

I impose the following special conditions:

- You must during the operational period of the order submit to the supervision of a probation officer as required by the probation officer;

I direct that you must report to the office of Community Corrections, Devonport, by close of business tomorrow. You are disqualified from holding or obtaining a driver's licence for a period of 12 months. That disqualification commences today.