

Robert Nathan Allen, you have pleaded guilty to one count of dangerous driving, contrary to s 172A of the *Criminal Code* and related summary offences committed on the same day, namely drive whilst disqualified, refuse breath analysis and contravene conditions of a notice.

On 29 November 2022 at about 10am, you were bailed from the Devonport Police Station with a condition that you not be found behind the controls of a motor vehicle. You were also, at that time, subject to a 24 month Road Safety Disqualification Notice, which had been imposed on 12 November 2022.

At approximately 6.45pm on 29 November 2022, you were driving a Toyota Camry along Victoria Parade in Devonport. By driving, you breached both the bail condition and the disqualification order. You entered the Memorial Park Carpark, which comes off Victoria Parade, at high speed. As you pulled up in the carpark you slammed on your brakes, causing the tyres to lose traction and make a loud screeching noise. You exited your car for a few minutes before returning and reversing the car suddenly, again causing the tyres to lose traction. You exited the carpark onto Victoria Parade. You were travelling too fast for the circumstances and conditions. As you exited, you drove onto the incorrect side of the road and almost hit an oncoming vehicle.

You drove along Victoria Parade in a Southerly direction. At that point, you had your window down and you were leaning out of the window, yelling and screaming at other road users. As you approached the intersection of Formby Road and Stewart Street, you moved into the right hand turning lane, but rather than turning right, you proceeded straight through the intersection. Again, an oncoming vehicle had to take evasive action to avoid being hit by you. In taking that evasive action, the vehicle nearly collided with another vehicle.

You continued to drive along Formby Road. You were driving erratically. You swerved towards an oncoming car, causing them to have to take evasive action. As you drove along Formby Road, an Ambulance Tasmania vehicle was driving in the same direction as you. They were responding to an emergency call and thus had their lights and sirens activated. You pulled over and allowed them to pass, but then pulled back in behind them and began to follow them. You swerved in and out of traffic in order to catch up with the ambulance. As the ambulance approached the intersection of Formby Road and Devonport Road, it was required to travel through two sets of traffic lights. Those traffic lights were red, but because the ambulance was responding to an emergency, it proceeded through the intersection. You followed the ambulance through the intersection contrary to the two sets of red traffic lights.

The ambulance personnel, believing that you were endeavouring to gain their attention, pulled over. You drove past the ambulance and continued driving along Formby Road before doing a u-turn on Lyons Avenue and heading back in a northerly direction along Formby Road. The ambulance continued with its journey. As it was driving along Devonport Road, it was travelling at approximately 80 – 90 kilometres an hour, with its lights and sirens still activated. The speed limit on Devonport Road is 60 kilometres per hour. You again came up behind the ambulance, at speed, and began to follow it closely.

You followed the ambulance through the intersection of Devonport Road and Stoney Rise Road and then along Stoney Rise Road. You were following it closely and began weaving in and

out of traffic, crossing on to the wrong side of the road at times. The paramedics in the ambulance contacted Tasmania Police because they were concerned about your driving and considered it was likely to cause an accident. The ambulance eventually turned onto Sheffield Road. You continued to follow it for a period before conducting a u-turn and heading back in the direction of Devonport.

Your vehicle was next sighted at around 8.15pm on the Bass Highway at Devonport, travelling in a westerly direction. You were seen by other road users to be driving at speed. You had your head hanging out the window and you were yelling and screaming. You were swerving in and out of the dual lanes of the highway. You had your hazard lights on. A passenger in another vehicle recorded parts of your driving on her mobile phone. This video was tendered during the sentencing hearing and I have observed it. Your driving behaviour was as described, and it undoubtedly was a matter of concern for other road users. Whilst, given the manner in which you were driving, you were travelling too fast, it could not be said that your speed was excessive.

You stopped your vehicle adjacent to an exit ramp on the Bass Highway and began honking your horn and yelling out your window. You then entered into a BP service station, which is part of a shopping complex adjacent to the highway. You got out of your vehicle and began filling it with petrol. You then returned to your vehicle and began driving it back and forth between the fuel pumps, at speed, and then braking suddenly. Fortunately, there were no other vehicles or people at the fuel pumps as you were doing this. You then parked your vehicle and went inside to pay for the fuel.

You returned to the vehicle and exited the service station. You drove onto Stoney Rise Road. Members of the public who had witnessed your behaviour contacted police. Some of them described you as appearing intoxicated. At approximately 8.45pm you were seen driving on Forbes Street in Devonport. You were holding your hand on the horn, sounding it continuously. You were driving along Forbes Street at approximately 20 kilometres per hour. You then proceeded to drive through a number of residential streets, including Steele Street, Hillier Street, Smith Street and Forbes Street for approximately five minutes, at about 20 kilometres per hour and with your hand continually on the horn. At one point, you stopped your vehicle completely at an intersection before beginning to travel backwards towards another vehicle, before then moving forward again.

Eventually, police located you in a carpark off Tarleton Street in East Devonport. They activated their body worn cameras as they approached your vehicle. They asked you whether you had been consuming alcohol. You replied that you had. Police then placed you under arrest for the purpose of a breath analysis. You were conveyed to the Devonport Police Station and directed to participate in a breath analysis. You refused to do so. You were subsequently charged and have been remanded in custody since then, save for a period of time between 9 October and 27 November 2023 when you were formally on bail but subject to a bail condition that you reside at the Royal Hobart Hospital and comply with conditions of an order made pursuant to the Mental Health Act. You were not at liberty in the true sense of the word.

Your driving occurred intermittently for approximately two hours. It covered many kilometres. The driving occurred along a major highway and also through built up areas, including both residential and business areas. At times, excessive speed was involved and other road users were forced to take evasive action. Your behaviour was aggravated by the fact you were disqualified at the time of driving and subject to a bail condition that you not drive a motor

vehicle. It is also likely you were effected by alcohol. Witnesses described you as appearing intoxicated. You told police you had been consuming alcohol, although you refused to participate in a breath analysis. Your driving occurred at a time of day when it was likely that other road users would be coming and going, particularly in the built up areas. Your behaviour in hanging your head out the window and yelling, sounding your horn, and driving very slowly through the streets, was bizarre and was obviously concerning to a number of members of the public who contacted police. At times, you exhibited scant regard for the welfare of other road users. You caused several of them to have to take evasive action. Whilst not all aspects of your driving fall towards the upper range of seriousness, many aspects of your driving were particularly poor. For example, driving on the incorrect side of the road in built up areas, causing other vehicles to take evasive action and following the ambulance through intersections, at speed. Your driving could very easily have resulted in catastrophic consequences. Every road user has the right to expect that other road users will act responsibly, and clearly, on this day, you did not.

You are 33 years of age. You were 32 at the time the crime was committed. You have significant mental health issues which have been ongoing for many years. You have been diagnosed with schizophrenia. You had come to Tasmania for a driving holiday with your dog, shortly before this crime occurred, following the death of your grandfather. His passing had caused you significant grief and you were not coping well. He had been a very important person in your life. You had been raised in a complicated and dysfunctional family and had spent much of your childhood living with your grandfather. Because you were not coping, you ceased taking your mental health medication and began consuming too much alcohol. Your life destabilised considerably and there was a marked deterioration in your mental health.

I have been provided with a forensic psychological assessment report, prepared by Dr Georgina O'Donnell. In that, she refers to material obtained from other forensic mental health services. It appears as though you have been receiving assistance for your mental health in Victoria for several years. In the past you have presented as gender fluid, frequently changing preferences for your name and pronouns. You had, in the lead up to coming to Tasmania, been receiving treatment from the Equinox Gender Diverse Health Centre in Melbourne, including hormone treatment for male to female transition. It seems likely that hormone treatment, combined with your cessation of mental health medication, impacted upon your mental health around the time of these crimes, and afterwards. Continual decline in your mental health was observed when you were taken into custody and you were transferred to the Wilfred Lopes Centre. You now advise through your counsel that you have ceased hormone treatment and are identifying as male.

Whilst at the Wilfred Lopes Centre, you received treatment under the *Mental Health Act*. You also, as I have noted, spent time in the Royal Hobart Hospital receiving treatment under a protection order. Your mental health has now stabilised. You have resumed medication for schizophrenia. You intend upon the finalisation of these matters to return to Victoria, where you will resume treatment with a rehabilitation unit that is familiar with your condition.

In relation to the application of the Verdins principles, it is Dr O'Donnell's opinion that the deterioration in your mental health directly contributed to the commission of this crime in the sense it lessened your ability to exercise appropriate judgment. Such an opinion appears consistent with many of your behaviours that were observed. I am satisfied there is a causal connection between your mental health and your behaviour at the time of the crimes. I will therefore sentence on the basis that your moral culpability is reduced, and the weight to be attributed to punishment and general deterrence ought to be moderated, although not in my

view, entirely eradicated from the sentencing exercise. The risk you presented to others was marked. This behaviour went on for quite some time and there is nothing to suggest that you did not appreciate that what you were doing was wrong and dangerous. I take into account your plea of guilty. I note your record of prior convictions, which is moderate and not reflective of anything like this level of seriousness. The objective seriousness of this crime clearly demands a period of imprisonment, but it should be more lenient than might otherwise be appropriate because of the role your mental health condition played in the commission of the crime. I also consider it appropriate to fashion the sentencing order in a manner which will allow you to return to Victoria and resume treatment for your mental health in a facility that is familiar to you and where you have some family support.

I make the following orders. I record convictions in respect to all crimes and offences to which you have pleaded guilty. In respect to the offence of contravene conditions of a notice, I make no further order. With respect to the crime of dangerous driving and the offences of drive whilst disqualified, and refuse breath analysis, I will sentence globally. You are sentenced to ten months' imprisonment, backdated to commence on 15 February 2023 to take into account time already served in custody. I impose a global period of licence disqualification of two years, to commence on the date of your release from custody.