

STATE OF TASMANIA v TIMOTHY LAURENCE ROZYSKI 9 FEBRUARY 2024
COMMENTS ON PASSING SENTENCE

WOOD J

Timothy Laurence Rozynski has pleaded guilty to one count of dangerous driving.

On 23 December 2021, the defendant was driving his red Holden Commodore, which was unregistered and not covered by the MAIB insurance. He had been disqualified from driving for successive periods, with the most recent disqualification period commencing 10 days-prior on 13 December 2021.

At approximately 6:30 pm, in negotiating a roundabout at the intersection of Euston and Grafton Streets in Claremont, the defendant lost control of the vehicle and collided with the curb, damaging the vehicle's front left-hand tyre. He continued driving on Euston Street with the damaged tyre disintegrating and parts of the wheel rim connecting with the roadway.

The defendant drove along Hilton Road, past the Edgar Street intersection, at 80 km/h in a 50 km/h zone. The front left wheel rim gouged into the road surface as he drove, causing billowing smoke.

He continued north on Hilton Road, travelling at 90 km/h in a 50 km/h zone. He travelled around a corner and approached an incline, and swerved into the gravel verge on his side of the road. In doing so, he lost the remainder of the front left wheel but continued to drive with only three wheels.

The defendant then lost control of the vehicle, and travelled into the right-hand lane and into the path of a red Holden Barina, driven by Mr Massimo Cassani. Unable to regain control, he continued to drive towards the Barina. He tried but was unable to manoeuvre his vehicle to avoid the Barina. Mr Cassini swerved out of his way to try and avoid a collision but, the defendant's vehicle collided with the Barina, causing its airbags to deploy and the Barina to spin out of control across the roadway.

The defendant was injured but got out of his vehicle and fled the scene on foot. He did not speak to Mr Cassani, provide him with his name, or ask him if he was injured. Mr Cassani called triple zero for assistance.

The defendant ran to a friend's house approximately 140 m away from the collision. He stumbled through the front door in a bloodied state and yelling for help. His friend called an ambulance. While he waited there, the defendant repeatedly said that he had "fucked up". Police attended, and the defendant was arrested and taken to the Royal Hobart Hospital by ambulance, where he received medical attention for a wound to his forehead. He also sustained bruising to his right eye, right chest wall, and swelling to his right ankle. A sample of the defendant's blood was taken at 8:21 pm, almost two hours after the collision, and analysis of the sample revealed an extremely high blood alcohol reading of 0.302g per 100 ml of blood. It also revealed a very low reading of methylamphetamine at 0.012 mg per one litre of blood. The defendant was held until he became sober and was interviewed. He made no admissions.

On the 14 June 2022, the defendant appeared for the first time in the Supreme Court and the matter was a confirmed trial. In August 2022, he absconded to Queensland, and in September, a warrant was issued for his arrest. The warrant was executed on 9 October 2023 and the defendant was extradited to Tasmania where he has remained in custody since. At an earlier time, he spent three days in custody for this matter.

Mr Cassani was injured but, fortunately, not seriously injured in the collision. He sustained a small crack to his sternum, bruising over his body and chest, and back pain. His vehicle was not repairable and had to be written off, and he only had third party insurance.

Fortunately, Mr Cassini's physical injuries are not permanent, but he has been adversely affected by the collision both emotionally and financially. He describes it as one of the major traumas of his life, and how he feared, at the time, he would lose his life. His car, which he used for work purposes, as well as privately, and which was in perfect condition, was destroyed.

The defendant is 44 years of age and has a significant record of prior convictions for driving offences. This includes one conviction for driving whilst alcohol is in body without authority, three for driving a motor vehicle whilst exceeding the prescribed alcohol limit, one for driving whilst under the influence of intoxicating liquor, two involving driving with an illicit drug in his system, five convictions for drive whilst disqualified, and one for driving whilst his licence was suspended, three for evading police, and one conviction for dangerous driving in 2017. For that crime of dangerous driving and other offences, he was sentenced in the Magistrates Court to 12 months' imprisonment. The defendant also has numerous prior convictions for driving unlicensed, exceeding the speed limit, and other traffic offences.

He served another lengthy term of imprisonment in 2014 when he was sentenced in the Supreme Court to a term of 15 months in relation to one count of aggravated burglary and two counts of assault.

In 2017, there were a number of amendments made to the law with respect to serious driving offences, and amongst the raft of changes, the crime of dangerous driving was brought in under the Criminal Code, which now, like other crimes, attracts a maximum sentence of 21 years' imprisonment. The changes made to the law reflect increasing community concern about serious driving offences.

I take into account the defendant's personal circumstances. At the time of his offending, he was living out of his car, and was having difficulties finding work and accommodation. His decision to drive was made having consumed a very large quantity of alcohol. Once he struck the gutter, damaging the tyre, he made the decision to continue driving his car, hoping to reach his parent's house which was close by. Once the wheel came off, he struggled to control the vehicle. Obviously, given he was driving on only three wheels, his control of the vehicle was highly compromised. I accept that he left the scene out of panic and not as an act of callous disregard for the driver of the car.

The defendant has an addiction to methylamphetamine which has been a feature of his past offending and has created difficulties for him over the last 10 years. Generally, he has not had difficulties with alcohol abuse, but on this occasion, he was extremely intoxicated. He has an industrious work record and is someone who has been able to find regular work in the construction industry.

He absconded to Queensland looking for work and found employment there. He lived there for 15 months and commenced a relationship. In that time, he made progress in relation to his drug use, and his offending all but ceased. Once he has served his gaol sentence for this crime, he intends to return to Queensland and resume his relationship and his employment, and it would seem that that move represents a more constructive future for him.

He has pleaded guilty, but at a late stage. The delay in resolving the matter is a result of his conduct in absconding, causing the proceedings to stall. His plea has at least avoided the need for a trial, and indicates an acceptance of responsibility.

The driving happened on suburban streets at a busy time of year, two days before Christmas. The course of dangerous driving was 2.1 kilometres, which is not lengthy, compared to other cases of dangerous driving, but for the entirety of that distance, Mr Rozynski represented a grave danger to the public, and his criminal culpability is very high. As noted, his ability to control his vehicle was substantially compromised once the tyre was damaged and yet, knowing that, he chose to drive, and drive at an excessive speed. It was well over the limit and unsafe for a driver that had control, let alone one that did not. Add his blood alcohol reading of .3 and Mr Rozynski was a menace to all other road users in his vicinity. There are no matters which mitigate his dangerous conduct, which revealed a selfish disregard for the lives of other motorists and their passengers.

The sentence must reflect the gravity of the risk you posed, the very real potential for death and serious injury, and the actual harm and trauma you caused to Mr Cassani. The sentence must provide a strong deterrent to you and others. I accept that you have prospects of rehabilitation, and these are best reflected in the minimum non-parole period.

I record a conviction and impose a sentence of two years and two months' imprisonment backdated to 5 October 2023. You are not eligible to apply for parole until you have served the minimum of half of the sentence of one year and one month.

I make a compensation order in favour of Mr Massimo Cassani in an amount to be assessed.

On 16 February 2024, an order was made disqualifying the defendant from driving for a period of four years from 16 February 2024.