

Mr Burns-Peel, you have pleaded guilty to two counts of dangerous driving contrary to s 172A of the *Criminal Code* and four counts of assault contrary to s 184 of the *Criminal Code*. Pursuant to s 385A of the *Criminal Code* I have also agreed to deal with a number of related summary charges, being one count of drive a motor vehicle whilst a prescribed illicit drug is present in your oral fluid, one count of unlawfully possess a dangerous article in a public place, one count of behave in a violent manner, two counts of drive whilst disqualified and one count of evading police (aggravating circumstances). All of the charges arise out of an incident that occurred on 4 December 2022.

On that day, you and a friend, Mr Treloar, attended a residence at Triton Road in East Devonport. It was the home of the Holland family. Next door to this residence lived the Burns family. There was apparently animosity between you and Mr Treloar and some members of the Holland family. There was initially a verbal exchange, which soon escalated into a physical altercation. You and Mr Treloar were confronted by members of the Holland and Burns families, some of whom were carrying weapons. During the fight, you were thrown to the ground and assaulted. You were left injured and bleeding from the face. Ms Angela Holland and some neighbours from the area, including Rebecca Whitehouse, assisted in defusing the situation and you left the area.

As you walked away from the confrontation, Ms Lucille Whitehouse was in the front garden of her residence, which was nearby. She heard you say, "This hasn't finished". She responded to you by saying, "This bullshit stops here. You're not welcome. This used to be a quiet street". You in turn responded by saying, "I'm not welcome am I? I'll show you not welcome" and then verbally abused her.

Very shortly after you returned to the Triton Road area. At this point you were driving a white Holden Rodeo motor vehicle. Mr Treloar was in the passenger seat. You drove at speed into the residential area of Triton Road. You were revving the vehicle loudly. It is readily inferred that you had returned to exact retribution for the earlier fight. Mitchell Holland, Rebecca Whitehouse and Lucille Whitehouse were standing near a picket fence in front of 57 Triton Road. You drove your vehicle at speed towards them, then swerved off the roadway and mounted the kerb, heading in the direction of the three pedestrians. All three had to quickly take evasive action. Ms Rebecca Whitehouse and Ms Lucille Whitehouse managed to narrowly escape being struck by your vehicle. Mitchell Holland was not so lucky. Your vehicle struck him and pushed him over the fence. Two of the fence pickets were broken by the force of him being pushed over the fence by your vehicle.

Subsequent analysis of the collision point revealed that your vehicle had travelled 4.3 metres from the gutter of the road to the fence line. At the point of impact, your vehicle was travelling at approximately 57 kilometres per hour. There was no indication that you had in any way attempted to brake or take evasive action prior to your vehicle striking Mr Holland and the fence. The impact caused one of the tyres on your vehicle to deflate. You drove away on a deflated tyre towards the East Devonport Caravan Park. All of this behaviour constitutes the first count of dangerous driving and three counts of *Criminal Code* Assault.

I have seen security camera footage of this incident. It is apparent from the same that you drove directly at the pedestrians making no effort to minimise or limit the risk you posed to them.

As a consequence of the assault, Mitchell Holland suffered soreness and bruising. He attended the North West Regional Hospital. Significant abrasions, bruising and swelling was noted to his hip. He was required to undertake a number of scans. He was discharged with pain relief. Whilst Mr Holland declined to make a formal victim impact statement, he advised the prosecutor that he has not been able to resume employment since this incident and has some ongoing physical impairment. He has also struggled with his mental health.

Upon your return to the East Devonport Caravan Park, you were seen driving on an internal gravel driveway at speed. Your behaviour was erratic. You were yelling at other occupants, including a Mr Whittlesea, and making gestures with your fingers which were formed into the shape of a gun.

Mr Andrew Holland, the father of Mitchell Holland, was advised about the incident. He travelled in his vehicle with another of his sons, Cody Holland, and went looking for you. He went to the East Devonport Caravan Park and was advised by Mr Whittlesea about your earlier behaviour within the caravan park. Mr Whittlesea joined Andrew Holland and they continued looking for you.

Andrew Holland located you in Sycamore Place in East Devonport. You were trying to change the flat tyre on your vehicle. Mr Whittlesea and Cody Holland began to approach you on foot. You picked up a Stihl chainsaw, started it and moved towards Mr Whittlesea, whilst holding it up in a threatening manner. At this point, Cody Holland ran back to his father's vehicle and Mr Whittlesea ran behind the vehicle. You ran towards Mr Holland's vehicle. Mr Holland was still in the driver's seat and began to manoeuvre the vehicle away from you. You charged towards the vehicle with the chainsaw still running and swung it towards the driver's seat. The chainsaw, in fact, went inside the vehicle. The blade entered the cabin and went within inches of Mr Holland's head and arm. Mr Holland was forced to manoeuvre his body away from the blade to avoid being struck. This constitutes the fourth count of *Criminal Code* Assault. The chainsaw blade, in fact, struck the window frame of Mr Holland's vehicle causing damage. That is indicative of how close the blade was to Mr Holland. Mr Holland was frightened by your actions and believed he was at risk of being seriously injured or killed.

Eventually, Mr Holland was able to drive away from the area collecting Cody Holland and Mr Whittlesea as he did so. Mr Holland contacted police and a radio call went out to look for you. Police officers travelling in a marked police vehicle, saw your vehicle turning into Torquay Road in East Devonport. They began to follow you. They observed you lose traction as you turned from John Street into Torquay Road. The lights and sirens of the police vehicle were activated. You were driving with the left hand front tyre of your vehicle deflated. On Torquay Road you were observed to do a "burn out". Your vehicle was seen to be wobbling across the roadway. The left hand front tyre came off the vehicle. You continued to drive on the wheel rim, with little control over the vehicle. Given your lack of control, you were driving too fast for the circumstances. You refused to pull over for police, and hence committed the offence of evade police. It was in aggravated circumstances because you were disqualified from driving at the time.

As you drove along Torquay Road, you did not slow as you approached any intersections. The police officers who were following you observed you to nearly collide with on-coming traffic as you turned into Caroline Street. Caroline Street is a residential area with a speed limit of 50 kilometres per hour. You travelled along Caroline Street at a speed in excess of that. You travelled through various intersections without slowing or exercising any appropriate caution.

Your vehicle travelled onto the nature strip at one point as it travelled along Caroline Street, leaving gouge marks as it proceeded up onto the nature strip. Sparks and smoke were seen to be coming from the rim of your wheel. At one point, as you drove along Young Street, you drove through some barricades which divides two separate portions of Young Street from a park area which is in the centre. You continued through the park area before rejoining Young Street. As you drove down the hill of Young Street, you proceeded through the intersection at David Street, at speed and again without exercising appropriate caution. Another vehicle at this intersection had to manoeuvre to avoid a collision.

At this point, the underside of your vehicle caught fire. Smoke and fire was visible as you continued to drive. Eventually, you stopped on Tarleton Street and fled the vehicle. You were chased by police and arrested shortly thereafter. You have been remanded in custody since 4 December 2022.

Your behaviour was aggressive when police arrested you. You were taken to the Devonport Police Station. You were required to provide an oral fluid sample. The sample was later analysed and amphetamine, methyl amphetamine and cannabis were detected. At the police station, you head butted doors and walls and caused damage to a toilet area in the cell.

When Mr Treloar, your passenger, was spoken to by police, he described your driving as "crazy and erratic" and said that it made him "pretty scared".

You participated in an interview with police. You claimed you could not remember much of the various incidents, as you had been three days without sleep and had been taking various drugs in the preceding days.

The period of dangerous driving in respect to the first incident was approximately 200 metres. The period of dangerous driving in respect to the second incident was approximately 2.5 kilometres. All of the driving occurred in built up residential and commercial areas.

I have noted the impact of your behaviour upon Mr Mitchell Holland. I have received a victim impact statement from Lucille Whitehouse. She has been badly affected by your assault upon her. She is now anxious and nervous, becomes emotional easily and is having difficulty in sleeping. She experiences flashbacks of you driving at her and worries about what may have occurred to her and her daughter.

You are 29 years of age and have a significant record of prior convictions for driving offences. This includes six prior convictions for unlicensed driving, two prior convictions for evading police, five prior convictions for driving whilst disqualified, four prior convictions for breaches of the *Road Safety (Alcohol and Drugs) Act*, and a prior conviction for reckless driving. You also have prior convictions for breaching bail by driving when you were prohibited from doing so, a number of traffic infringement matters and four prior convictions for possession of a dangerous article in a public place. In the past, you have received suspended and actual periods of imprisonment for driving offences. You also have a large number of prior convictions for

offences contrary to the *Misuses of Drugs Act*. In 2020 you were sent to prison for seven months for predominately driving offences.

I take into account your personal circumstances. You had a difficult upbringing. You received little schooling, leaving when you were in Grade six. By the age of 12, you were associating with older drug users and quickly developed a drug habit. As is so often heard by this Court, your drug use commenced with cannabis but soon escalated to the use of methyl amphetamine. By the age of 15 you had a methyl amphetamine addiction. You have never held long term employment, although have had casual employment on vegetable harvesters. You say that during the periods of employment, your drug use was more controlled. At the time these crimes were committed, you were using drugs heavily. Your addiction to methyl amphetamine has been a feature of your past offending and has basically characterised all of your adult life.

Since being remanded in custody, you have undertaken a drug and alcohol course. You recognise you need ongoing assistance if you are to successfully address your drug addiction in the long term. I am told that you are going to endeavour to pursue further courses. I am also told that whilst you have been remanded in custody you have resisted the use of illicit drugs, despite them being available. This is the longest time you have been drug free since you were 15.

I take into account your pleas of guilty. They count in your favour although, I note, there was a strong case against you given much of your behaviour was captured on security camera footage and there were eyewitnesses. Your pleas of guilty, nevertheless, have avoided the need for a trial and indicates an acceptance of responsibility.

The first count of dangerous driving was not particularly lengthy but, of course, occurred in a residential area and culminated with you driving your motor vehicle at three pedestrians. Your use of a motor vehicle as a weapon was most serious indeed. You were obviously angry, you were affected by illicit substances and you were intent on retribution. It was dangerous and reckless conduct, carried out for vindictive purposes. It is most fortunate that you did not cause far more significant injury, or worse, to any of your victims.

Your use of the chainsaw against Mr Andrew Holland was also very dangerous. Again, you were clearly angry and agitated. The chainsaw came within close proximity of his body. He could easily have been seriously injured. Thereafter, you evaded police and drove dangerously for approximately 2.5 kilometres on suburban streets. Other vehicles were forced to take evasive action to avoid near collisions. You were agitated, you were affected by illicit substances, and with the damaged tyre you had little control over your motor vehicle. In my view, you represented a grave danger to the public for the entirety of this driving distance. Your ability to control your vehicle was substantially compromised once the tyre had deflated, but despite knowing that, you chose to drive at a speed through residential areas, which was unsafe and which showed no regard whatsoever for the other road users. Your driving behaviour is aggravated by the fact you were evading police and you were disqualified from driving, although I am conscious that you are not to be punished twice for the same acts of criminality. In all the circumstances, your criminal culpability is high and there are very few matters which mitigate your dangerous conduct.

Clearly, matters of general deterrence and denunciation weigh heavily in this sentencing exercise. The need for specific deterrence is also apparent. The sentence must reflect the gravity of the risk you posed, and the very real potential for death and serious injury, both from

your driving behaviour and the acts of assault. The sentence must provide a strong deterrent to you and to others who may be minded to act similarly. Taking all these matters into account, a substantial period of imprisonment is warranted.

I make the following orders. You are convicted of all crimes and offences to which you have pleaded guilty. I make a compensation order in favour of Mitchell Holland in an amount to be assessed. I make a compensation order in favour of Andrew Holland in an amount to be assessed. I make a compensation order in favour of Department of Police, Fire and Emergency Management in an amount to be assessed.

On the indictment, I impose one sentence. You are sentenced to imprisonment for a period of three years and six months, commencing 4 December 2022. I order that you are not eligible for parole until you have served two years and six months of that sentence. On the two counts of dangerous driving, I impose a global disqualification period of two years from the date of your release from custody. On Count 9, Complaint 53744/2022 (being evade police, aggravating circumstances) you are sentenced to imprisonment for a period of six months. That will be cumulative to the period of imprisonment just imposed. I order that you are not eligible for parole until you have served one half of that sentence. On that charge you are disqualified from holding or obtaining a driver's licence for a period of two years. That disqualification order will be cumulative to the disqualification period just imposed. In respect to Complaint 50912/2023 (drive a motor vehicle whilst a prescribed illicit drug is present in you oral fluid), you are sentenced to imprisonment for a period of six months. That sentence of imprisonment will operate concurrently with the period of imprisonment just imposed. On complaint 50912/2023, and counts 7 and 8 on Complaint 53744/2022, you are disqualified from holding or obtaining a driver's licence for a period of two years. That disqualification will operate concurrently to the disqualification period just imposed. In respect to the balance of the summary matters, I make no further order beyond the order for conviction.

For the purposes of s 92A(3) of the *Sentencing Act*, I specify the total term of imprisonment you are liable to serve for all sentences today imposed is four years, commencing 4 December 2022. The minimum period of imprisonment you must serve before becoming eligible for parole is two years and nine months.

The total period of disqualification to which you are subject is four years from the date of your release.