

STATE OF TASMANIA v STEPHEN KEVIN JONES
COMMENTS ON PASSING SENTENCE

4 JUNE 2024
MARTIN AJ

Mr Jones, you have pleaded guilty to Dangerous Driving, committed on 29 August 2023. In addition, through your Counsel, you have pleaded guilty to Evading Police and Driving While Disqualified and I will sentence you for those matters as well.

You have never held a driver's licence in Tasmania and at the time of this offending you were subject to a court ordered disqualification period for a previous crime of dangerous driving. I will impose a further disqualification period in due course.

It was about 2pm on Tuesday, 29 August 2023 when police officers saw your vehicle driving along Katoomba Crescent and they recognised the vehicle as one used by you. Given your history they correctly suspected you were driving while disqualified and they attempted to intercept you. Emergency lights and sirens were activated, but you accelerated away heavily onto Vernon Avenue and then right onto Huntley Street, right into Oakbank Avenue and left onto Montrose Road. The speed limit was 50 and you were travelling at about an estimate of 70.

As you drove around the corners for Vernon Avenue, Huntley Street and Oakbank Avenue, you cut the corners, driving onto the incorrect side of the road. You stopped the vehicle on Montrose Road and police stopped behind you. You stuck your head out of the window and said that you have spoken to "Bourkie" and you intended to hand yourself in. This was a reference to another police officer. Those officers knew you and had a clear view of you. They made repeated demands for you to turn the vehicle off and get out and you argued with them about turning yourself in. One of the officers got within about five metres of your car when you took off. You said, "Fuck off" and accelerated away on Montrose Road towards Pitcairn Street.

You drove along Main Road before turning left onto King George Avenue at high speed. Officers drove onto King George Avenue behind you and activated their emergency lights and sirens in an attempt to intercept you. As they did this, you accelerated heavily to a speed of approximately 90 kilometres per hour in a 50 zone before turning onto Peltrose Street at high speed. As you turned onto Peltrose Street you crossed onto the incorrect side of King George Avenue and severely cut the corner, travelling into the wrong lane on Peltrose Street and almost colliding with a vehicle stopped at the traffic lights. I have seen CCTV footage of that manoeuvre and I noticed that there were also pedestrians waiting to cross the road in that area. You then drove along Peltrose Street at approximately 60 kilometres per hour in a 40 zone and narrowly avoided colliding with a pedestrian who was crossing the road. That pedestrian was in the middle of the road and, as you drove down the road at high speed, in effect you drove behind the pedestrian who was, not surprisingly, very startled by your passing by. It was an extremely dangerous situation.

You turned left onto Main Road, failing to give way to a pedestrian crossing where the lights were indicating a green crossing light for a pedestrian to cross. You drove along Main Road at about 60 in the 40 zone before driving over a traffic island and divider, onto the incorrect side of the road, outside the Big W Glenorchy Central carpark entrance. You entered the carpark and drove through the carpark at high speed. That again is obviously a very dangerous manoeuvre because of the likely presence of pedestrians in such carparks. You exited onto Cooper Street at high speed and turned left onto Eady Street. As you entered Cooper Street

you failed to give way to a vehicle. Then you drove the incorrect way down Cooper Street, which is a one way road, before turning onto Eady Street and travelling on Eady Street the incorrect way. You were not permitted to make a right turn but you did so.

As you turned from Cooper Street onto Eady Street you narrowly avoided a collision with a Metro bus carrying passengers. You cut across the nose of the bus from left to right, from the driver's perspective. The bus was required to take evasive action and the driver is to be commended for responding as well as he did and avoiding injury to the passengers, who were shaken by that manoeuvre.

Overall, your driving occupied approximately 10 to 15 minutes over a relatively short distance. However, that brief summary should not detract from a full appreciation of the danger of your driving. There were a significant number of road users, including pedestrians who were particularly vulnerable, who were placed at risk of serious injury and/or death. This was not a remote risk that you created. Far from it. The risks of death and injury were very close to being materialised or realised. Yours is a serious example of this crime. There are no mitigating circumstances accompanying the commission of the crime.

You were arrested on 7 September 2023 after police found you at your residence in the vehicle, which they blocked, and prevented from moving away. In a later interview you acknowledged that you have never held a licence and agreed that you were disqualified from driving. You said you owned the car for weeks. You accepted that you probably did the things, that is the driving about which the police spoke, and that you were probably the driver but claimed you did not recall the day. You told police that you were on psychiatric medicine which caused difficulty with your memory and you commented that what the police were putting to you were just allegations. You accepted that if the police saw you, then it was probably you.

As to matters personal to you, you are now 39 and you have had a most unfortunate and dysfunctional upbringing. This was spoken about by Justice Estcourt when he sentenced you for a previous crime of dangerous driving on 19 August 2019. Your counsel agrees that Justice Estcourt helpfully summarised your background, and I quote:

"The defendant was born into a life deprivation and has known little other than that for most of his life. His family is well known to the courts, they are from the lowest socioeconomic level in our society, and have high rates of illiteracy, high rates of drug use, and high rates of recidivism.

Offending with others in his family at their direction, particularly as a very young person, resulted in the defendant, as a twelve or thirteen year old, being remanded to the Ashley Youth Detention Centre, and from thereon throughout his life until now there have been only very short periods of time that he has not been in custody.

Not surprisingly, he has found life difficult to cope with outside of prison and drug use has been an issue for him from time to time, and is a factor in this present offending.

The defendant's brother was assaulted at Ashley and later died, in circumstances where the defendant was not, but felt that he was responsible for that death. It led to him suffering depression and he lost any sense of purpose in his life and he committed the very serious offences that I have enumerated.

Upon his last release he went to live with his sister and her partner, she was then pregnant and the child has since been born. The defendant found that to be a very stable and accommodating arrangement. He was not using drugs and he stayed out of trouble.

The next intervening event however, was in November last year. His mother, who had been his closest family member throughout his life, had started a new life. She had married and moved to the northwest coast but on 23 November she came to Hobart to visit the defendant and his sister for a day trip. During the trip back to the northwest coast she suffered a heart attack. She was taken to the Launceston General Hospital. The defendant and his sister were notified, they were en route to Launceston but unfortunately his mother passed away and they didn't get to see her before she died.

The defendant's life then went out of control. He returned to drug use as a method of coping with his loss. His conduct is exemplified by the present episode of dangerous driving.

Since going to prison he has enrolled in a drug and alcohol course, and I have been shown a letter from the Drug and Alcohol Counsellor in the prison. He is currently a leading hand in the prison kitchen which involves daily employment from 8am until 11:30am and then on a rotating roster during the afternoons. He organises his prison programs when he's not rostered on in the afternoon, so he's occupied through proper channels at the prison".

Mr Jones, that was the summary by Justice Estcourt, which I adopt. I am told that to add to that summary that while you were in Ashley and in foster care, you were abused. Your claim was accepted and you have been paid some compensation in connection with that claim. I am also told that since you have been back in prison you are employed in the same way as was described by Justice Estcourt and you hope that you will be able to work as well in the spray shop when the current inmate, who is working in the spray shop, is released from custody.

I am also told by your counsel that you have been in a stable relationship for something in the order of five years and there is a child of that relationship. I am told that you are supported by your partner and the pair of you hope to marry when you are released from prison. You plan to use your money to move away from Tasmania and obtain a fresh start. To your credit you have been able to cease using methamphetamine and you have proper plans for the use of your funds. You are determined not, in the future, to return to drugs and to waste your money in that regard.

Counsel also put to me that in recent times there appears to have been a decrease in your illegal conduct and you, through her, tell me that your stable relationship has helped. You now have a change in attitude and look forward to the future. I hope for your sake and for the sake of your family, that is correct.

Mr Jones, one of the major problems for me as a sentencing judge arises out of your background of prior offending. I emphasise in what I am about to say and relate to your prior offending, that you are not to be punished again for your previous offences. That is a very fundamental rule. But, I cannot ignore your record of prior offending, particularly in relation to the use of motor vehicles.

As I have said, you have never held a licence and you have an extraordinarily long record of driving offences, which commenced in 1996 when you were aged just 11 ½ years. It appears from your record of prior offences that you have, in those years, committed over 70 offences of driving whilst disqualified and at least 10 offences of evading police through the use of a motor vehicle. It has been put to me that this is your 11th offence of driving dangerously.

Over the years you have repeatedly driven in breach of court orders. In addition, you have repeatedly stolen motor vehicles, and that commenced in 1996, and you have also committed many other serious offences of dishonesty, including burglary. You have also committed crimes of violence which have, on a number of occasions, been directed at police officers. Attempts to assist you to rehabilitate through appropriate court orders have been entirely unsuccessful. Sentences of imprisonment have not deterred you from continuing to offend in numerous ways.

The first of your dangerous driving offences occurred in July 1998, when you were aged only 13 years and 10 months. When you were dealt with for that offending on 13 October 1998 you were declared a ward of the State and committed to the Ashley Detention Centre until 30 April 1999. Your second offence of dangerous driving was committed on 6 April 2006 and in July 2006 you received a sentence of nine months for that offending and other breaches of road traffic laws, which had occurred on 22 January 2006. For your third dangerous driving offence committed with other offences on 22 June 2007, you received a sentence of imprisonment for 15 months. Although that sentence was imposed on 18 December 2007, it did not deal with your fourth dangerous driving offence, committed on 12 July 2007, for which you were sentenced on 22 April 2008, to imprisonment for three months to be served concurrently with your existing sentence. Your fifth offence of dangerous driving was committed on 28 July 2010 for which offence, and other offences, on 15 November 2010 you received a sentence of six months. Again, the system failed to deal with your sixth driving offence committed on 17 May 2011, for which offence, and other offences, on 3 January 2012 you were sentenced to imprisonment for 20 months. The records are somewhat confusing coming into and from 2012, but appears your seventh and eight offences of dangerous driving were committed on 3 June and 25 June 2011.

I mentioned offences of violence. I do not need to mention all of them, but they include committing an act intended to cause grievous bodily harm on 21 June 2011 for which, on 13 December 2012, you received a sentence of four and a half years' imprisonment, with a non-parole period of three years and six months. It is appropriate that I mention something about the nature of your offending on that occasion because it involved the use of a motor vehicle. Putting it shortly, there had been what might commonly be described as a road rage incident involving other people and eventually, after an initial altercation and a time gap, all the vehicles were pulled up in an off-shoot lane. The victim of your offending walked back to confront a youth who had thrown an object at his car and damaged it. As he approached the youth, you drove your vehicle around a stationary vehicle and straight into the victim. The impact caused the victim to land on the bonnet of your vehicle, after which he rolled over the roof and fell onto the ground. You did not stop and you drove away. The victim suffered fractures to two vertebrae in his back. At the time of sentencing on 13 December 2012, the victim was still suffering from depression aggravated by the injuries. He had been unable to return to work and the relationship with his wife had broken down.

Moving to more recent years, another offence of dangerous driving was committed on 4 June 2017. You also committed 16 offences of burglary with associated stealings, some of which

involved large amounts. On 20 September 2017 you were sentenced to imprisonment for 18 months, commencing on 4 June 2017. On 17 January 2019, which cannot have been very long after you were released from the sentence imposed on 20 September 2017, you committed a further offence of dangerous driving.

Between your prior offending in 2017 and the offence committed on 17 January 2019, the offence of dangerous driving had been removed from the *Traffic Act* and made a crime under the *Criminal Code*, which increased the maximum penalty for the crime dramatically. It was in the Supreme Court on 19 August 2019 that Justice Estcourt sentenced you to imprisonment for two years, commencing on 18 January 2019 with a non-parole period of one year. I quoted from part of Justice Estcourt's sentencing remarks earlier.

With your driving on 17 January 2019, again you were evading police in aggravated circumstances and it hardly needs to be said, you were driving whilst disqualified. On 28 January 2020 a sentence of 12 months was imposed to be served concurrently with the earlier Supreme Court sentence. You again drove whilst disqualified on 15 July 2023, six weeks before the offending with which I am concerned.

Mr Jones, I repeat, you are not to be punished again for your prior offending but it cannot be ignored. It is, quite frankly, appalling. Over many years you have taken no notice whatsoever of Court orders, significant sentences have not deterred you from offending, have not deterred you from driving, and doing so dangerously when you seek to evade detection and apprehension. Put simply, Mr Jones, when the right conditions have existed in the past, you became a dangerous menace on the roads. You, in the past, willingly and repeatedly over the years and on this occasion, placed other road users at serious risk. In addition to those matters there was, of course, the violence about which I have spoken involving the use of a motor vehicle.

All of this, Mr Jones, demonstrates that in the past when the right circumstances exist, and when I say right, I mean when you perceive the situation creates a risk for you or angers you, without hesitation, you are prepared to use a motor vehicle as a weapon. In sentencing, always, but particularly in your case, the paramount concern is the protection of the public. That is, protection from you and deterring others minded to behave like you. Also important is denunciation of your conduct. This is the type of conduct that not only is far too common, but it is conduct that causes widespread concern across our community.

When I look to the future, as I said, you are now aged 39 and your counsel has put to me a number of matters which give a glimmer of hope for the future. I do not detect any remorse for what you have done on this occasion or in the past, but there is a glimmer of hope if the relationship remains stable and you have funds to use to get you out of your current circumstances, but it must be said, as at this moment, your prospects of successfully rehabilitating without offending again appear to be very dismal indeed.

In sentencing you I have regard to the question of totality. That is, a total period to be served brought about by the fact that you were arrested and put into custody on 7 September 2023 for other offences including evading police. The sentences you are currently serving do not expire until 7 October 2024 but I am going to exercise, in that regard, a degree of leniency by making the sentence I impose today commence today so the balance of your previous sentences will be served concurrently with the sentence that I am about to impose. I make a small allowance for the utilitarian value of your plea which was entered at the very last moment.

In respect of the offence of dangerous driving, I impose a sentence of three years' imprisonment. In respect of the evade police, I impose a sentence of six months' imprisonment, commencing today. The sentence of three years is to be served cumulatively upon the sentence for evade police. I do not impose any additional penalty for driving while disqualified. That makes a total sentence of three years and six months commencing today.

Mr Jones, given your record of prior offending and your repeated ignoring of Court orders, it would be well within the sentencing discretion not to grant you a non-parole period. I am told the previous non-parole periods you were never able to use for one reason or another. However, given the matters put to me by your counsel today, in particular the ongoing support that you have from your partner which, for your sake, I hope continues, and given the potential for you to be able to, in a sense, start again, I am going to impose a non-parole period. Whether, of course, you are granted parole will be a matter in due course for the Parole Board. For practical reasons to achieve the end result, I do not fix a non-parole period in respect of the sentence of six months. In respect of the sentence of three years, I fix a non-parole period of two years and three months. The end result is you will not be eligible for parole until you have served two years and nine months.

You are convicted of all three offences and I order that you be disqualified from holding or obtaining a driver's licence for a period of five years from the date of your release.