

Mr Jones, a jury has found you guilty of the crime of dangerous driving. The particulars charged are failing to drive at a safe distance behind another vehicle, obstructing the path of another vehicle on the Bass Highway, reversing a vehicle when unsafe to do so, obstructing the path of another vehicle at the intersection of the Old Bass Highway and Mount Hicks Road. It is, of course, my responsibility to make findings of fact consistent with the jury verdict for sentencing purposes, but in this case the facts substantially follow from the verdict. To convict, the jury must have largely accepted the evidence of Ms Jopson (supported as it was by the evidence of Chilli Gardam) and rejected your account. Moreover, the jury must have been satisfied beyond reasonable doubt that what you did amounted to dangerous driving. I have no hesitation in accepting the evidence of Ms Jopson. She was an impressive and believable witness. In contrast, I found your evidence to be contrived and artificial, undoubtedly skewed in an endeavour to justify what was very foolish driving behaviour. I am satisfied that all four particulars of the dangerous driving have been proven, and I will sentence on that basis.

On 10 June 2023, you were driving a Kenworth prime mover on the Bass Highway, near Doctors Rocks. Ms Jopson was driving her motor vehicle, a small Mini Cooper sedan, in the same vicinity. As the vehicles came to the end of the dual lanes, you merged the truck in behind her vehicle. You then proceeded to drive very close behind her, in a manner often described as "tailgating". At one point, you were so close to her that she could see your chrome grill in her mirror. She estimates that you tailgated her for a little over half kilometre before you overtook her on a section of road. During this time Ms Jopson maintained a steady speed of about 80km per hour. Given the size of her vehicle, compared to yours, this behaviour must have been very intimidating. I am satisfied you intended it to be so.

About two kilometres further down the Bass Highway, you stopped the truck in the travel portion of the west bound lane, thus preventing Ms Jopson from continuing in her journey. You did not pull the truck to the side of the road, and Ms Jopson could not go around you because she could not see around in order to determine if the road was clear. Ms Jopson was forced to pull up behind you. You sat there revving the engine of the truck for a moment, before placing the prime mover into reverse and reversing quickly backwards towards her vehicle. Fortunately, you stopped the vehicle, before colliding with her. You then drove off, continuing along the Bass Highway towards Wynyard.

After collecting herself, Ms Jopson also continued her journey towards Wynyard. As she approached the Mount Hicks and Old Bass Highway roundabout, she again came across your truck. You had again stopped on the travel portion of the roadway, this time preventing traffic from entering the roundabout at the intersection of Mount Hicks and Old Bass Highway. Ms Jopson was forced to pull up behind you. You jumped out of your truck and moved towards her vehicle, yelling aggressively at her and waving your arms. You hit the bonnet of her vehicle. At that point, Ms Jopson was extremely scared and uncertain about what you may do, so she crossed onto the wrong side of the road and drove away. The positioning of your truck forced her to drive through the roundabout on the incorrect side of the road.

At the point you reversed your prime mover towards Ms Jopson whilst in the middle of the Bass Highway, she placed a call to the triple zero operator from within her vehicle. What happened thereafter was recorded during that call. It is obvious that Ms Jopson was scared, confused and upset by your bizarre and dangerous behaviour.

You gave evidence on your trial. You denied much of what Ms Jopson described as occurring. You accepted you had stopped in the middle of the Bass Highway, although denied reversing. You suggested you did this because Ms Jopson had been flicking her lights onto high beam and you needed to "teach her a lesson". You also accepted you stopped at the Mount Hicks and Old Bass Highway intersection and exited the truck, because, to use your words, you were "getting blinded by the lights of her car...and wanted to talk to the person to let them know the way they were driving was dangerous". Without hesitation I reject your evidence. I found Ms Jopson to be a credible witness, and I accept her account. It is difficult to understand why you did what you did, but I suspect a contributing factor was an obviously arrogant mind set. During your evidence you expressed the view that as a "professional" truck driver, you knew better and because you had a perception (in my view, an erroneous one) that Ms Jopson had done something wrong, you were going to teach her a lesson. It is rather ironic that you consider yourself a professional driver, yet chose to drive a large truck on our public roads in this dangerous manner.

It was submitted to me, on your behalf, that your act of dangerous driving falls towards the lower end of the scale of seriousness. Whilst I accept there are many examples of dangerous driving which are more pronounced and more extended, I do not accept your driving behaviour was inconsequential or insignificant. You were in control of a very large vehicle. If there had been a collision, you may well have been protected, but the occupant of a smaller sedan would be at significant risk of injury or worse. I find it extraordinary that as a truck driver of many years' experience, you considered it acceptable to drive the prime mover in the manner that you did.

Members of the public who use our roadways have a right to feel safe. On this night, you made Ms Jopson feel very unsafe. It was obvious from the manner in which she gave her evidence and the victim impact statement that has been provided, that she remains badly affected by her experience. She has needed to seek professional assistance to deal with some aspects of the trauma you created.

You are 49 years of age. As noted, at the time of this incident, you were employed as a truck driver. You have since left that employment and now work at a metal recycling depot. In December 2023, I sentenced you for the crime of Criminal Code assault. At that time, I summarised your antecedents as follows:

"You are 48 years of age. You work as a truck driver and plant operator. You have one child from a previous relationship with whom you maintain a good relationship. You have significant literacy issues but have always been able to maintain labour based employment. You own your own home which is subject to a mortgage. You have a number of relevant prior convictions. You have prior convictions for assaulting and resisting a police officer. In 2000, you were sentenced by this Court to a three month period of imprisonment, wholly suspended, for one count of Criminal Code assault. In 2012 you were convicted of common assault and breaches of a police family violence order and family violence order. You again received a suspended sentence of imprisonment. In September 2020 you were convicted of common assault. For that matter, you were fined. Additionally, you have prior convictions for drug offences, escape from custody, firearm offences,

matters of dishonesty and driving offences. It could hardly be said that you present before the Court as a person of prior good character."

Specifically, in terms of driving offences, you have 15 convictions for exceeding the speed limit, convictions for driving without due care and attention, failure to drive at a safe distance behind another vehicle, overtaking when unsafe to do so, using headlights on high beam when less than 200 metres from vehicle in front, driving whilst disqualified and several convictions for offences under the *Road Safety (Alcohol and Drugs) Act 1970*. It would have to be said that, even taking into account the fact that whilst employed as a truck driver, you were travelling on the roads a lot, your record demonstrates a poor attitude towards driving obligations and compliance with the law generally.

It is submitted that the sentence of six months' imprisonment I imposed upon you for the crime of assault in December 2023 has had a salient impact upon you. I am told you were assaulted whilst you were in prison and that you found your time in gaol difficult. Since your release from custody you have lived a relatively quiet lifestyle, focused on working and earning a sufficient income to maintain your home. You were left the home, in which you reside, by your father when he passed away. You have been able to maintain the mortgage payments in respect to it but went into arrears during your time in custody. I am told that whilst the bank was willing to make some allowance during that time, such leniency will not again be extended to you if you return to prison. It is submitted that you are likely to lose your home if that is the sentencing outcome.

I had you assessed for home detention. You are eligible and suitable for such an order. I have determined it is appropriate to impose such an order and allow you to remain in the community. You should understand, however, Mr Jones that my determination has been reached with some degree of hesitation. I do not consider that you have any insight or understanding of just how foolish and dangerous your driving was on this evening. Whilst you lack such insight, risk of reoccurrence is heightened. Personal and general deterrence are important aspects of the sentencing process. Given, however, I will also be disqualifying you from holding or obtaining a driver's licence, I am satisfied the combined effect of the Home Detention Order and a period of disqualification, adequately meets these sentencing aims.

You are convicted of the crime of dangerous driving. I impose a Home Detention Order of 12 months. The terms of the Home Detention Order will be set out in a written document that will be provided to you. The Home Detention Order takes effect from today. All core conditions of the Home Detention Order will have application during the 12-month period of its operation. They include the following:

- you must not commit an offence that is punishable by imprisonment;
- you must reside at the home detention premises of **[address redacted]** at all times, except during the times of 7.00am to 5.00pm, Monday to Friday when you are pursuing employment, or a time otherwise approved by a probation officer;
- you must for the duration of the operational period of the order, submit to electronic monitoring and have any electronic monitoring device fitted and comply with all reasonable and lawful directions given to you with respect to such monitoring.

There are also special conditions that attach to the Home Detention Order. They are:

- 1 You must permit a probation officer, a police officer, or other prescribed officer to enter the home detention premises.

- 2 You must permit a police officer to conduct a search of the premises, conduct a frisk search of you and take a sample of any substance found on the premises or on your person.
- 3 You must submit to electronic monitoring, including the wearing or carrying of an electronic monitoring device.
- 4 You must not remove, tamper with, damage, disable or interfere with the proper functioning of that device or equipment used for the purpose of electronic monitoring.
- 5 You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of that device or equipment used for the purpose of electronic monitoring.
- 6 You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring device, including directions relating to the installation, attachment or operation of the device, if those directions are given to you by a police officer, a probation officer, another prescribed officer or any other person whose functions involve the installation or operation of the electronic monitoring device, or a system used for that purpose.
- 7 You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through that device at all times.
- 8 You must not take any illicit or prohibited substances.
- 9 You must not take any medication containing an opiate, benzodiazepine, buprenorphine, hydrochloride or pseudoephedrine unless you provide written evidence from your medical practitioner that you have been prescribed that medication.
- 10 You must not during the operational period of the order consume alcohol and you must, if directed to do so by a probation officer, police officer, or community corrections officer, submit to a breath test, urine test or other test for the presence of alcohol.
- 11 You must submit to the supervision of a Community Corrections Officer as and when required by that Officer.

I impose a period of licence disqualification of two years from today's date.

I order that you present to Community Corrections by no later than 10.00am tomorrow for induction into this Home Detention Order.