

STATE OF TASMANIA v BRODIE WILLIAM OLIVER
COMMENTS ON PASSING SENTENCE

14 FEBRUARY 2025
JAGO J

Mr Oliver, you have pleaded guilty to the crime of perverting justice. Additionally, I am dealing with your pleas of guilty to two summary offences, being evade police and driver involved in a crash and failing to stop.

These matters arose from an incident on 10 January 2024. On that date police had occasion to speak to you at your business, Elevate Gym in Ulverstone, regarding you having obtained petrol from a service station and failing to pay for it. They transported you to the petrol station and you paid for the fuel. Police returned you to your business and warned you not to drive your motor vehicle as it was obvious to them that you were intoxicated.

A short time later, police observed you leave your business, driving the motor vehicle. You travelled south on Alexander Road in Ulverstone and proceeded onto the Bass Highway. Police subsequently lost sight of your vehicle. You were next seen travelling north on South Road. Despite searching the surrounding area, police were unable to locate your vehicle.

A short time later, a separate police unit observed your vehicle travelling on Main Road, Penguin. Police activated their lights and sirens and pursued your vehicle for a time. You did not stop, but instead accelerated away. Police disengaged from the pursuit and lost sight of your vehicle. This driving behaviour amounts to the offence of evade police. It is a serious example of evade police because your evasion clearly resulted in police being unable to breathalyse you and it is most likely, given police observations earlier in the evening, that you were driving whilst affected by alcohol.

As police were travelling on Crescent Street in Penguin, they came across another vehicle parked on the side of the road with hazard lights on. Police spoke to the driver who indicated her vehicle had been hit by another vehicle. That vehicle was yours. After the collision, you had driven away from the scene, travelling towards Sulphur Creek. This behaviour grounds the offence of failing to stop at an accident and highlights, in my view, the fact that your driving was adversely affected by alcohol consumption, an aggravating circumstance for the evade police charge.

Police attended your address. They observed your vehicle to have minor damage and scratches to the front of it, consistent with you having collided with the vehicle on Crescent Street. You were issued with a driver demand notice. On 11 January 2024, you provided false information to police on this document by claiming that the person who drove the vehicle the previous evening was a male, by the name of Jacob.

You maintained this falsity until 18 January 2024 when you voluntarily attended at the Burnie Police Station and participated in a record of interview. At that point, you admitted to police that you had been the driver of the motor vehicle.

You are 37 years of age. You are in a long-term relationship and there are two young children to that relationship. You are a productive individual who operates two businesses. One of those businesses involves the operation of two gymnasiums; whilst the second is a maintenance and engineering company. You started this latter business having worked in the mining industry for many years. I am told that between the two businesses, you employ a number of people. You are also currently involved in finalising the build of a new family home.

You have, however, despite this, a most concerning record for prior criminal offending. You have been convicted of offences both in this State and other States. You have convictions for driving offences, offences of violence, offences of dishonesty and offences against police. Concerningly, in 2009 you were sentenced to a period of imprisonment for offences under the *Road Safety (Alcohol and Drugs) Act*. On that occasion, you were driving a motor vehicle with a prescribed alcohol limit of 0.192. You were also convicted of driving under the influence of intoxicating liquor and driving whilst disqualified.

In 2010, you were convicted of two counts of common assault and counts of destroy and injure property. In 2011, you were convicted of offences involving hindering and obstructing authorised officers. In 2011, you were also convicted of an offence of resisting a police officer. In 2022, you were convicted of a further offence of common assault. Your record of prior convictions is strongly suggestive of someone who has had a significant issue with alcohol. You have been disqualified from holding or obtaining a driver's licence for various reasons on ten separate occasions.

Clearly, your driving behaviour on this occasion was influenced by alcohol consumption. I am told that you had been celebrating the first contract that had been successfully completed by your engineering and maintenance company and had been consuming alcohol with work colleagues. Apparently, after the commission of these crimes, you had a conversation with a previous employer, whom you hold in high regard, which led to you seeking some mental health support. You have since consulted with a psychologist. You have received a diagnosis of Bi-polar Mood Disorder. You are now taking a mood stabilising medication and have also been undertaking counselling. I have received a report from your counsellor, which indicates that therapy appears to be making "a positive impact on decision making in major areas of your life".

Whilst I accept this behaviour occurred prior to you being diagnosed with bi-polar disorder, I do not accept there is evidence which establishes a direct nexus between the offending and the undiagnosed mental health condition. This offending was alcohol related. That said, I do accept that the mood shifts associated with bi-polar disorder may have led you to consuming excessive quantities of alcohol on occasion, and in that capacity, impaired your judgment.

On a positive note, it appears your diagnosis, and the assistance you are receiving has seen you reduce your alcohol consumption, and you are also described as being more settled generally.

The crime of perverting justice is always regarded as serious because it undermines the integrity of the justice system. Persons who are convicted of the crime are almost always sentenced to imprisonment, not only for punishment, but to send a message to those who might be tempted to act as you did, that prison is the likely outcome. In your case, the false information was provided to police to avoid the consequences of arrest for your driving behaviour. It was not a spontaneous act. You had time to consider the consequences of providing the false information on the driver declaration form. I do take into account that after a period of some days, you returned to the police station and told them the truth. I also take into account your pleas of guilty in respect to these matters.

I had you assessed as to your suitability for home detention. You have been assessed as suitable for such an order and the report I obtained from Community Corrections is relatively positive, in my view. I have determined that because of the strong need to reflect general deterrence in

the sentencing exercise, a form of imprisonment must be imposed upon you, but in this case, that imprisonment can take the form of a Home Detention Order. Of course, I must sentence you separately for the offence of evade police.

Whilst you have a poor record for driving offences generally, you have no prior convictions for evade police. For that offence, you are convicted and fined the sum of \$2,500. You are disqualified from holding or obtaining a driver's licence for a period of 12 months from today's date. For the offence of driver involved in a crash and failing to stop, you are convicted and fined the sum of \$500.

In respect to the crime of perverting justice, you are convicted, and I impose a Home Detention Order with an operational period of six 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 six-month operational period. 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 6.00am to 6.00pm, Monday to Friday when you are permitted to be absent if you are pursuing business activities or employment, or otherwise at a time 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 a device and 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 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.
- 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 to determine the presence of alcohol.
- 11 You must submit to the supervision of a Community Corrections Officer as and when required by that Officer.

I order that you present to Community Corrections, Devonport by 2.30 pm today for induction into this Home Detention Order.