

The defendant pleaded not guilty to a charge of manslaughter, but guilty to causing death by dangerous driving. The State has accepted that plea in discharge of the indictment. The charge arose out of a motor vehicle crash on the evening of 18 June 2023.

The defendant, who was aged 17 at the time, was a first-year provisional licence holder. A condition of that licence was that he was not to drive faster than 100 kilometres per hour. At the relevant time, the driving conditions were particularly poor. Bureau of Meteorology records show that 8.2 millimetres of rain had fallen between 9.00am and 7.30pm, with approximately 1.6 millimetres having fallen in the 30 minutes prior to 7.30pm. The wind speed between 7.00pm and 7.30pm was approximately 40 kilometres per hour.

It was dark when the incident occurred. The defendant had finished his employment at approximately 6.00pm in Devonport. He went to a fast-food outlet to purchase food before beginning to drive his car east on the Bass Highway, towards his home at Latrobe. Shortly before 7.30pm, other road users observed the defendant driving at speed between the area of Victoria Bridge and Tas Freight Logistics on the Bass Highway. The roadway outside of Tas Freight Logistics had pools of water, which had formed upon it, given the heavy rainfall in the area.

As the defendant travelled in an easterly direction passed the Port Sorell on-ramp, he overtook another vehicle. The driver of that vehicle described the defendant as travelling at speed and overtaking her in close proximity, such that she felt her car shake as he travelled by. It was estimated that the defendant was travelling in excess of 150 kilometres per hour as he passed the vehicle. The defendant then overtook another motorist, who was travelling at approximately 100 kilometres per hour. That driver's observations were that the defendant had "flown past her". The occupants of that vehicle noted that the taillights of the defendant's vehicle moved away from them at speed.

In the area outside Tas Freight Logistics, the defendant was travelling at speeds estimated to be in excess of 150 kilometres per hour in a 110 kilometre zone, and of course, given his licence status he was not meant to be travelling at more than 100 kilometres per hour. The road conditions were poor and care was required given the large pools of water that had accumulated in the area.

As the defendant was travelling east, another motorist, a Mr Dirgantara, was driving his vehicle west on the Bass Highway, also in the vicinity of Tas Freight Logistics. He was travelling at 76 kilometres per hour. The man whose death the defendant's conduct caused, Mr Troy Kenny, who was aged 18 at the time, was also travelling west at the relevant time. He was also a provisional licence holder. He was driving in the right-hand lane of an overtaking lane, overtaking the vehicle of Mr Dirgantara, shortly prior to Tas Freight Logistics. His vehicle was travelling at approximately 101 kilometres per hour.

As the defendant neared Mr Kenny's vehicle, he lost traction and crossed into the oncoming lane of traffic across double white lines. He slid broadside towards Mr Kenny's vehicle. The passenger side of the defendant's vehicle hit the front of Mr Kenny's vehicle. The force of the impact pushed the front of Mr Kenny's vehicle downwards, lifting the rear of the vehicle into the air, whilst also crushing the engine backwards towards Mr Kenny. Mr Kenny's vehicle was

pushed backwards and rotated clockwise, hitting the C and D pillar of Mr Dirgantara's vehicle, which was still travelling in the left lane of the overtaking lanes.

Mr Kenny's vehicle was still in an out of control slide and again contacted the defendant's vehicle, this time to the driver's side. The force of the impact rotated both Mr Kenny and Mr Dirgantara's vehicles 180 degrees in a clockwise direction.

Following impact, the defendant's vehicle continued to rotate clockwise. The force of the initial impact separated the engine and transmission from the defendant's vehicle, and the subsequent rotation threw the engine into the grass embankment on the side of the highway. The defendant's vehicle finally came to a rest in the westbound lane of the Bass Highway, positioned sideways across the road. Mr Kenny's vehicle came to a rest partially on the grassed verge, facing back towards Latrobe, being in the opposite direction to his path of travel.

Ambulance personnel, who happened to be driving a transport vehicle in the vicinity of the crash, approached Mr Kenny's vehicle. It was noted that the space between the driver's seat and the steering wheel had been narrowed to approximately 25 centimetres following impact. Mr Kenny was cut from the vehicle, and he was ventilated and transported to hospital via ambulance. Hospital staff attempted treatment of Mr Kenny's injuries, but consultation with specialists revealed that the extent of his head and brain injuries were not survivable. Tragically, Mr Kenny was declared deceased shortly after his arrival at the hospital. He died from multiple head, neck and chest injuries consistent with a high speed and high impact collision.

In the aftermath of the collision, the defendant was approached by a civilian. He was conscious but appeared dazed and injured. He asked the civilian what had occurred and was told that he had been in a bad crash. He was transported to the Launceston General Hospital and was treated for his injuries, which included a disc fracture of his lumbar spine, in addition to cuts and bruising. Toxicology analysis revealed no signs of drug or alcohol in the defendant's blood.

A subsequent crash investigation undertaken by Tasmania Police confirmed that the point of impact was in the westbound lane, and that the damage to the vehicles was consistent with there having been an extreme level of impact force, flowing from a high-speed collision. Examination of the defendant's vehicle also revealed a lack of tread depth on the defendant's rear tyres, which would have impacted the ability of the tyres to disperse water in the wet conditions, therefore impacting upon the vehicle's stability and traction. Both rear brake disc rotors were also found to be worn below the manufacturer's specified minimum thickness.

The defendant participated in a record of interview on 7 July 2023, shortly following his release from hospital. He told police he had been the holder of a provisional licence for seven months and had owned the relevant vehicle for two months. He acknowledged that the rain was heavy, and it was windy on the evening of the crash. He said he had his lights on low beam, with the windscreen wipers on maximum. He denied having overtaken anyone on the Bass Highway and claimed that he was only travelling at about 100 kilometres per hour. When confronted with evidence from witnesses, which suggested to the contrary, he said, "I don't know...I said 100 because I would have been doing a minimum of 100". The defendant agreed that he had not adjusted his speed to suit the conditions.

As is to be expected, Mr Kenny's death has devastated his loved ones. I heard or received impact statements from his partner, sister and parents. Each has eloquently described the grief,

shock, pain and unfathomable sense of loss resulting from Mr Kenny's passing. Mr Kenny is described as a kind, caring, intelligent, supportive and fun brother, partner and son. He was an integral part of his families' lives and their happiness. His death has left a huge and unfillable void in the lives of many. The impact of the loss on his family and friends, and their sense of grief, is immeasurable and permanent.

Mr Rowe, you are 19 years of age. You have no prior convictions, although I am told that you were involved in a single vehicle traffic accident on 11 December 2022. This incident occurred in wet weather but resulted in no charges or traffic infringements being pursued. I have no further details of the incident, but given there were no charges arising from it, I infer excessive speed was not involved. Nevertheless, having been involved in this incident, you should have been far more conscious of the need to drive to the conditions and adjusted your driving behaviour accordingly. Instead, you did the opposite and drove at high speeds in terrible conditions. I am also told that you were involved in a further single vehicle traffic accident after this incident. Again, it resulted in no charges being laid but did result in the Registrar of motor vehicles cancelling your license. I have no further details of that incident either.

You grew up in difficult circumstances. Family violence was common in your home. Your father, in fact, was sent to gaol for the commission of family violence offences against your mother. He left the family home when you were aged 12. Your mother remarried. You have a good relationship with your stepfather, and your mother continues to provide you with significant support.

As to what gave rise to you driving as you did, you really have no explanation. You had finished work, but do not recall being in any sort of hurry. There is nothing by way of prior criminal history to suggest that speeding was commonplace for you. It seems what happened was out of character for you. You have been working in retail since leaving school. I have regard to a reference provided by your employer, which indicates that you are well regarded in your employment and are always willing to help others.

Comment was made in the State facts that the defendant displayed no remorse for causing the death of Mr Kenny during his record of interview. Similar sentiment was expressed in some of the impact statements. Remorse is not always easily judged and must be assessed bearing in mind the defendant's personal characteristics. I, of course, have not seen the defendant's record of interview but I note he was only 17 when the crime occurred, and how a 17-year-old deals with emotions, is often different to the expectations of adults. Following his discharge from hospital he was faced with the enormity of what had occurred. I am told he struggled to come to terms with the magnitude of what he had done, and did not know what he could do to make things better, or how he should go about endeavouring to convey his deep regret to Mr Kenny's family. I do not consider such a conflicted state of emotion is necessarily inconsistent with remorse.

Now that the defendant has had time to reflect upon his behaviour and has a better grasp of the enormity of the situation, and the irreversible harm he has caused, I accept that remorse for his conduct is genuine. He has insight into the destruction he has caused for Mr Kenny's family. He has pleaded guilty at an early point in time and whilst I accept there was some inevitability about his conviction, for at least the crime to which he has pleaded guilty, the plea still has value as it has saved Mr Kenny's family and friends from having to endure what would inevitably have been a traumatic experience.

In my view, this is a serious example of the crime of causing death by dangerous driving. This is not a case where a serious accident resulted from momentary inadvertence or mere negligence. Rather the defendant's conduct involved a significant degree of criminal culpability. The Bass Highway is the main artery road joining towns along the Northwest coast. It is a heavily used highway. The speed at which the defendant drove was not a momentary lapse in judgement. It went on for some time and over some distance, and with the defendant paying no regard to the adverse road conditions, or the limitations of his vehicle. Moreover, the defendant was inexperienced, having only held a licence for seven months, and was ignoring the speed condition placed on his licence, which only heightened the risk associated with his driving. To put it simply, Mr Rowe, you were driving way too fast, paying no regard whatsoever to the terrible conditions. This entire episode and its tragic consequences were completely unnecessary and avoidable.

I take into account your youth and immaturity but, of course, the significance of youth carries less weight than it would in other types of cases because in cases of dangerous driving involving conscious risk taking, a high proportion of offenders fall into the youthful category. There is a very strong need to deter this sector of the community from behaving as you did. Courts must impose penalties that will be sufficiently severe to deter other young persons who might be tempted to drive in a dangerous and irresponsible way. General deterrence is a powerful and dominant sentencing consideration.

No penalty imposed can operate as any sufficient recompense, or alleviate in any meaningful way, the devastation caused by a crime of this nature. The sentencing process is confined by the application of established principles, consistency with other sentences in this State for serious driving crimes, and a need to strike an appropriate balance between many competing factors. No amount of expression of regret by the defendant, nor anything this Court can say or do in these proceedings, will restore Mr Kenny to his loved ones, or provide any significant relief for their pain.

In a case like this, the only appropriate sentence is a weighty sentence of imprisonment. Given, however, the defendant's young age, his lack of prior convictions, and his otherwise good prospects, it is appropriate, in my view, to provide the opportunity for release on parole at the earliest opportunity.

I order as follows: Mr Rowe, you are convicted of the crime and sentenced to imprisonment for a period of three years. That sentence will commence from the date you were remanded in custody, being 13 March 2025. I order that you not be eligible for parole until you have served one half of the sentence. You are disqualified from holding or obtaining a driver's licence for a period of two years, commencing on the date of your actual release from prison.