

COMMENTS ON PASSING SENTENCE

WOOD J

Ryan Paul Tatnell has pleaded guilty to dangerous driving contrary to s 172A of the *Criminal Code* and also related summary offences: drive whilst disqualified, motor vehicle stealing, possess a controlled drug, fail to maintain safe distance when overtaking another vehicle, four charges of exceed speed limit, fail to comply with the duties of a driver involved in a crash, use vehicle in contravention of vehicle standards, operate vehicle in public place in an unnecessary execution of speed, acceleration or loss of traction, drive across continuous dividing line to make a U-turn, and fail to keep left of dividing line.

On the morning of 2 October 2022, the defendant, his brother Matthew Wisby, and his brother's partner Della Webb went fishing at Lewisham.

At approximately 4:10 pm, they returned to their residence at Kempton and then on to a nearby hotel in Ms Webb's 2007 Holden Commodore. The vehicle had a GoPro Camera attached to the windscreen and showed a forward and rear facing view.

At approximately 4:50 pm, Mr Wisby and the accused left the hotel and drove in the direction of Mowbray. Ms Webb was not in the vehicle. Mr Wisby was driving, and the defendant was in the front passenger seat. First, they travelled to their mother's home in High Street, Oatlands. After leaving Oatlands at approximately 5:50 pm, they drove south on the Midlands Highway after taking a left turn from High Street onto the Highway. The defendant was driving, and Mr Wisby was asleep in the front passenger seat of the vehicle.

As the defendant entered the Midlands Highway, he accelerated sharply, causing the rear wheels to spin and lose traction, and the vehicle to fishtail multiple times. He increased his speed to 120 km/h in an 80 km/h zone. The speed limit had been reduced to 80 km/h due to road works, and he passed three road signs displaying that reduced limit.

The defendant continued accelerating and overtook a black Audi over a continuous solid white line dividing north and south bound traffic before travelling at 120 km/h through a roadwork zone near Lemon Hill where the speed limit was 60 km/h .

Olaritmi and Esther George were travelling south on the highway in their Toyota Aurion. They were travelling at the signposted speed of 60 km/h. As they started driving up the incline on Lemon Hill, the accused's vehicle collided at high speed into the rear of their vehicle. The impact caused their vehicle to spin and the front to collide into the armco railing on the eastern side of the highway.

During the collision, the left front guard of the defendant's vehicle had become entangled with the rear guard of the Toyota. The defendant continued to accelerate his vehicle in an attempt to leave the crash and, in doing so, his vehicle was pushing the Toyota backwards up the hill. Mr George put his foot on the brake to prevent their vehicle being pushed further and the Toyota eventually stopped but in the northbound lane.

The defendant's vehicle broke free from the Toyota. There was extensive damage to the rear of the Toyota and the front of the Holden Commodore. The defendant drove on three wheels, with the front left wheel smashed, for a short distance of approximately 50 metres before making U-turn, crossing a continuous white line, and then fled the scene.

He drove at an estimated speed of 80 km/h in a 60 km/h zone and then up to 120 km/h in an 80 km/h zone before turning onto Interlaken Road, a distance of approximately 3.8 kilometres. He travelled for approximately one kilometre along Interlaken Road before stopping on the side of the road. Several members of the public contacted police, concerned about his dangerous driving as he travelled north.

A short time later, the defendant and Mr Wisby were collected by their sister and mother who drove them back to Kempton through the crash scene where paramedics and emergency workers were treating Mr and Mrs George. They did not stop at the scene.

During the collision, the airbags in both vehicles were deployed. After the collision, Mr George assisted his wife out of the vehicle. She was very anxious and fainted twice while she was being helped from the vehicle. They were taken to the Royal Hobart Hospital where they were admitted overnight before being discharged.

Mr George suffered chest pain and pain in his right knee. He also hit his head on the steering wheel as a result of the impact. Mrs George suffered chest and neck pain. Both were traumatised by the experience and remain so, with both receiving ongoing treatment.

During a search of the Holden Commodore, police officers found two small plastic bags, one of which was empty. The other was sent for analysis and was found to contain 0.8 g of a mix of methamphetamine and cocaine.

A crash scene investigation revealed the distance between the collision of the vehicles and the impact of the Toyota with the armco railing was approximately 25 metres, and after that, the defendant pushed the Georges' vehicle backwards for approximately 51 metres. Based on the airbag control module data of the Toyota, it was travelling at a speed of 65 km/h before the collision and was accelerated to a speed of 94 km/h at impact with the Holden Commodore. A co-linear momentum analysis revealed that the pre-impact speed of the Holden Commodore was approximately 120 km/h.

The video from the GoPro camera revealed that after leaving the hotel in Kempton, the defendant asked his brother if he could drive and asked again a couple of minutes later.

On 3 October 2022, the defendant participated in an electronically recorded police interview and was co-operative and made frank admissions. He admitted he was the driver but said he did not have much memory of the journey after consuming cocaine the night before and drinking before he drove. He did not remember driving dangerously but said, "anything is possible", he was not in a decent state of mind, and he should not have been driving. He said when he drove back through the crash scene to Kempton he was in a state of shock, and he did not stop because he was ashamed. He admitted he did not have permission to drive the car. He expressed remorse for his actions.

He drove knowing full well he was disqualified. He had been disqualified for 16 months from 1 January 2022 for offences involving exceed 0.05 and driving whilst disqualified.

I have a victim impact statement from Esther George. The collision and aftermath were an utterly unexpected and terrifying experience for her and her husband, and they remain affected by the trauma and are receiving specialist support. She describes feeling haunted by thinking about the possibility that their 5-year-old daughter could have been in the car. Their lifestyle has changed as a result of their reluctance to drive, and they are now more isolated socially and

as a family. Their car was not insured and was written off. They have since left Tasmania to try and make a fresh start.

Mr Tatnell, you were aged 23 at the time. You have prior convictions, including two for drive whilst disqualified and exceed 0.05 committed in April 2021 and January 2022.

In the immediate period before offending, you had broken up with your partner after finding out that she had been unfaithful against the background of a very negative relationship which had been undermining for you, and which involved money having been stolen from you and your motor vehicle taken and damaged. During this relationship, your partner was a negative influence on you; she introduced you to drugs and your lifestyle deteriorated. In the days before the offending, you were drinking heavily, and the night before, you had consumed an excessive amount of alcohol and taken drugs. I take those circumstances into account, and whilst I accept that as a young, immature person you were susceptible to the negative influence of others, you must accept responsibility for your involvement in that lifestyle.

This is a serious case of dangerous driving resulting from the effects of drugs and alcohol. You were so affected that you were oblivious to the motor vehicle in front of you, and you did not brake or react in any way as you approached the vehicle but slammed into it at high speed. A report from a psychiatrist Dr Philip Reid provides an opinion that your state was the likely result of stimulant intoxication involving drug use.

Your intoxication, however, is not an excuse and does not reduce in any way your moral culpability for your dangerous driving. Your criminal responsibility should be regarded as significant. You made a selfish and reckless decision to get behind the steering wheel of a car when your capacity to drive was substantially impaired. You were aware you should not be driving and that you had been disqualified from driving. You represented a danger to your passenger and other road users from that moment for the duration of your driving.

It is incredibly fortunate given your condition, and the risks you took, that this act of dangerous driving did not result in fatal consequences.

It seems this incident has caused you to reflect on your terrible decision and the direction of your life generally. You have not offended since.

You are now in a stable and supportive relationship. You work full-time with Huon Aquaculture, which you value, and you are concerned about receiving a term of imprisonment and the impact upon your future employment prospects. In April 2023, a court imposed a Community Correction Order for two years. You were referred to Holyoake in January 2023 and you engaged with that service to reduce your alcohol use with a goal of abstinence. You are now abstaining from alcohol and drug use.

You indicated a plea of guilty at an early stage. You are willing and prepared to pay compensation to the complainants once the documentation is provided to you.

You are looking to the future and saving towards purchasing a home. I have been provided with a number of references and they confirm you have turned your life around, and that you are someone with a strong work ethic and sound values who cares for others and contributes to your community. You are a volunteer fire-fighter, and your experience includes assisting with the Dunalley bushfires.

I have a report from Community Corrections. You are described as demonstrating a considerable level of motivation to rehabilitate. You have demonstrated good compliance with the current Community Corrections Order. You are regarded as suitable for home detention, and this would accommodate your employment situation and overtime. You would be monitored by regular urinalysis for alcohol and illicit substances and expected to remain abstinent.

In determining the sentence, there is a strong need for a deterrent penalty. There is a need to send a strong message that people who choose to drive recklessly when they are under the influence of drugs and put the lives of others at risk will be met with significant punishment. The dangers associated with reckless and impaired driving are all too well known. However, given your relative youth, remorse, and the way you have turned life around, it is appropriate to give significant weight to your rehabilitation.

The sentence will demonstrate the seriousness of your conduct and part of it will involve significant punishment, but it will also provide an opportunity for you to continue with your reform.

I record convictions on all charges.

On the dangerous driving charge, I impose a period of imprisonment of 18 months wholly suspended on conditions that you must not commit an offence punishable by imprisonment for two years and you must perform 196 hours of community service within that period.

On the charges of drive whilst disqualified and motor vehicle stealing, I impose home detention of 6 months. I impose the statutory core conditions and the following special conditions. You must submit to electronic monitoring, and you are subject to obligations with regard to that condition, pursuant to s 42AD(1)(g) and (h), for a period of 6 months.

During that period, you must not, without reasonable excuse, tamper with, damage, or disable any device used for the purpose of the electronic monitoring. You must not knowingly permit, without reasonable excuse, another person to tamper with, damage, or disable any device used for the purpose of the electronic monitoring. You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, pursuant to s 42AD(5), by a police officer; a probation officer, or prescribed officer; or another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.

Further, you are subject to the following special conditions:

You must, during the operational period of the order, remain at [address specified], at all times unless approved by a probation officer. You must attend Community Corrections at 75 Liverpool Street, Hobart, for induction onto this order no later than 4:00 pm tomorrow. You must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections, and be accessible for contact through this device at all times.

You must submit to the supervision of a Community Corrections officer as required by that officer. You must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act 2001*; and any medication containing an Opiate, Benzodiazepine,

Bupropion, Hydrochloride, or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.

You must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.

In view of totality considerations and the close connection between the other offences and the dangerous driving, no additional penalty is imposed on the other offences.

For the charge of dangerous driving, I impose licence disqualification for two years from today. On the drive whilst disqualified and motor vehicle stealing offences, I impose 5 months' disqualification as two cumulative periods amounting to ten months; six months concurrent with the two-year period imposed on the dangerous driving and four months cumulative to that period.

The result is two years and four months' disqualification from today.

Pursuant to s 36B(2) of the *Misuse of Drugs Act 2001*, you must pay the costs of analysis of the drugs seized on 2 October 2022, being the sum of \$197.

I make a compensation order pursuant to s 68(1) of the *Sentencing Act 1997* in favour of Olaritmi and Esther George in an amount to be assessed.