

THE STATE OF TASMANIA v SETH CONNOR BELLINGER
COMMENTS ON PASSING SENTENCE

25 JUNE 2025
SHANAHAN CJ

Seth Connor Bellinger you have pleaded guilty to one count of dangerous driving contrary to s 172A of the *Criminal Code*, driving which resulted in a motor vehicle crash on 26 January 2023.

You were born on 27 September 2004 and were aged 18 on or about 26 January 2023, and were driving a Nissan Patrol 4X4, registration number PIG228, at Mole Creek when you were involved in a motor vehicle crash. At that time you were the holder of a P1 novice active car licence, which was valid until 11 September of 2025. It was a condition of that licence that you did not drive with alcohol present in your body.

On the relevant date you attended the Mole Creek Hotel with friends to celebrate Australia Day. The group was made up of you, Ryan Drake, who was aged 18, Bridie Goodluck, aged 23, Kashmir Taylor, aged 20, and Zeph Cartledge, aged 21.

Mr Drake gave a statement in which he described the events leading up to the crash:

"At approximately 6pm somebody from the group asked Seth if we could have a ride in his vehicle. Seth said that would be okay but he needed to get some petrol first. I jumped in with Seth and we drove to the Mole Creek petrol station. We returned to the pub and pulled up on the wrong side of the road outside the pub, where Bridie, Kashmir and Zeph got in. We then began driving west on the wrong side of the road."

At this point Joshua Stevens, aged 26, and also known to you, also left the hotel in his Hyundai Accent, registration EBA919. Mr Stevens states:

"We left the pub side by side, racing each other out of Mole Creek and we got to the first corner, outside the library."

Mr Stevens gave an estimate of the speed involved:

"I think we were going about 80 kilometres per hour at this point. However, my speedo is out, so I'm not completely sure."

It is to be inferred that your vehicles were travelling at some speed at this point, albeit the exact speed is unknown.

Kashmir Taylor who was travelling in your vehicle gave a statement and described the events leading up to the collision:

"We all then got into the vehicle. Seth was driving, Ryan was in the front passenger seat and I was in the middle, with Bridie behind Ryan and Zeph behind Seth. Seth then drove off on the wrong side of the road. I noticed that another car pulled up next to us. I can't remember anything about that car; only it was driving next to us on the correct side of the road. I reckon we were driving for a good two minutes and Seth was on the wrong side of the road for the whole time.

We approached a corner, still on the wrong side of the road, and I could feel my gut churning as we could not see if anything was coming. We continued down the road and approached another corner going left. We were still on the wrong side of the road as we rounded the corner and I saw a small car in front of us travelling towards us.

At this point I grabbed hold of the handles on the back of the front seats. I saw Seth try to swerve onto the correct side of the road but the driver of the car moved in the same direction to avoid us, so Seth tried to move back again but collided head-on with the other car."

The State has clarified the time taken between when you started driving and the collision as significantly less than two minutes, that is reflected in the CCTV of the events obtained from a property on Liena Road which showed both vehicles in the seconds before the crash. That CCTV has been played to the Court.

The unsuspecting couple in the vehicle with which you collided were in a 2007 Hyundai sedan, registration FS2256, the car was driven by David John Palfrey, aged 76 years, and his passenger was his wife, Jean Dianne Palfrey, aged 75 years, who was in the passenger seat. Mr Palfrey described the events:

"As we were approaching the right-hand bend, travelling at around 50 kilometres per hour, a large vehicle came around the corner at speed on my side of the road. I remember the vehicle wobbling like the driver did not have proper control. I tried to take evasive action by attempting to move into the right lane to avoid a collision. I only made it halfway into the lane before the other vehicle, which was a large four-wheel drive, crashed into the front passenger side of my car."

Your vehicle, the Nissan Patrol, became airborne as a result of the crash and collided with a metal power pole and came to rest in a paddock on the northern side of the road. Photographs of the vehicles following the crash at pages 40 and 41 of the Crown papers were evocative of the level of destruction and the mechanism of the crash. They show your vehicle is a crumpled and twisted wreck with the front of the vehicle severely damaged. The impact of your vehicle took out the front passenger side quarter panel of the Hyundai accent with the impact zone clearly extending to the engine wall on the passenger side, with a missing front door on that side. This was a dangerous impact which must have been horrific for the Palfreys.

Driving conditions at the material time were described by Constable Davies in the following terms:

"At the time of the crash the weather was fine and the road surface was dry. There was no evidence of any defect or destruction of the bitumen of the roadway which could have contributed to the collision. At the crash site, double white lines divided both lanes. And evidence of damage sustained by the Hyundai Accent indicated that the Nissan Patrol had driven up the front left side of the Hyundai and then collided with a metal power pole, fence and farm gate, and the front axle of the Nissan Patrol had separated from the vehicle as a result of the collision."

You were transferred by air ambulance to the Royal Hobart Hospital with suspected spinal injuries, and at the hospital you had blood taken pursuant to the *Road Safety (Alcohol and Drugs) Act 1970*, s10A, and upon analysis a reading at 0.032 grams of alcohol in 100 millilitres of blood was recorded and you were charged on complaint in relation to that.

Of the passengers in your vehicle, Ryan Drake was uninjured, Bridie Goodluck had small cuts and abrasions, a sore neck and a right shoulder, Kashmir Taylor was monitored overnight at the Launceston General Hospital and she was found to have mild concussion and bruising. Zeph Cartledge had three stitches inserted above the right eye.

Mr and Mrs Palfrey were not as fortunate, unsurprisingly both have suffered significant psychological and physical consequences. Physically, Mr Palfrey sustained a chest wall injury, fractured ribs and a severe blunt injury to his pelvis and was in hospital for 2 weeks.

Mrs Palfrey was at the primary impact site and suffered severe injuries "involving left side face, left hand, left knee tibial bone with fracture". Ms Palfrey was in hospital for over three months. Both have had to go through rehabilitation particularly Ms Palfrey, and both continue to suffer "some emotional and psychological symptoms".

I have victim impact statements from both Mr and Mrs Palfrey and I have read them carefully.

Mr Palfrey has flashbacks and has, in his words, "lost half the physicality of my whole body", he feels weak and vulnerable. He experiences aches, pains, imbalance and giddiness which is ongoing. He describes the memory of "coming to" in the wrecked Hyundai Accent next to his trapped wife who was screaming for help, and his unsuccessful efforts to free his wife from the car. Mr Palfrey describes the ongoing aches and pains, and his anger at his loss of strength, concentration and quality of life, and his feeling of being "useless".

Mrs Palfrey cannot walk properly following the accident and needs a crutch to assist her. She has ongoing mobility issues and they have not improved over the period since the accident. She cannot walk for long periods and experiences intense pain in her lower body. She has become a very tentative driver. She records that she is now physically unable to do many of the things that she enjoyed prior to the accident, in her words "I have gone from being ...[a]... perfectly fine, self-sufficient, high functioning independent woman to being an invalid". Like her husband, Mrs Palfrey feels angry, she has suffered from depression. Like him she has memory loss and has been significantly emotionally affected as a consequence of your driving. Mrs Palfrey states:

"I would like the driver of the other vehicle to understand the impact that his actions have had on us – we are real people and his moments of stupidity have changed our lives forever. We ought to be enjoying these golden years instead of being plagued by physical restrictions pain and frustrations."

I accept the State's submission that your driving posed a very significant danger to other road users and the passengers in your vehicle. Whilst it is a phrase sometimes overused, or used without a real sense of what it conveys, you are a very lucky young man in the sense that no-one was killed.

You collided with the Palfreys shortly after you commenced driving on the wrong side of the road as you went into a blind turn, no doubt that is why there were double white lines clearly marked on the road.

Your driving was a senseless stupid act and one might infer from the witness statements that your driving was intended to impress your peer group. Whilst you are young that does not excuse you from the consequences of your actions, and it is just the type of driving that contributes to the rising road toll and the tragedies that regularly occur on our roads in this State. It is to be clearly called out and condemned. Alcohol was involved in circumstances where you were subject to the requirement that you not drive with alcohol in your body.

Dangerous driving is a very serious offence. As noted in *Banks v Tasmania* [2019] TASCCA 1 the offence was removed from the *Traffic Act* and made a crime under the *Criminal Code* in

2017, which increased the maximum penalty from 2 years to 21 years. The Attorney-General's second reading speech noted:

"Unsafe driving has significant social, health and economic consequences for individuals and for the Tasmanian community. It is in the interests of all Tasmanians to ensure that users of our roads remain safe ... [D]riving unsafely is inherently dangerous. ... Deaths and serious injuries on the road have obvious and terrible physical and emotional effects on those directly involved. Beyond the immediate victims, harm on our road's causes trauma to family and friends, witnesses, emergency services personnel and hospital staff."

Certainly, Mr and Mrs Palfrey could attest to those costs following the results of your driving.

It is to be readily accepted that dangerous driving is a serious driving offence involving exposure of members of the public to danger. The Sentencing Advisory Council, *"Sentencing of Driving Offences that Result in Death or Injury"* explained that although injury or death has not materialised in an the offence of this type it has the same fault element as applies to dangerous driving causing death or grievous bodily harm: "[It] is a serious driving offence given that the fault element ... is the same as driving that causes death or grievous bodily harm and the role of risky driving behaviour in cases where death or injury is caused."

As noted by Porter AJ in *Banks* at [28], the Council continued:

"An offender convicted of dangerous driving has the same level of fault as an offender convicted of dangerous driving causing death or grievous bodily harm; however, the harm caused is different. In the case of dangerous driving, it is the risk of harm that is punished, whereas it is the realisation of that harm that is punished where death or serious injury results from an offender's dangerous driving."

His Honour went on to note the following principles in crimes of this type which I set out to explain the process of setting an appropriate sentence in this matter:

- "33 ... First, the specification of the maximum penalty for a particular offence of course limits the exercise of the sentencing discretion. It goes without saying that sentencing courts have close regard to any legislative increase in the maximum penalty set by a statute for a particular offence ...
- 34 Second, the general increase in severity of sentences for 'motor' manslaughter and crimes under ss 167A and 167B, is something which should be generally borne in mind when fixing a sentence for the crime of dangerous driving, to the extent of current trends in respect of those crimes ...
- 35 Third, there is no doubting the proposition that general deterrence is a prominent factor in sentencing for dangerous driving. That has long been the case, pre-dating the 2017 legislative changes. Judges of the Supreme Court have long been able to sentence offenders convicted of dangerous driving, primarily on the basis of a verdict of guilty of dangerous driving as an alternative to manslaughter, and later one in respect of ss 167A and 167B on their enactment. ... it must be accepted that the legislative change means an increased focus on deterrence and denunciation.

- 36 Having said all of that, in broad terms the fundamental principles of sentencing are unchanged. Subject to such things as statutory maxima and the availability of certain options as may be regulated by the *Sentencing Act*, the exercise of the discretion remains unfettered, although guided by authoritative pronouncements of the weight to be given to particular factors. Competing considerations need to be balanced and the sentence must be a proportionate response to the offending. A punitive sentence should be no more than is necessary to act as a deterrent ... Various factors may have more or less weight, depending on the circumstances of the offence and of the offender. Individualisation of sentences remains open."

In mitigation you have apologised for your actions to the Palfreys through your counsel at the sentencing hearing on 2 May 2025. You have expressed regret in the same manner. One hopes that demonstrates some insight into the damage that your driving has caused, and the lives it has affected for ever. I am told that you understand that. I can only hope that is so. I accept you are remorseful and regretful.

You indicated a plea of guilty at an early stage, albeit there was a very strong prosecution case.

Your counsel has indicated that you are in a de facto relationship and that your partner is supportive. You have no dependants. You live in the Mole Creek area with your partner in your mother and stepfather's house. You are the middle child of three siblings. You were educated to grade 10 at Deloraine High School.

You have undertaken a number of types of employment, including farm work, roofing and I understand you are presently in full-time employment with a local asphaltting company, where you have been for one and a half years. You are in a stable relationship, full-time employment and have the support of family and friends.

You had limited driving experience at the material time and you were on P1s. You had been licenced to drive for just over a year at the time of the crash. You admit that you had been drinking a limited amount of alcohol prior to the crash, you were tested and had a blood alcohol reading of 0.032.

The explanation for your driving is that you were involved in a race that was described as "spontaneous" and "spur of the moment", I am told it was a very short period. Of course, that is not because you chose to pull out but because it ended in a horrific crash. Although it is submitted on your behalf, perhaps not unsurprisingly, that you were about to stop racing when the crash occurred.

You accept that disqualification from driving is inevitable.

Your counsel highlighted your youth as an important sentencing consideration given you were 18 years of age at the time of the offending. Whilst the emphasis on youth as a relevant sentencing parameter is accepted and whilst you may not have intended the consequences of your driving, your driving was entirely reckless as to the outcome.

I take into account your plea of guilty and your limited driving history, but even someone of your limited experience knows not to cross double white lines or drive on the wrong side of the road.

I have only recently received a presentence report. I am advised that you have a strong relationship with your mother and step-father. You have the unconditional support of your partner. You reside with your mother, step father, partner and your younger brother. You have been assessed as suitable for home detention as has the property at Mole Creek. You have offered an explanation for your driving to those preparing the report, in which you say you were not seeking for it to be a race but were trying to get back into the correct lane as quickly as possible. Of course, had that been the case you need only have applied your brakes and turned in behind the car travelling in the correct lane.

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 and put the lives of others at risk, that their conduct will be met with significant punishment. The dangers associated with reckless and impaired driving are all too well known and the results can be even more tragic than they were in this circumstance. However, given your youth and remorse it is appropriate to give significant weight to your rehabilitation and to weight any sentence with your rehabilitation in mind.

Seth Connor Bellinger you are convicted on a single count of dangerous driving contrary to s 172A of the *Criminal Code*. I impose one sentence. I make a home detention order for an operational period of 15 months. I impose the statutory core conditions at s 42AD(1) of the *Sentencing Act* 1997. You must also 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 15 months.

I also impose the following special conditions. The primary special condition is that recommended by the presentence report, as option 3, that is, you must, during the operation of the order, remain at [address specified], between the hours of 6 pm on Friday and 6 am on Monday each week unless approved by a probation officer. I want to emphasise that I have made that order solely to preserve your employment which is an important factor in your rehabilitation.

During the operational period of the order 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 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) of the *Sentencing Act*, 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 must attend Community Corrections at 111-113 Cameron Street, Launceston, for induction onto this order no later than 4:00pm 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.

I make an order under s 55 of the *Sentencing Act* disqualifying you from driving for a period of 24 months.

I also make an order that you pay compensation to Jean and David Palfrey in an amount to be assessed