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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 22421821

THE KING

and

JAKE PHILIP DANBY

(Sentence)

BROWNHILL J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON MONDAY 15 SEPTEMBER 2025

Transcribed by:
EPIQ

HER HONOUR: Mr Danby, you have pleaded guilty to the charge that on 13 June 2024, you were the driver of a car involved in an incident that resulted in the death of EW and you failed to stop the car at the scene, failed to give any assistance that was reasonable in the circumstances and failed to notify police, contrary to s 174FA of the *Criminal Code*. The maximum penalty for that offence is imprisonment for 10 years.

The offence is commonly referred to as a “hit and run”.

The circumstances of the offending are that you were 23 years old. You were driving a Subaru Tribeca registered at your father’s address.

You left work before 4:00 pm and drove along Vanderlin Drive towards Casuarina Shopping Centre. The weather was clear and traffic was moderate. You approached Hibiscus Shopping Centre. About 450 metres from those traffic lights, the speed limit changes from 80 to 60 kilometres per hour. You did not reduce your speed and as you approached the traffic lights, you were travelling at about 79 kilometres per hour.

At about 4:06 pm, two groups of people were crossing the road from the Hibiscus side. The first group crossed without incident. About 40 metres from the traffic lights, two men aged 39 and 37 were crossing Vanderlin Drive. They crossed the outbound lanes and stopped on the median strip to wait for an inbound car to pass.

They began to cross the inbound lanes. You were driving in the outside lane at about 79 kilometres per hour. The two men hesitated while crossing. Then EW tried to run the rest of the way, running into your path. You did not slow down or deviate and collided with EW.

He was thrown into the other man knocking him to the ground and landing about 7 metres from where he had been struck. You did not slow down or stop at or near the scene. You did not try to render assistance or contact police as soon as reasonably practicable.

Bystanders who saw the collision went to help EW and the other man, CP. They called 000 and an ambulance came and took them both to hospital. EW was unresponsive, and CP had a large cut to his head. When they got to the hospital, EW was intubated, then taken into surgery where an intercranial pressure monitor was inserted.

He was then taken to the Intensive Care Unit. He had suffered a severe traumatic brain injury, comminuted fractures of his pelvis and hip, extensive rib fractures and nasal bone fractures. On 16 June 2024, his family decided to withdraw life support and he passed away that night.

CP lost consciousness at the scene. He was treated for a bleeding head injury and had pain in his shoulder. He was very upset and distressed and left the hospital.

A witness at the scene gave Police a partial registration number of your car and a piece of the front bumper at the scene enabled Police to identify its make. Your car was identified as a vehicle of interest. Police made efforts to locate and speak to you. That evening, you texted your father and sent photos of the damaged car and a text which said, "driving home from work and two black fellas jump out onto the road, tried to slow down but I still hit them at 80kms I just kept driving and my rego is still got your address so if cops swing past looking for me just give them my number." And there was a thumbs up emoji. Your father tried to call you, but you did not answer.

At about 7:15 pm, Police told your father's wife they were trying to find the car as it was probably involved in an accident. She said she did not know where you were living. She told your father of the call and he told her about your text messages. She later called the Police and told them about the texts.

Later that evening, you sent a number of text messages, which I am quoting directly:

Two for one combo, they learnt their lesson now, maybe next time they will use the crossing instead of walking out in front of cars expecting me to stop like they own the place.

Nah cunt, I'm on a comedown from work. I ain't stopping for no one.

I couldn't stop. I'd rather get done for hit and run than stay and get tested. It was an easy choice Buddha. I need me licence.

Nah, they were rolling all over the road like bitches when I looked in my rear view mirrors.

The world needs cunts like me to take a hit to teach these cunts a life long lesson.

I hit the cunts at like 80kms. One of the blokes elbow went through my windscreen, so I reckon one of them has gotten at least a fucked elbow. I tried to slow down, so I maybe hit them at like 60-70. Maybe if I'm lucky I'll be able to claim his Centrelink for taking out another oxygen thief.

Cops looking for me. They rocked up at my old man's.

They wanna drug test me and I smashed a P after work.

My life fucked again all cause some niggas can't use a crossing at the lights that was literally 10 metres from where I hit the dogs.

2 niggas jumped out onto the road and I hit them. Tried to slow down but the dumb cunts were jaywalking.

Some cunt tried to rob me so I ran over him and his mates, now they calling it a hit and run. They funny cunts tho, tried buying gear off me with a stolen gold watch and when I told them to get fucked and that I wanted coin, they pull out a machete and block the road acting like they superman and my car won't go straight through them.

It was pretty funny watching job them roll around on the road after going over my bonnet and through my windscreen. Them mob play stupid games win stupid prizes. Tried robbing me then called the cops when they had to go hospital. Dumb junkies man.

I do have to hand myself in but I aint getting jail time. I'm a Danby, we don't go to jail. It's amazing how much lawyers fight for you like it's life and death when you know you can pay whatever fee they pull out of their ass. I'm not even a fugitive cause I haven't ran from court. They just after me for a statement, inspect the vehicle and to breath test me cause these cunts reported me as a hit n run so it's just standard procedure.

At 8:30 pm, you took a screenshot of the NT News Facebook post with the headline, "Two pedestrians struck near Darwin shopping centre."

Police looked for you but could not find or contact you that evening. The next day at 12:35 pm, you called Police and told them where you were and that you wanted to hand yourself in.

Police came, saw that your car had damage to the front side and the windscreen. You were arrested and taken to the watch house. You declined to do a recorded interview. You were granted bail.

At the time of the offending, your driver's licence was suspended by the Fines Recovery Unit.

I received photographs of the damage to your car.

You are now 24 years old.

You have no criminal history.

I have received some information about you.

You were born in Alice Springs. You have two older siblings.

You grew up initially with both your parents. Your father was a carpenter who worked away from home often. Your mother stayed at home to care for the children. Your mother was an alcoholic. She became mentally and physically abusive towards you and your siblings. You and your brother often endured her physical

abuse. Things were more peaceful when your father was home, but your mother was also physically aggressive towards him.

Your parents divorced when you were 9 years old. Your mother moved to Queensland. You and your siblings stayed with your father in Alice Springs. In 2013, you all moved to Darwin. In 2015, you went to Queensland to live with your mother.

You finished Year 10 there and then returned to Darwin to live with your father. You visited your mother once or twice. Your mother had a liver transplant, but continued to drink alcohol. Your relationship with your mother deteriorated and you refused to see her anymore. She later died from cancer in the weeks leading up to this offending. You did not go to her funeral.

Your father is supportive, but you often clash. You were living in a caravan at your father's and stepmother's property prior to the offending, but had planned to move to your sister's after an argument with your father.

You started working at age 16 as a labourer in construction. You are currently employed by an Alice Springs company, and your work involves travel to remote communities for extended periods. Your employer has said you are a valued employee and your job would remain for you if you were required to serve a short period of imprisonment or home detention.

You first drank alcohol at age 11 and first tried methamphetamine at age 15. By the age of 22, you were using methamphetamine regularly, which you attribute to associating with the wrong people. You have said that after your mother's death, you decided to stop using the drug and you say you had been abstinent in the weeks before this offending.

You have pleaded guilty to the offence. You have thereby saved the community from the need for a trial and indicated a willingness to accept responsibility for your criminal behaviour and to facilitate the course of justice.

It was an early plea, but given in the face of a strong Crown case. It was a recognition of the inevitable.

You did hand yourself in to authorities, but did so after you were aware that Police were looking for you and your car.

The text messages you sent that evening demonstrate a shockingly callous disregard for the welfare of the victims.

You expressed to the writer of the presentence report some insight into the offending and said that you have reflected on it considerably since it occurred. I am prepared to accept that you are genuinely remorseful for your offending, having thought about what you did and how you responded to it over the course of the time

since then. I propose to reduce the sentence I would otherwise impose by approximately 25 percent to reflect these matters.

The grave seriousness of this kind of offending is obvious and is recognised by the penalty prescribed by the Parliament of up to 10 years' imprisonment.

You struck the victim as he was crossing the road and by doing so, you caused him serious injury which ultimately led to his death.

You also caused significant injury to another man who was also crossing the road. You did not stop the car immediately to see if you had struck a person. You did not render assistance to the victims, and you did not report the incident to Police.

The text messages you sent to your father shortly afterwards and later that night demonstrate that you were well-aware, as soon as it happened, that you had struck a person with such force to cause him to fly up in the air and hit the windscreen of your car.

Again, the degree of callousness and disdain expressed in those text messages for two other human beings who you had obviously harmed, most likely seriously, is difficult to fathom. You were selfishly blaming them for what had happened, even though you knew you were driving at 80 kilometres per hour. You were also aware of the possibility of a death. You expressly referred to, "taking out another oxygen thief."

Your failure to stop must be considered in light of that state of mind.

The text messages you sent also show that your motivation for not stopping and not contacting Police sooner was to evade being breath tested. By failing to report the matter to Police immediately, whether you were under the influence of alcohol or drugs at the time can never be tested. While you are not to be treated as if you were under the influence, your failure to report has meant that the victims' family are left with unanswered questions.

I consider this offending to be around the midrange of seriousness for this kind of offence.

It is not uncommon for people to cross the road at random places, exposing themselves to the danger of being struck by cars. Drivers need to know that they are required to stop after an incident involving harm to another person, even if it is not their fault. Drivers must not be led by sentences imposed for this offence to think that it is better to keep driving than stop and face the consequences of their intoxication.

You are entitled to lenience as a first-time offender. You are also entitled to some lenience as a young offender because young people do not have the same decision-making capacities and judgement as older people.

I must take into account the need to protect the Territory community from the risk that you might reoffend in a similar way in the future. As to your prospects of rehabilitation, I have mentioned your age and your lack of criminal history. You have a good employment record. You have spent over a year on bail without breach of your bail conditions.

You have a supportive family and friends and stable accommodation. I have received eight character references for you from your employer, sister, grandfather, grandparents and family friends who all attest to your work ethic, your kindness and family values and to your capacity to learn from your mistakes.

They attest to their ongoing support of you. I am prepared to accept that this offending was aberrant conduct on your behalf. You have some history of drug and alcohol use. Community Corrections have assessed you as of low to moderate criminogenic risk, stemming from substance use history, childhood trauma, limited support systems and emotional distress.

Even accepting that, I consider that your prospects for rehabilitation are very good.

In *Mason v The King* [2024] NTCCA 13, the Court of Criminal Appeal noted that, some 22 sentences imposed for this offence between 2010 and 2022 ranged from home detention for 12 months to imprisonment for 5 years before the discount for the plea.

On the appeal, the young offender in that case was resentenced to imprisonment for 12 months, after a 25 percent discount for his early plea of guilty for the hit and run offence. He was also sentenced for other offences, including an attempt to defeat the course of justice and interfering with a dead body. He had spent 18 months in custody before pleading guilty.

You have not spent any time in custody, other than the day of your arrest. The Crown seeks a sentence requiring you to serve some period of actual imprisonment.

I have received a report which has assessed you as suitable for both a suspended sentence and for home detention.

I do not accept that actual imprisonment is warranted in all the circumstances, particularly given your youth and your prospects of rehabilitation. Nor do I accept that a wholly suspended sentence is warranted, given the seriousness of this offending.

Rather, I consider that the sentencing considerations of general and specific deterrence, punishment and denunciation can be adequately addressed by a sentence to an Intensive Community Corrections Order with a period of home detention.

In that regard, I do not accept the submission that you will lose your job if you are given home detention. Your employer indicated to the writer of the presentence report that you could resume your job if you were given a short period of home detention.

Mr Danby, I will now sentence you. Can you please stand up?

I convict you of the offence.

THE ACCUSED: Yep.

HER HONOUR: I sentence you to imprisonment for 12 months. Pursuant to s 45 of the *Sentencing Act*, you will serve that term of imprisonment in the community by way of an Intensive Community Corrections Order.

The Intensive Community Corrections Order will commence today and will be for the period of 12 months from today. That order is subject to the following conditions. You can sit down while I read the conditions out.

- 1) You must not, during the period of the order, commit another offence, whether in or outside the Territory, punishable on conviction by imprisonment.
- 2) You must be of good behaviour for the period of the order.
- 3) You are under the ongoing supervision of a Probation and Parole officer and must obey all reasonable directions from a Probation and Parole officer.
- 4) On your discharge from Court, you must immediately return to [address redacted] unless directed otherwise, and for the period of 5 months from today, you must not leave that address without the permission of a Probation and Parole officer.
- 5) For:
 - (a) the period of home detention; and
 - (b) any further period as directed by a Probation and Parole officer,you must have attached an approved monitoring device and must comply with any directions given in relation to it.
- 6) After the period of home detention ends, you will, if directed by a Probation and Parole officer, submit to a curfew.
- 7) You will not purchase or consume alcohol and will submit to testing as directed by a Probation and Parole officer or a Police officer.

- 8) You will not possess or consume a dangerous drug and will submit to testing as directed by a Probation and Parole officer or a Police officer.
- 9) You will participate in assessment, counselling or treatment as directed by a Probation and Parole officer.
- 10) You will not frequent or visit any place or district as directed by a Probation and Parole officer.

So Mr Danby, what that means is that I have sentenced you to imprisonment for 12 months, but I am giving you the chance to serve that sentence in the community on an Intensive Community Corrections Order. That order is going to last for 12 months, and for 5 months from today, you will be subject to home detention. So you must comply with all of those conditions. If you can do that, that will be the end of your sentence.

THE ACCUSED: Yes, your Honour.

HER HONOUR: If you breach any of those conditions, you will be brought back to Court and you could be sent to gaol to serve that sentence in prison. Do you understand?

THE ACCUSED: Yes, your Honour.

HER HONOUR: All right. Now, I have not done anything about the driver's licence. As I understand it, the Crown was seeking a suspension.

MS EVERITT: We are, your Honour. There are some traffic offences that are listed in the Local Court tomorrow, so I am content to deal with them in that jurisdiction.

HER HONOUR: All right. I think that is probably more appropriate once those are dealt with.

MS EVERITT: Thank you, your Honour.

HER HONOUR: All right, thank you. Anything arising, counsel?

MR DRURY: Nothing arising, your Honour.

HER HONOUR: Thank you. All right, thank you, we will adjourn the Court now.
