

IN THE COUNTY COURT
OF VICTORIA
AT MELBOURNE

Court ref: CR-19-00421
Indictment: J12438196

DIRECTOR OF PUBLIC PROSECUTIONS

-v-

JESSE CHRISTIAN REID

OUTLINE OF PLEA SUBMISSIONS

Date of Document:
Filed on behalf of:
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13 August 2019
The Accused
A. J. Patton
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1. The Accused pleads guilty to 2 charges of reckless conduct endangering life and 1 charge of culpable driving causing death.
2. It is submitted that the following are particularly relevant matters that this Honourable Court ought to take into account in sentencing the Accused:
 - a. Mr. Reid's youth;
 - b. Mr. Reid's history of childhood trauma;
 - c. Mr. Reid's limited, though relevant prior criminal history;
 - d. Mr. Reid's compromised mental health; and
 - e. The plea of guilty – both in utilitarian value and as an expression of remorse.
3. It is submitted that taking into account these factors, it can be said that, on a continuum of 'excellent, very good, good, reasonable, fair, guarded, poor, and hopeless'¹ –Mr. Reid's prospects of rehabilitation are very good.

¹ *The Queen v Liszczak & Phillips* [2017] VSC 103, [119]

Background – Matters Personal:

4. Mr. Reid is the sole child born of parents, and was raised by his mother following his parents' separation when he was aged 5. He has 9 half and step siblings as a result of both his parent's re-partnering following their separation.
5. Mr. Reid is (and was at the time of the collision) in a relationship with Ms. Shannon Torney, and they have an 11 month old son, [REDACTED] Ms. Torney has visited Mr. Reid, with [REDACTED] regularly throughout his remand.
6. Following his parents' separation, his mother relocated a number of times, which caused great disruption to his schooling – both academically and socially. Throughout this period, Mr. Reid found himself stuck between his parents in an increasingly acrimonious separation. At the age of 13, Mr. Reid moved to live with his father, and after 2 years returned to his mother – before moving out of home at 16.
7. Mr. Reid completed Year 10 Lumni Christi Catholic College and commenced an electrical apprenticeship. This lasted approximately 18 months, after which he gained employment variously as a concreter, landscaping and in steel fabrication. He holds no trade or academic qualifications.
8. Since his arrest, Mr. Reid has had no contact with his mother – their relationship already being strained by Mr. Reid's relapse into methylamphetamine use. He has remained in contact with his father throughout his time in custody – and identifies this relationship as strong. Mr. Reid has little, if any, relationship with his half and step-siblings.

Present Circumstances:

9. Mr. Reid has been held in custody since his arrest on this matter. He has been held variously at the Metropolitan Remand Centre and Port Phillip Prison. He is held in the 'youth' Penhyn Unit at present.
10. Mr. Reid has completed a large number of rehabilitative and vocational courses whilst in custody. Further, he has been employed in the maintenance unit and kitchen at Port Phillip Prison. In his spare time, Mr. Reid exercises and volunteers his time assisting new inmates adjust to the Unit.
11. Mr. Reid has not been subject of any 'incidents' whilst in custody.

Psychiatric and Psychological Matters:

12. [REDACTED]
13. Following [REDACTED] [REDACTED] Mr. Reid began using illicit drugs and alcohol – commencing with cannabis, before moving on to ecstasy and amphetamines,

before methylamphetamine. Methylamphetamine has been his ‘mainstay’ drug over his late teenage years and early 20s.

14. Mr. Reid was using 0.5g per day regularly, though at times his use would increase up to 2g per day.
15. Mr. Reid has previously engaged in rehabilitation programs for his methylamphetamine addiction – including a 3 month in-patient treatment at Narconon in Warburton in 2016. Mr. Reid remained abstinent for 8 months following his inpatient stay.
16. Following his relapse, Mr. Reid sought medical assistance to cease his drug use in late 2017 and September 2018. On these occasions, Mr. Reid was provided a referral to a psychologist and medication to assist. At the time of the collision, Mr. Reid was prescribed Valium, which was found in his system following the collision.
17. Mr. Ian McKinnon opines that Mr. Reid suffers from Post Traumatic Stress Disorder, [REDACTED]
[REDACTED]
18. Mr. Reid was diagnosed as suffering depression and anxiety by his GP in 2016, prior to his admission to Narconon.
19. It is not submitted that the existence of PTSD at the time of the offending engages the operation of *Verdins* principles in so far as they relate to his culpability; however it is submitted that the impact of the condition – and the lack of appropriate treatment whilst in custody, is a relevant consideration for the Court pursuant to *Verdins* limbs 5 and 6.
20. Mr. McKinnon is of the opinion that Mr. Reid requires intensive and ongoing psychological therapy to treat his PTSD, which is not available to him in a custodial environment.

Criminal History and Pending Charges:

21. Mr. Reid has a very limited, although relevant, criminal history.

The Offending:

22. The offence of Culpable Driving Causing Serious Death is inherently serious, and it is accepted that this is a particularly grave example of the it, due to the presence of a number of aggravating features.

Other Sentencing Considerations and Submission as to Sentence:

23. It is submitted that Mr. Reid’s youth is the primary consideration in mitigation of penalty for this offending.² Mr. Reid was aged 21 at the time of the offending at is presently aged 23. Specifically, it is submitted that rehabilitation should take a primary role in the sentencing exercise.³ The

² *Mills v R* [1998] 4 VR 235

³ *Azzopardi; Baltatzis; Gabriel* (2011) 35 VR 43at [35]

sentencing purposes of denunciation, specific and general deterrence and community protection will all be met by the imposition of a lengthy custodial sentence. Such a sentence however ought be moderated to acknowledge Mr. Reid's age.

24. While serious offending will generally limit the moderation of youth as a factor going to mitigation, it is submitted that the present offending is not so grave – nor the prospects of rehabilitation eliminated, such as to eliminate consideration of Mr. Reid's youth.⁴
25. It is submitted that the recognition of Mr. Reid's age can be made by the moderation of the total effective sentence, but also through the imposition of a lower than usual non-parole period. Such a construction of the sentence would promote Mr. Reid's prospects of rehabilitation, but also reduce the risk of re-offending through extended supervision.
26. Mr. Reid entered a plea of guilty to the charge upon service of the hand-up brief and prior to a Committal Hearing being listed. It is submitted that in the circumstances, the plea has been entered at the earliest available opportunity. Accordingly, it is submitted that the Accused is entitled to moderation of sentence to recognise the guilty plea – both as an expression of remorse, and for the utilitarian value of the plea.
27. In addition to the entry of an early plea of guilty, it is submitted that Mr. Reid has demonstrated remorse in the course of his assessment with Mr. McKinnon.
28. It is submitted that Mr. Reid's prospects of rehabilitation are very good – based on his age; limited criminal history; remorse and insight; and desire to engage in treatment for his drug addiction and mental health. Mr. Reid will likely be released from custody subject to a parole order, which will provide support and supervision during the early stages of his rehabilitation and re-integration into society.
29. Allied to the submission as to youth, the Court must avoid the imposition of a crushing sentence. This is particularly relevant to the sentencing of a youthful offender, where the imposition of a sentence of a lengthy term of imprisonment risks destroying any expectation of a useful life upon release from prison.⁵
30. There is considerable, if not complete, overlap in the conduct giving rise to charges 2 and 3. While acknowledging that an appropriate sentence must be imposed for each charge, and orders for concurrency must not render different victims or offences a 'meaningless statistic'⁶ – it is submitted that there should be a substantial degree of cumulation between the sentences imposed on these charges, so as to avoid offending the principle of totality.
31. It is agreed that charge 3 is a standard sentencing offence, for which a standard sentence of 8 years applies. It is accepted that there are a number of objective factors relevant to the offence that elevate this offending above one of 'mid-

⁴ *Azzopardi; Baltatzis; Gabriel* (2011) 35 VR 43 at [44]

⁵ *R v Beck* [2005] VSCA 11 at [22]

⁶ *DPP v Solomon* [2002] VSCA 106 at [13]

range seriousness'. However, the requirement to consider the standard sentence does not operate to limit the other matters the Court must consider before imposing sentence.⁷

Ancillary Matters

32. The Forensic Sample Order sought is not opposed.

33. Mr. Reid will have served 334 days in custody referable to this matter.

A.J. Patton
Counsel for the Accused

⁷ *Sentencing Act 1981* s5B(3)