

DIRECTOR OF PUBLIC PROSECUTIONS

v.

EBONIE WEYBURY

NOTICE OF APPEAL

Date of document:	3 November 2017
Filed on behalf of:	Appellant
Prepared by:	Solicitor's code: 7539
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Melbourne Vic. 3000	File Number: 1605667

To: Ebonie Weybury

And to: The Registrar of the Court of Appeal

1. On September 2017 the Respondent was convicted in the County Court of:

- Charge 1 – Dangerous driving occasioning death; and
- Charge 2 – Dangerous driving causing serious injury.

2. On 6 October 2017 the Respondent was sentenced as follows:

Charge on Indictment	Offence	Maximum	Sentence	Cumulation
1	Dangerous driving causing death [s 319(1) <i>Crimes Act</i> 1958]	10 years imprisonment [s 319(1) <i>Crimes Act</i> 1958]	3 years imprisonment	Base
2	Dangerous driving causing serious injury [s 319(1A) <i>Crimes Act</i> 1958]	5 years imprisonment [s 319(1A) <i>Crimes Act</i> 1958]	18 months imprisonment	6 months

The Court imposed a total effective sentence of 3 years and 6 months imprisonment with a non-parole period of 2 years imprisonment.

TAKE NOTICE that I, GAVIN JOSEPH COHEN SILBERT QC, Acting Director of Public Prosecutions for the State of Victoria, pursuant to s.287 of the *Criminal Procedure Act 2009*–

- (a) consider that there is an error in the sentence imposed and that a different sentence should be imposed; and
- (b) am satisfied that an appeal should be brought in the public interest.

I now give you Notice of Appeal to the Court of Appeal in respect of the sentence passed upon you on 6 October 2017 in the County Court at Melbourne.

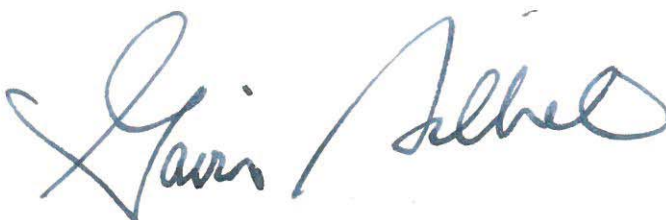
GROUND OF APPEAL

1. **Ground 1 – The sentences imposed on charges 1 and 2 of Indictment [No.G12697774] and the orders for cumulation are manifestly inadequate.**

In imposing the sentence of 3 and ½ years imprisonment and a non-parole period of 2 years as set out above in this Notice of Appeal, the Learned Sentencing Judge –

- (a) failed to have sufficient regard to the maximum penalties prescribed for the offences;
 - (b) failed to properly reflect the objective gravity of the offences;
 - (c) failed to have sufficient regard to the need for general deterrence;
 - (d) failed to have sufficient regard to the need for specific deterrence;
 - (e) failed sufficiently to manifest the denunciation by the court of the type of conduct in which the offender engaged;
 - (f) failed to have sufficient regard to the need for protection of the community;
 - (g) failed to have sufficient regard to the need for just punishment;
 - (h) failed to reflect the objective gravity of the offences in the orders for cumulation made upon the base sentence;
 - (i) failed to have sufficient regard to the impact of the offending upon the victims;
 - (j) had regard to the statements in *Stephens v R* (2016) 76 MVR 90 that sentences should increase gradually over time;
 - (k) failed to regard current sentencing practices as but one part and not the controlling part of section 5(2) of the *Sentencing Act 1991*.
2. **Ground 2 – The learned sentencing judge erred, following *Stephens v R*, in finding that it was necessary to increase the sentences imposed in relation to this type of offending by increments.**

DATED: 3 November 2017



ACTING DIRECTOR OF PUBLIC PROSECUTIONS

PARTICULARS

APPELLANT'S NAME: DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT'S NAME: EBONIE WEYBURY

Offences: Dangerous driving occasioning death; Dangerous driving causing serious injury

CONVICTED AT: Melbourne

JUDGE: His Honour Judge Meredith

DATE OF SENTENCE: 6 October 2017

TOTAL EFFECTIVE SENTENCE: 3 years and 6 months imprisonment

A copy of the Indictment upon which the Respondent was tried is annexed hereto as "A".

IMPORTANT NOTES

1. You may be present on the hearing of the appeal if you wish. If you do wish to be present, you should notify the Registrar of the Court of Appeal in writing.
2. The Court of Appeal will, if you wish, consider your case and argument in writing, instead of an oral presentation. If you wish to present your case and argument in writing, set out your case and argument fully.

" A "

IN THE COUNTY COURT
IN THE STATE OF VICTORIA
AT MELBOURNE

No: G12697774

Court Reference: CR-17-00325

INDICTMENT

THE DIRECTOR OF PUBLIC PROSECUTIONS

-v-

EBONIE JANE WEYBURY

SUMMARY OF STATEMENT OF OFFENCE

<i>Offence</i>	<i>Number Of charges</i>	<i>Charge Numbers</i>
<i>Dangerous Driving Causing Death</i>	1	1
<i>Dangerous Driving Causing Serious Injury</i>	1	2

IMPORTANT NOTICE TO ACCUSED

Legal representation should be sought. You have the right, if eligible, to Legal Aid under the Legal Aid Act 1978. Victoria Legal Aid Criminal Division can be contacted on (03) 9269 0210 or 1800 677 402 (freecall for country areas).

NOMINATED ADDRESS ETC FOR SERVICE OF DOCUMENTS

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Solicitor for Public Prosecutions
565 Lonsdale Street
MELBOURNE 3000

Solicitor Code: 7539
Telephone: (03) 9603-7666

PARTICULARS

AND STATEMENT OF OFFENCE

CHARGE: 1 The Director of Public Prosecutions charges that EBONIE JANE WEYBURY at Boronia in Victoria on the 15th day of October 2015 by driving a motor vehicle at a speed that was dangerous to the public caused the death of Anthony CASSIDY.

Statement of Offence: Dangerous driving causing death contrary to s. 319(1) of the *Crimes Act 1958*.

CHARGE: 2 The Director of Public Prosecutions charges that EBONIE JANE WEYBURY at Boronia in Victoria on the 15th day of October 201~~5~~⁶ by driving a motor vehicle at a speed that was dangerous to the public caused serious injury to Matthew WALSH~~E~~.
amended by leave.

Statement of Offence: Dangerous driving causing serious injury contrary to s. 319(1A) of the *Crimes Act 1958*.

B. SONNET
CROWN PROSECUTOR

WITNESSES

Subject to the exercise of the prosecutor's discretion at the trial, the Director of Public Prosecutions proposes to call all witnesses except those whose names are marked with an asterisk (*).

George AGAPITOS
S/C Katie ARNOL
Raja BALAKRISHNAN
Jack BOESSLER
Tristan BOONSTRA
Sgt. Leigh James Noel BOOTH
Nicholas BOURKE
A/Sgt. Amma BRIDGEMAN
Jason BURVILLE
Mark CHU
Christine CLARKE
Mayda Gabriella DOUZMANIAN
Mark FITZGERALD
Grant Shane HANSEN
Kristiana Maree HONEY
C/ Aaron ILES
D/S/C Damian Alexander JOHNSTON
David Norman JONES
S/C Jason KELLY
D/L/S/C Jason KOK
Wren Jessica LAKEMAN
C/ Chelsea McKAY
John Patrick MEEHAN
S/C Brett PARNALL
Luke PEPI
C/ Steven REID
S/C Tom ROBERTS
Sgt. Rhonda ROUGHLEY
S/C Stefan SCHMITZER
Dr. Jason SCHREIBER
C/ Gyannath SEEGOLAM
Samantha Kelly SMITH
L/S/C Adam SONTAG
Antigoni SYLAIDOS
Iona Maiawa TAUVALE
S/C Shaun TAYLOR

L/S/C Leah Michelle THOWLESS

John George TONG

D/S/C Lindon Paul WALKER

Matthew James WALSH

Mareta Masoe WILLIAMS

Robyn WILSON

D/L/S/C Roslyn Valerie WILSON

D/Sgt. David Colin YEOMAN

Gregory Ross YOUNG