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THE MAGISTRATES COURT OF

WESTERN AUSTRALIA

CRIMINAL

AL 2104-2106 of 2022

AL 2112 of 2022

WESTERN AUSTRALIA POLICE

and

DAWN MICHELLE KELLY

MAGISTRATE D. SCADDAN

TRANSCRIPT OF PROCEEDINGS

AT ALBANY ON TUESDAY, 13 DECEMBER 2022, AT 11.19 AM

MR M. HARTFIELD appeared for the prosecution.

**ORDERLY:** Next matter is from the K list, Kelly, Dawn Michelle Kelly, no appearance.

**HER HONOUR:** All right. I have a - something from Ms Kelly that says she has a medical condition and will be unfit for work from 9 to 13 December. What it does not say is what she is purportedly unfit for work for and it doesn't make any reference to the fact that she is or cannot or why she could not attend court for this particular matter and a video link application was not granted and she makes some reference to me with respect to a Supreme Court appeal and requests another magistrate preside over the matter.

I don't consider that I have a conflict of interest. She hasn't raised any grounds for a conflict of interest. Whether she - or not she has an appeal in relation to any decision I have previously made is a matter between her and the Supreme Court. As I've said, the medical certificate does not provide any reason beyond a medical condition, whatever that might be, about why she is unfit for work and how that in any way is relevant to a - her being unfit to attend court.

The medical condition could be anything, for all I know, and it makes no - there is no basis upon which I can reasonably assess its veracity for the purposes of the proceedings today. She was provided with a - an adjournment on the last occasion to two weeks and the matter is listed for a plea. I decline to exercise my discretion in granting a further adjournment and I'm not satisfied of the basis for the request for an adjournment or the substance of the medical certificate, in any event. Accordingly, the application is denied and I will proceed to enter convictions under section 55 that the matters were listed for plea; she had the opportunity to attend court on the notice of adjournment. All right. Thank you.

**HARTFIELD, MR:** Just for your information, your Honour, I have a seven-page document where she's declining to accept the service of the summons so - - -

**HER HONOUR:** Well, that's a matter for her.

**HARTFIELD, MR:** Just so you're aware of that, just in fairness.

**HER HONOUR:** She attended court on the last occasion and she was provided with a notice of adjournment to attend today and the matter is listed for a plea. I'm sorry.

It's recorded on my system that she did attend on the last occasion, but I am informed by my judicial support officer that that is - that cannot be correct. She didn't attend on the last occasion and the notice of adjournment was posted to her upon her request for an adjournment which she must have - - -

**JSO:** (indistinct)

**HER HONOUR:** She had a medical certificate last time and I, obviously, gave her the benefit of the doubt on that occasion, but I don't afford her the benefit of the doubt on this occasion. The last medical certificate was as benign as the current medical certificate and I'm not prepared to extend any further adjournments to the accused. In my view, it is demonstrably the case that she's not answering to the court to deal with the charges.

**HARTFIELD, MR:** Thank you. I would obviously seek to  
- - -

**HER HONOUR:** I've already proceeded to conviction - - -

**HARTFIELD, MR:** To proceed, sorry - I lost my word -  
proceed under section 55.

**HER HONOUR:** Yes.

**HARTFIELD, MR:** There's three matters in this. There is a record for the no authority to drive cancelled. I believe it's a third and - have you go the record, ma'am?

**HER HONOUR:** Yes.

**HARTFIELD, MR:** Yes.

**HER HONOUR:** It's the exact same offences are replicating themselves with spectacular regularity - - -

**HARTFIELD, MR:** Yes. I believe - - -

**HER HONOUR:** - - - between Albany, Joondalup and Perth.

**HARTFIELD, MR:** I don't believe she accepts the authority of the police. I think that - - -

**HER HONOUR:** I don't think - believe she accepts the authority of anybody, but that's not to the point. She, like all people, must comply with the Road Traffic Act and regulations.

**HARTFIELD, MR:** So charge number 2105, the drive motor vehicle with a false plate, 3.43 pm on 11 September 2022, the accused drove a motor vehicle on Porongurup Road, Mount Barker. The vehicle was bearing a registration plate with the word 'private'. The accused failed to stop for police. Inquiries undertaken with the Department of Transport reported a licence plate private had been physically stored by the Department of Transport since 2015 and should not be fixed to any motor vehicle and, therefore, ascertained the registration plate fitted to that vehicle was false and not the one issued for that vehicle.

The correct registration for the vehicle is currently unknown. Charge number 2104, driver of vehicle failed to comply with directions of - directions to stop. Same time, same location, the accused - police attended to stop the accused to ascertain the authenticity of the registration plate. The accused followed the - sorry - the police followed the accused with the emergency lights and sirens on for approximately five kilometres without the accused stopping.

Police pulled alongside of the accused and took a video of her while driving. The accused travelled well below the posted speed limit and didn't breach any of the provisions of the Road Traffic code. With no visible resolution strategy, the intercept was aborted and she was identified by video footage. And, thirdly, 2106 is the no authority to drive cancelled. Same time, same location, the accused failed to stop by police.

Later inquiries showed that her WA drivers licence was disqualified at the Perth Magistrates Court on 10 December 2021 for 10 months where she received a further 30 months and nine separate months disqualification by Joondalup Magistrates Court in March 2022. The accused has 14 outstanding fines; a surrender notice was posted to the accused to surrender her vehicle. Cost in this matter of \$264.30.

**HER HONOUR:** All right. I note the circumstances of the offences. As I've already alluded to, they are spectacularly similar to those which have been dealt with recently by this court. It is the second offence for the purposes of sentencing on a no authority to drive on a cancelled licence. However, the concern that I have is the flagrant disregard in all manner of driving, both with respect to failing to comply with a direction by police, using false plates, driving on a cancelled licence and failing to comply with a surrender notice.

Ms Kelly demonstrates a flagrant disregard for the law. In saying that, it's not the case where in this situation any orders would likely remediate her behaviour where she has shown contemptuous disregard for not just the courts, but also for the Road Traffic Act and regulations. However, I cannot form the view, necessarily, that we are at the point where only a term of imprisonment is applicable. Accordingly, I will deal with these matters by way of a fine, but I note the seriousness of the offences and she should be fined accordingly.

For the failing to comply with the direction to stop - it's a subsequent - it's not a subsequent offence, although I note she was dealt with on 13 September, thankfully, the police were able to record her and there doesn't seem to be any dispute if the recordings stand true that it was her driving the vehicle - there will be a fine of \$1000, costs of \$264.30. Driving with the incorrect plates - again, is a feature of her behaviour - there will be a fine of \$400 and for the no authority to drive on a cancelled licence, a fine of \$1000, nine months cumulative disqualification and failing to comply with the surrender notice (indistinct) penalties, a fine of \$600. I impose that fine.

AT 11.28 AM THE MATTER WAS ADJOURNED ACCORDINGLY

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