



**In The Supreme Court of Bermuda**  
**CRIMINAL JURISDICTION**  
**2025: No. 31**

**B E T W E E N:**

**THE KING**

**-v-**

**EBONY BUTTERFIELD**

*Defendant*

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**Appearances:**      **Mr Aldey Duncan and Mr Matthew Frick, Counsel for the Prosecution**  
                                 **Mr Charles Richardson, Counsel for the Defendant**

**Date of Sentencing:** 23<sup>rd</sup> and 27<sup>th</sup> April 2026

**SENTENCING REMARKS**

*Grievous bodily harm by careless driving – Failing to provide a breath specimen – Failing to stop after an accident*

**Richards J:**

**The Facts**

1. Late in the evening of 3rd January 2025, this Defendant, Ebony Butterfield, was driving a Chevrolet Trax motor car east along Middle Road, close to the junction with Woodlawn

Road in Sandys. The Complainant, QB<sup>1</sup>, who was 16-years-old at the time, was riding a black Aprilia auxiliary cycle in the opposite direction.

2. The Complainant and a witness who was riding her own bike ahead of him report seeing the Defendant's vehicle swerve twice into the Complainant's lane. The second time this happened, she collided with the Complainant, causing him to "slide out". The Court has not been presented with any analysis by a Traffic Collision Investigator. The Complainant describes the Defendant's vehicle as approaching at a high speed, but no calculation of that speed would appear to have been attempted. The road conditions at the time are said to have been good.
3. The Defendant did not stop her vehicle at the scene. It was subsequently located in the parking lot of Southampton Rangers. The attending officers describe discovering it upon making a patrol of the area after closing the scene, which initially left me with the impression that she had not travelled far. However, it is now clear to me that she had actually driven almost the entire length of Southampton Parish after the collision. During his submissions, Counsel for the Prosecution, Mr Matthew Frick, explained his understanding that the officers may have been assisted by CCTV observations in locating the vehicle so quickly.
4. Ms Butterfield was still inside her vehicle when it was located. On being questioned by the police officers, she confirmed being in a collision with a bike near Woodlawn Drive. She was arrested and conveyed to Hamilton Police Station.
5. In the meantime, QB had been taken by ambulance to the King Edward Memorial Hospital. He was found to have sustained serious injuries to his right arm. There was a closed fracture to the upper bone in his right arm, an open dislocation of his elbow, and fractures to at least three of his fingers, two of which were open.

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<sup>1</sup> No disrespect is intended by referring to the Complainant in this way in these written sentencing remarks, which is done rather than naming him because the Court understand him still to be a child.

6. Ms Butterfield was initially arrested on suspicion of causing grievous bodily harm (“**GBH**”) by careless driving and failing to stop after an accident. Due to certain observations made while she was in police custody, she was subsequently arrested on suspicion of causing GBH by impaired driving and a demand was made for a sample of her breath. The alco-analyser procedure was administered, but Ms Butterfield did not provide an adequate sample for analysis.
7. Ms Butterfield was initially charged with causing GBH by dangerous driving<sup>2</sup> (Count 1), driving whilst impaired<sup>3</sup> (Count 2), failing to provide<sup>4</sup> (Count 3) and failing to stop<sup>5</sup> (Count 4). On 16<sup>th</sup> February 2026, she pleaded guilty (on Count 1) to the lesser included offence of causing GBH by careless driving<sup>6</sup>, along with the charges of failing to provide and failing to stop. Before she did so, her Counsel, Mr Charles Richardson, made it clear that it was not accepted that there was any alcohol involved. The Crown, then represented by Mr Adley Duncan, accepted those pleas.
8. In these circumstances, it seems to me that I am obliged to put any suggestion of Ms Butterfield’s intoxication out of my mind. I have previously held<sup>7</sup> that such evidence may remain legally relevant even in cases of careless driving, but in order properly to play a role in the sentencing exercise, it would need to have been admitted or proved, neither of which is the case here<sup>8</sup>.
9. As regards Count 3, Ms Butterfield has accepted, by her plea, that a lawful demand was made for samples of her breath. As a matter of law, however, that does not mean that she was impaired. The officer who made the demand may have reasonably and probably believed that she was, but such a belief is plainly not conclusive. Further, in the

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<sup>2</sup> Contrary to section 34 of the Road Traffic Act 1976 (“**RTA**”)

<sup>3</sup> ...section 35AA RTA

<sup>4</sup> ...section 35C(7) RTA

<sup>5</sup> ...section 42(2) RTA

<sup>6</sup> ...section 37A RTA

<sup>7</sup> Indictment 24 of 2024, applying *Millington* [1996] Cr App R (S) 45

<sup>8</sup> The issue is only referenced by the Prosecution in their Summary of Evidence and written Sentencing Submissions in the context of Count 3.

circumstances of this case, they would have been entitled to make the demand without such a belief by virtue of section 35C(3) and (4) of the Road Traffic Act 1947.

### **The Impact upon the Victim**

10. I pause now to reflect upon the moving victim impact statements (“VIS”) submitted by QB and his mother, which were read to the Court last week. It is no exaggeration to state that this collision has significantly changed a young man’s life in innumerable ways. The reality is that Bermuda’s roads are dangerous places to be. Only this weekend we have been reminded just how dangerous they are, with the fifth road fatality of the year very sadly occurring on Saturday and two persons injured in another collision yesterday.
  
11. I note that QB has had to endure two overseas surgeries and is facing another in the future. As his VIS makes plain, significant though his physical injuries were and remain, he has also been caused psychological and emotional harm by what occurred. I pay tribute to the strength and courage that QB has already shown and I hope that, with the invaluable love and support of his family, he will continue not only to meet the challenges of his treatment, but to benefit from the greatest possible physical healing and, perhaps even more importantly, renewal of his spirit.

### **The Defendant’s Expressions of Remorse**

12. For her part, Ms Butterfield has expressed remorse for QB’s suffering and apologised to him in court last week. QB’s mother highlighted the lack of an earlier apology in her VIS. I would not presume to tell her or her son whether they should accept Ms Butterfield’s words as genuine, but I must make my own assessment for the purposes of sentencing. Although her conduct immediately after the incident did not demonstrate clear remorse, I have concluded that Ms Butterfield is now truly contrite for the pain and suffering she has caused. In that regard I accept Mr Richardson’s submissions about why an apology was not forthcoming sooner. The reality is that there is no way for someone in Ms Butterfield’s position to know how a direct attempt to apologise will be received. Sometimes it will be unwelcome and can do more harm than good. In accepting Ms Butterfield’s expressions of

remorse as genuine, I have also taken account of what she and others who know her well said to the author of her Social Inquiry Report (“SIR”).

### **Discount for Guilty Pleas**

13. I must also decide how much credit Ms Butterfield deserves for her guilty pleas. Mr Frick accepts that she is due full credit on Count 1, because she pleaded guilty as soon as it was clear that the lesser included alternative of GBH by careless driving would be accepted by the prosecution. He says that she is due less credit (25%) on the other counts, but given their lower maxima, I do not believe that such an approach, even if technically correct, is likely materially to affect the overall result. In all the circumstances I consider it appropriate to give full credit (i.e. a third) on all counts.

### **GBH by Careless Driving**

14. The principal charge upon which I must sentence Ms Butterfield is of course that of causing GBH by careless driving. That is an offence, which does not often come before this Court. Most such cases are disposed of in the Magistrates’ Court, where the maximum penalty, on a first offence, is a fine of \$3000 and/or 3 years’ imprisonment. The maximum period of imprisonment in this Court is 4 years’ imprisonment. It is within my own experience that, when dealt with summarily, most cases result in the imposition of a fine, albeit often one approaching the summary maximum. I can recall only two that have resulted in periods of imprisonment and, in one of those the imprisonment was suspended.
15. The Prosecution’s position in this case is that a custodial sentence is appropriate, but they say that it may properly be suspended. That has been their position since before Ms Butterfield’s pleas were entered and, on 16<sup>th</sup> February 2026, I indicated that I would not impose a sentence in excess of what the prosecution was seeking.
16. In the alternative, the Prosecution proposes a fine of \$10,000, but I could not lawfully impose such a fine on Count 1 alone. The Traffic Offences (Penalties) Act 1976 does not stipulate a maximum fine in this Court and so section 56(c)(iii) of the Criminal Code applies; the maximum fine for GBH by careless driving in this Court is therefore: \$7,500.

17. In his submissions, Mr Richardson observed that custody is considered in those cases where GBH has been caused by careless driving which is only just short of dangerous driving. Dangerous driving requires a greater departure from the standard of a competent and careful driver than careless driving. He, therefore, invites me to focus more on Ms Butterfield's culpability, which he characterises as low, than on the harm her driving caused, which he accepts has been great. Interestingly, however, the Legislature has chosen to provide the same maximum penalty for a first offence of GBH by careless driving as for a first offence of GBH by dangerous driving. That is so despite dangerous driving (not causing GBH) being imprisonable and careless driving (not causing GBH) being punishable only by way of a fine. This appears to me to be a strong indication that the Legislature intended that the level of harm in cases of GBH by bad driving is to be regarded as an important factor, whether that driving was dangerous or merely careless. Further, it is of course clear that sections 53 to 55 of the Criminal Code require me to have regard to both the degree of responsibility of the offender and the injury caused.
18. I further note that, in the United Kingdom, there exists an offence of causing serious injury by careless driving<sup>9</sup>. "Serious injury" in England means the same as GBH, which is close to the definition that the latter phrase bears here. The maximum penalty is two years' imprisonment. The Sentencing Council has issued a guideline<sup>10</sup> which recognises three levels of culpability and two levels of harm, establishing six starting points that range from a medium level community order up to one year's imprisonment.
19. Given that the maximum penalty for the equivalent offence in Bermuda is significantly higher (double on a first offence and higher still for a second or third) and given the frequency with which our courts see offences of this kind, it seems to me that custodial sentences should be imposed in a greater proportion of these cases. I have considered attempting to set some guidelines myself today, but believe that that task is more properly

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<sup>9</sup> Contrary to section 2C of the UK Road Traffic Act 1988

<sup>10</sup> <https://sentencingcouncil.org.uk/guidelines/causing-serious-injury-by-careless-or-inconsiderate-driving/>

one for the Sentencing Guidelines Committee, recently established by the Chief Justice. I respectfully invite that body to give this offence their consideration as soon as practicable.

### **The Court's Assessment of Culpability and Harm**

20. In my judgment, Ms Butterfield's conduct as a whole is properly to be regarded as more serious by virtue of the fact that she did not stop at the scene of this collision and she did not comply with the lawful demand for a sample of her breath. As to the first, I can accept that Ms Butterfield may not have immediately appreciated the level of harm sustained by QB, but clearly she did understand that there had been a collision and, if she had been acting responsibly, she would have stopped her vehicle. As to the second, in her SIR she suggested that she had difficulty breathing as a result of her anxiety. I have some difficulty with that explanation, given her behaviour and utterances as they are described by the Qualified Technician, but I have not been invited to hear evidence on the point and I note that, by her plea, Ms Butterfield has nevertheless accepted that she lacked a reasonable excuse for her failure to provide.
21. On the evidence before me I do not feel able to say that Ms Butterfield's driving came close to dangerous driving. However, given that her vehicle swerved twice into the opposing lane, I do not think her driving was at the lowest end of careless driving either. I therefore assess her culpability or responsibility as being intermediate. Although it is almost always possible to conceive of more serious harm, the injury caused to QB is clearly elevated, even within the spectrum of GBH.
22. If I were applying the UK guidelines, these findings would suggest a starting point of 26 weeks' or 6 months' imprisonment. However, I believe that it is appropriate to adopt a higher starting point in Bermuda, given the higher maximum sentence. Indeed, were it not for the discussions that preceded the entry of these pleas, I may have set an even higher starting point. However, in all the circumstances of this case, I consider that a sentence of 9 months' imprisonment would have been appropriate if Ms Butterfield had been convicted of this offence of GBH by careless driving after a trial. That sentence will be reduced by one third to reflect Ms Butterfield's guilty plea.

23. I am further going to suspend that sentence. In concluding that it is appropriate to do so, I have taken into account that Ms Butterfield is a person who not only lacks previous convictions, but is of positive good character, as set out in her SIR. I have also taken into account what I find to be her genuine remorse and the evidence before me as to her own medical situation. None of those factors alone may have been sufficient to persuade me to suspend the period of imprisonment, but taken together I find that they constitute a good reason to do so. However, I also consider that there remains a need effectively to punish Ms Butterfield for this offence and I have concluded that that need may instead be met by the parallel imposition of a fine. Since I have also decided to impose a custodial sentence, that fine will be less than it would have been if the fine had stood alone.
24. I have also concluded that the best way in which to mark Counts 3 and 4 is by the imposition of separate fines, appropriately reduced to reflect Ms Butterfield's discount for her guilty pleas.
25. The minimum period of disqualification available to me is 3 years, which is 1 year greater than available in the Magistrates' Court. The maximum period is 4 years. I would have disqualified Ms Butterfield for longer if she had been convicted after trial, but again given her guilty pleas, it does not seem appropriate to me to depart from the minimum disqualification of 3 years.

*For the sake of clearer presentation, the sentences imposed are reflected on the next page.*

**Sentence**

**Count 1:** 6 months' imprisonment, suspended for 2 years and a fine of \$1800

**(Count 2:** Previously ordered to lie upon the file)

**Count 3:** A fine of \$1000

**Count 4:** A fine of \$200

*The total fine of \$3000, was ordered to be paid by 30<sup>th</sup> June 2026.*

*The effect of the suspension of the sentence of imprisonment and the disqualification from driving were explained to the Defendant.*

Dated this 27<sup>th</sup> day of April 2026

  
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**THE HONOURABLE MR JUSTICE ALAN RICHARDS**  
**PUISNE JUDGE**