



## Court dismisses NSW bus driver's traffic charge

**Date: Monday April 11, 2022**

In March 2022, Hall Payne Lawyers represented a member of the Rail, Tram and Bus Union (RTBU) in relation to a charge of disobeying traffic rules in New South Wales. On 22 March 2022, the Court dismissed the charge, despite the RTBU member pleading guilty.

### Background

In 2021, the RTBU member, while operating their bus, accidentally drove past a "NO ENTRY" sign. A police officer observed this and charged the driver. The penalty for this offence was 2 demerit points and a maximum of \$275.00.

Despite not losing any demerit points between 2009 and 2019, the driver had lost demerit points in 2019 and 2020. A loss of a further two points would have resulted in their licence being suspended for several months.

A suspended licence would have shattered our client. As the primary bread-winner, they would not be able to provide for their family. They would also be unable to transport two disabled family members to medical appointments and run errands for their family (which they had sole responsibility for).

### Our defence strategy

It was our case that the Court should dismiss the charge under section 10(1)(a) of the *Crimes (Sentencing Procedure) Act 1999*. This is a power available to the Court to exercise when it would be inexpedient to impose a conviction due to the circumstances of the case.

To carry out this strategy, we ensured that the member had completed the [traffic offender's intervention program](#) and had obtained persuasive references.

We relied on the following circumstances:

- The offence was a simple human error;
- The offence was not in “peak hour”;
- Our client was not driving their usual route and had not been on the road where the offence occurred before;
- Our client pleaded guilty at their first opportunity and is of very good character; and
- The driver was remorseful and a conviction would be shattering for them, both in relation to a loss of work and in relation to supporting their family.

## The Court’s decision to dismiss the charge

The Court placed considerable weight on strong character references from the RTBU member’s supervisor and the president of the RTBU. Significant weight was also given to our client’s remorse and commitment to be more alert when driving.

Balancing the nature of the offence with the harsh impact of a conviction, the Court found that a conviction would be too harsh an outcome for our client. Accordingly, the charge was dismissed by the Court.

No penalty was imposed on the RTBU Member.

## Conclusion

This win is a significant one, not only for this client and other RTBU members but also for our clients more broadly. Anyone can make a mistake and this outcome demonstrates that workers who plead guilty to an offence in Court still have a lawful avenue to potentially avoid a career-threatening penalty; in this case, the suspension of a driver’s licence.

When seeking to defend a traffic charge or have it dismissed, what is required is a considered legal strategy to ensure the Court is persuaded that this is the appropriate outcome.

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

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