

# TOWLE 'NO'

## Judge turns down bid for appeal against jail sentence

By Allan Murphy

THOMAS Graham Towle, the driver of a car that ploughed into a group of Sunraysia teenagers killing six of them, has lost his bid to appeal against his 10-year jail term.

Lawyers for Towle, formerly of Red Cliffs, yesterday unsuccessfully applied in the Court of Appeal to challenge his sentence handed down by Justice Philip Cummins in March this year.

Families of the victims yesterday spoke of their relief that the man responsible for the deaths of their children will not be able to argue for a reduction in sentence.

Towle was found guilty by a jury on six counts

of dangerous driving causing death and four counts of dangerous driving causing serious injury.

Killed in the crash almost three years ago were brother and sister Shane, 16, and Abby Hirst, Stevie-Lee Weight, 15, and Cassandra Manners, Cory Dowling and Josephine Calvi, all 16.

Seriously injured were Marco Medici, Renee Carter, Bradley Prowse-Thompson and Nicholas Pezzaniti.

Towle, 37, was found not guilty on six counts of culpable driving and four counts of negligently driving a motor vehicle causing serious injury, but guilty of the lesser charges.

He was jailed for 10 years but could be released

in just over four years, having already served almost three years of a minimum seven-year term.

In a trial in Melbourne lasting more than five weeks, Towle was also found not guilty on two counts of reckless conduct endangering life, failing to stop at the scene of an accident and failing to render assistance.

Kerry Prowse, mother of Shane and Abby Hirst, said she could now rest easy that the man responsible for her children's deaths would remain in jail.

"Thank God for that," Ms Prowse said when told the news.

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Thomas Towle

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"He's stuck there now and I can rest assured that what's done is done.

"I didn't want to contemplate waiting for an appeal and going back to Melbourne.

"He did the wrong thing and he deserves to do it hard in there (prison)."

Ms Prowse said she could finally get on with her life.

"I did get a bit chokey when I heard, but now I can move on."

Stevie-Lee's father Stephen Weight welcomed the Court of Appeal decision.

"Hopefully, now it's all finished as far as the courts are concerned and it will be out of the media," Mr Weight said.

"It's probably what all the families wanted and we can all now get on with our lives."

Carmel Calvi, mother of Josephine, said she had yet to come to terms with the decision.

"I've only just heard about it, so it hasn't really sunk in," she said.

"It's good news, but it

seems that when one door shuts another one opens.

"It's as though there's always something in the media about it, sometimes it just feels as if it will never end."

Towle's lawyer Michael Croucher yesterday argued the jail term imposed by Justice Cummins was excessive.

Mr Croucher said his client was doubly punished by the manner in which Justice Cummins had calculated the sentence.

He also claimed the judge had wrongly interpreted the jury's verdict.

The counsel said the sentencing judge chose high individual sentences on the charges, then cumulated those to create an excessive total sentence, doubly punishing Towle.

However, Brett Sonnet, for the Crown, said the judge had approached the sentencing appropriately.

Victorian Court of Appeal Justice Mark Weinberg rejected the arguments on behalf of Towle and dismissed the application.

Justice Weinberg said Justice Cummins' characterisation of Towle's crime was

"entirely apt" and rejected the double punishment argument.

"In my view, there is no element of double punishment in what his honour did, and therefore no substance in that point," Justice Weinberg said.

"Each count considered individually merited the sentence imposed.

"Moreover, if ever there was a case that warranted significant cumulation, it was this case.

"In my view the sentences imposed were all within a sound exercise of the sentencing judge's discretion."

During legal argument, the judge suggested Towle's trial lawyer Robert Richter, QC, had achieved a good outcome for his client.

"Maybe Mr Richter performed a miracle in getting the result that he did," Justice Weinberg said.

He added that such a result was irrelevant to his deliberations on the appeal.

At the time, the victims' families described Towle's sentence as a relief and "what we expected".

Those killed or seriously

injured were among a group of 13 teenagers who had left a nearby 16th birthday party when they were struck by Towle's car about 9.40pm on February 18, 2006.

The trial was told the driver's four-year-old son was sitting on his lap when he failed to negotiate a curve in Myall Street, Cardross, near the intersection of Boobook Avenue.

In sentencing Towle on March 31 this year, Justice Cummins said the case had been "most understandably" one of great emotion.

"Six loving and loved children, on the threshold of adulthood and with their lives before them, have had their lives taken from them," Justice Cummins said.

"Their grieving families have been left distraught and devastated."

Justice Cummins said Towle had displayed "an act of irresponsibility" by driving while his young son was on his lap.

He said the speed at which Towle had been driving and his lack of care and attention had contributed to the crash.