

STATE OF TASMANIA v TYSON LEE HANNAH
COMMENTS ON PASSING SENTENCE

19 MAY 2016
PEARCE J

Tyson Hannah pleads guilty to making false threats of danger contrary to the *Criminal Code*, s 276AA. I also agreed to deal with his plea of guilty to summary offences, three counts of breaching a police family violence order and one count of injuring property.

Until they separated in mid-January 2015, the defendant and the complainant were in a relationship for about a year. She lived in Ravenswood with her three children from an earlier relationship, all younger than 3. On 25 January 2015 a police family violence order was made to protect the complainant with conditions that the defendant not contact her, not go to her house and not threaten, abuse or assault her. On 3 February 2015 the defendant went to the house. Initially he was there with the complainant's acquiescence but, during the evening, an argument ensued. He confronted her about his suspicion that she had taken up with a friend of his. At about 7pm he became angry and abused her, calling her a slut. He punched a hole in the plaster wall of the lounge room. She said she would call the police. Two mutual friends who were also present, one of whom was the person the defendant suspected of having commenced a relationship with his former partner, showed him out the back door and locked it. While in the back yard, the defendant picked up a container of petrol, approached an open kitchen window and poured petrol through it. Petrol spilt onto the kitchen floor. The two men pulled the window shut and held it shut. The defendant then poured petrol outside the house and yelled that he was going to burn the house down. He patted his pants as if looking for a lighter and said, "I know there is a lighter around here somewhere". He then jumped the fence and left.

The actions and words of the defendant constitute the crime of making false threats of danger. The threat was false because he had no intention to light the petrol. However, he caused the complainant and the others present to believe that he was likely to do so, and that there would be a serious risk of danger to them and the house.

The breaches of the police family violence order are constituted by his presence at the house, his approach to the complainant and his abuse. It is not mitigating that he was there with the complainant's acquiescence. It represents only the absence of an aggravating factor. Orders are sometimes made to protect people from themselves. He was the person subject to the order and it was his obligation to comply with it. It is however an aggravating factor that the threats constituting the crime were made in breach of the order.

The threats made by the defendant must have been terrifying at the time. The gravity of the threat was heightened by the actions he took with the petrol. No doubt the complainant's fear was added to by her knowledge that her three children were also in the house. Threats of violence arising from relationship conflict are to be strongly condemned. I have no information that any person suffers from any form of ongoing impact. It is an aggravating factor that the children were present in the house when the offences occurred. The defendant must have known they were there. However, it is not asserted by the State that the children were exposed to his criminal conduct in such a way as to cause, or potentially cause, harm to them.

The defendant is now 27. He has lived in various places in Australia. He was educated to Year 9 but left school to start work. Over the years since then he has developed some skills, including in the concreting industry, which equip him for employment, and he held

employment during 2014 and 2015. He has a record as a youth for various form of offending but his recent record is not a particularly bad one. He has no prior convictions in Tasmania but has offended in South Australia and New South Wales. He served a short sentence of imprisonment in 2009 in South Australia for driving offences. It appears he is still subject to a warrant for an assault charge in that State in 2010 and for a bail offence in 2013. In NSW he was fined and made subject to a bond for affray in 2011. His life has been affected by long-term abuse of illicit drugs and alcohol and his relationships with others, including the complainant, seemed to revolve around illicit drug use. He was intoxicated at the time of theses offences. Of course that is not mitigating.

He was arrested on 4 February, the day after the offence and was in custody until 27 July 2015 when he was granted bail. The result is that he has already spent almost six months in custody. The sentence of imprisonment I impose must be backdated to take account of that period of 173 days. The further effect of his incarceration is that he has since abstained from use of drugs and alcohol. It is to be hoped that he can maintain the change, otherwise he will be at risk of further imprisonment.

I regard the defendant's threat, and the circumstances in which it was made, as so serious as to warrant a sentence of imprisonment. However, I accept the submission of his counsel that the time already spent in custody is a proper reflection of the sentence required for the criminal conduct for which I am to sentence him. I have decided that because of the time in custody, community service, although he is suitable, is not necessary. There are other summary charges still to be dealt with, including a charge of assault. If there is a determination of guilt for those charges then it will be entirely a matter for the magistrate to determine whether some further punishment is required.

Tyson Hannah, you are convicted on each count. You will pay the victim of crime compensation levy of \$130 within 28 days. I make a compensation order in favour of Community Housing Limited, and adjourn the further terms of that order to a date to be fixed. I impose one sentence. You are sentenced to imprisonment for 173 days from 28 November 2015.