

The defendant, Edward Whyndham Gearman, has pleaded guilty to one count of arson. On 1 July 2014, the defendant lived at 2 Canberra Road, Claremont, a property owned by Housing Tasmania. I note it was in a residential area with a neighbouring property at the rear which are relevant factors. The defendant became the primary tenant of the house in July 2010 after his father died, but he had lived in the house since the late 1980s, almost 30 years I am told.

In August 2014, the defendant applied for a transfer to a smaller property within Housing Tasmania. His application was refused. On or about 24 June 2015, a teller at the defendant's bank was in conversation with him when he remarked, "If I was to take out insurance how long would I have to wait for a pay out if I was to burn my house down?" I note immediately that the house was not Mr Gearman's, although contents within the house were his property no doubt. The teller thought that Mr Gearman was joking, she said because he had a smile on his face.

On 30 June 2015, the defendant told Mr Hen, the proprietor of Wyndham Road service station that "Housing" were not going to move him, remarking, "Well if I burn it down they'll have to move me wouldn't they?"

Between 9am and 11am on 1 July 2015 the defendant attended the Wyndham Road service station on a number of occasions and filled a number of fuel cans with petrol. On the second trip to the service station he told Mr Hen that he was going to burn his house down. Shortly after the defendant told a Mr Kasey Keefe, a neighbour, that he had just got some petrol from BP and he told the staff that he was going to burn his house down. They thought he was joking. He said, Mr Keefe told the defendant not to be silly and the defendant simply shrugged his shoulders.

Just after 11am, Derek Smith, whose house overlooks the defendant's, saw the defendant walk to the front steps of 2 Canberra Road carrying four containers in his arms and go inside. Shortly after smoke started coming from the front left windows under the eaves. Mr Smith went to the rear of the house just as the defendant came out. The defendant had a lighter in his hands which were black with soot. The defendant immediately said, "I was asleep." He immediately followed that with the words, "Actually I tried to kill myself." Mr Smith walked the defendant to the front of the house. He looked to see if he could save the defendant's car which was in the driveway. The defendant told Mr Smith that he wanted to look in the car and opened one of the back doors. Mr Smith watched as he looked in the back seat and then saw flames coming from the car. Mr Smith pulled the defendant back. The defendant told him to let go, he wanted to kill himself. Mr Smith was trying to restrain the defendant when police arrived. By this time the house was fully engulfed in flames and when the fire brigade arrived it took some time to put out the fire. Police approached the defendant who immediately stated, "Arrest me. Charge me. I plead guilty. I did it myself. I poured the petrol."

The defendant was taken to hospital. He had a number of burns. An analysis of his blood found the presence of cannabis and its active metabolite.

The house was totally destroyed by fire. The cost of the damage caused was \$194,251.37.

The defendant is 50 years old and has no relevant prior convictions whatsoever. He is a single man. He has never been married and he attributes that to sexual abuse he suffered as a child. He had a troubled upbringing with his mother suffering from mental illness until shortly before she died, when the defendant was aged 17. His father died in 2010 and the defendant has been the tenant of the subject house since then, as I have already observed.

I have been provided with three medical reports – two from Mr Damian Minehan, a psychologist, and one from Dr Jordan, a psychiatrist. I take into account in mitigation of this crime the defendant's cognitive deficits flowing from a severe closed head injury he suffered in September 2014. I take into account that flowing from that head injury he has suffered mental illness, particularly in the form of bi-polar affective disorder. I take into account that the defendant has an IQ of 57, which is consistent with a mild intellectual disability. He is extremely low-functioning. However, he had been engaging with the community mental health services between the time of his injury and the time of the fire, although I note that he had low moods and suicidal ideation during that period prior to the fire.

He was concerned that his three-bedroom house was more suitable for a family and it was on that basis that he applied to Housing Tasmania to move residence. It had been his home for 30 years I observe. He did not own the house, and I am satisfied in those circumstances that it would be wrong to infer that he was motivated to commit this crime by reason of personal gain. It was an irrational crime and I have little doubt connected to his florid symptoms on display at the time of the commission of the fire. I say that with some confidence because immediately after the commission of the crime he was detained in hospital for four weeks and during that period his mental state was assessed and his medication was substantially changed. That the commission of this crime was irrational was also demonstrated, in my view, by the burning of his own motor vehicle immediately after having set fire to the house. I note that he was in debt at the time but there doesn't seem to be any rational connection with the commission of the crime, given that the house was not insured, to his certain knowledge, and that he did not own the house anyway.

I am not convinced however that the defendant intended to commit suicide. But certainly the commission of the crime was connected with his irrational behaviour which is attributable to his cognitive deficits and his florid mental illness.

The State seeks a compensation order in the sum of \$194,251.37 and I make that order.

The defendant is convicted and sentenced to two years' imprisonment, which period of imprisonment I wholly suspend on condition that the defendant commit no offence punishable by imprisonment during the period of two years. I make the usual victims of crime levy order.