

STATE OF TASMANIA v EILEEN JOYCE DAVEY
COMMENTS ON PASSING SENTENCE

4 AUGUST 2026
PEARCE J

Eileen Davey, you plead guilty to arson. The crime was committed on 28 October 2024 when you were 68. On that day you deliberately set fire to the house at 23 Montana Road, Red Hills. As a result of the fire, the house was largely destroyed.

Your actions were motivated by ill feeling towards family members following the death of your partner Allan Walker. You had been in a marriage like relationship with Mr Walker for about 40 years. You moved into his house and lived with him there for all that time. In June 2023 Mr Walker became ill and went to live with your son, his stepson, Jamie Davey and his wife Rebecca Davey, with whom he had become close. There had been disagreement between you and Mr Walker and your relationship had recently ended. In late 2023 you received a letter from Mr Walker's lawyer asking you to vacate the premises. Mr Walker died in December 2023. Thereafter, Ms Davey, who Mr Walker had appointed as executor of his estate, commenced proceedings to remove you. On 21 October 2024, an order was served on you requiring you to vacate the property by 28 October 2024. With the help of some friends you packed up and moved out on that day. However, before finally leaving, when everyone else had left and you were alone in the house, you lit the fire. You had previously made statements to your son and his wife, and to your daughter, that you wanted to stay in the house for your life. You said that you were angry about having to leave and that if you could not live there then no-one would because you would burn it down.

When you were interviewed by the police you denied lighting the fire. However you now admit carrying out the intention you had expressed.

You are now aged 69. You have no relevant prior convictions. You are an aboriginal person. You have four children and many grandchildren. You come from circumstances of considerable deprivation and hardship. You are one of 10 children and as a young person you were subjected to physical and sexual abuse. Your father was imprisoned for offences against you. Your education was limited and you are not literate or numerate. You left home at 16 and quickly fell pregnant with your first child. Your first husband was also abusive. You separated from him when you were 28 by which time you had four children. It was about then that your relationship with Mr Walker began.

Your early plea of guilty is in your favour. The reason for your actions cannot be condoned. However, allowing for the possibility that there may be another side to the story, on the information given to me your feelings of anger and betrayal are easy to understand. Even before Mr Walker died you were asked to leave the house. Mr Walker did not make you a beneficiary of his will. You were, at your stage of life, ordered to vacate the home in which you had lived with a person with whom you had been in a significant relationship for 40 years. There had been a relatively recent separation, but those circumstances would usually be a strong basis for a claim for an equitable interest in the property, even if the house was registered in his name, or for further provision from Mr Walker's estate. However, you did not seek advice, nor, it seems, challenge Mr Walker's failure to provide for you. You did nothing to respond to or participate in the proceedings to compel your removal. I would infer that your illiteracy and lack of knowledge of such matters contributed to that situation.

None of that, however, excuses a decision to burn down the house. What you did must be condemned. Arson is a serious crime. It is easy to commit and poses serious risk to persons and

property. In this case the risk was controlled by the fact that the property was relatively remote and somewhat removed from other properties, and you knew that there was no-one else present. Nevertheless, fires always involve some risk including to the officers of the Fire Service who are sent to deal with them.

The damage caused was significant. The likely result is that those who were the beneficiaries of Mr Walker's estate, I was told his grandchildren, were deprived of all or part of it. I have been given no further details of whether they or an insurer will bear the loss but it is a loss nevertheless. The State seeks a compensation order in the sum of \$270,000. I will make the order but there is little prospect that you will ever be able to pay any of that sum.

You now live in public housing with one of your grandchildren. You have chronic health ailments, including high blood pressure and severe arthritis. You had a hip replacement two years ago. Despite that, you are the full-time carer for one of your great grandchildren, who is four and participates in an early learning program administered by the Ravenswood Early Childhood Education and Care Service. You are the person responsible for that child's day to day care, welfare, and developmental needs. I think that the chances of you offending again in any serious way are remote. A sentence must mark the seriousness of arson as a crime, but I have concluded that I should adopt a merciful approach and allow you the opportunity to avoid having to serve any part of the term I am about to impose by suspending it.

You are convicted on the indictment. I make a compensation order in favour of Rebecca Jean Davey, in her capacity as executor of the estate of the late Allan James Walker, in the sum of \$270,000. I may only allow you 28 days to pay that sum although you may apply to enter into a repayment arrangement. You are sentenced to a term of imprisonment of two years. I wholly suspend that term for 18 months from today. It is a condition of that order that if, while it is in force, you commit an offence punishable by imprisonment, you will be required to serve the suspended term unless that is unjust.