

***DPP v Senior (a pseudonym)* [2020] VCC 1380 (2 September 2020) – Victorian County Court**

‘Arson’ – ‘Domestic violence’ – ‘Protection order’ – ‘Sentencing’ – ‘Separation’ – ‘Threats to kill’

Charges: Contravention of a DFV protection order x 1; Arson x 1.

Proceedings: Sentencing.

Facts: The male perpetrator plead guilty to breach of a protection order by threatening to kill his female former partner and arson. After an argument the offender called his former partner and threatened to ‘come to her house and blow her and her family up’. He entered her home, and despite his father’s attempts to calm him, threw thinner over the couch and lounge room floor, stating he would burn the house down with his former partner in it. Some of the thinner (accidentally) caught fire on the gas heater causing an explosion. The offender and his father escaped the fire; however, the house was destroyed.

Issues: Sentencing.

Decision and reasoning: Sentenced to time served, followed by a community corrections order for 12 months with conditions designed to continue rehabilitation by way of supervision, mental health and programs to reduce reoffending.

[16] You are fortunate that your vile threats of harm did not cause further injury or damage to your son and his mother. Arson is a very serious offence. In the circumstances of this case, you allowed your rage and anger to get the better of you in a situation in which you recklessly used an accelerant which you well knew and believed would probably result in damage or destruction to property. It is important in your case, as the learned prosecutor made clear very fairly during the course of the plea, that two factors need to be recognised.

[17] The first is that this was not a case in which you burnt down a property either to damage it intentionally or to prevent or deny another its enjoyment or ownership, and that having properly classified and understood the modus in which the fire started in a seemingly accidental way which nevertheless carries the inference of intention, and secondly, that your intention at the time was to hurt yourself by fire, even endangering your own father; intent which should be also noted you put into effect, not by arming yourself with an accelerant fuel but because your work made it available to you through a thinner which you already had available to you.

[18] The circumstances significantly reduce in my view the gravity of the offending and your moral culpability. You have, by your plea, accepted responsibility legally and I accept you are remorseful for your actions.