

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL DIVISION**



Neutral Citation Number: [2025] CIGC (Crim) 19

Case Number: IND. 79 of 2023

THE KING

V

DAVE RICHARD EBANKS

Appearances: **Mr. Ben Brown, Counsel for the Prosecution**
 Mr. Jonathon Hughes, Counsel for the Defendant

Before: **Hon. Justice Emma Peters**

Sentence Judgment: **23rd May 2025**

SENTENCE JUDGMENT

1. The defendant pleaded guilty to and is now to be sentenced in relation to a single count of arson, contrary to section 267(3) of the Penal Code.

The Facts

2. In the early hours of Monday 31 July 2023, emergency response operators received a report that the North Side Police Station was on fire. The Cayman Islands Fire Service was dispatched and



attended the building housing the police station which was a single story-building containing an office, a foyer and guard room, a computer server room, a kitchen and dining area, two bedrooms, two bathrooms, and an attached parking garage.

3. The fire was extinguished. No one was inside the building at the time, and thankfully no injuries occurred. The primary source of the fire was identified as the garage. There was significant damage to the interior and exterior of the garage and to the exterior of the building. A detailed fire report sets out the extent of that damage. As can be seen from the evidence, including the photographs, the building was extensively gutted by the fire.
4. A subsequent investigation took place by RCIPS, assisted by the Fire Service. The seat of the fire was determined to be a corner of the parking garage where debris and burnt items were found, including clothing, bed sheets, towels, and a toy tricycle. It was concluded that these items were likely the fuel source. Given the materials that the items were made of, most notably, the thermoplastics contained within the toy tricycle, the fire was able to burn at a remarkably high heat and produce flammable gases, which further fuelled the fire. The inspection concluded that the fire was caused intentionally by the setting alight of the items found within the parking garage. No accelerants were used.
5. CCTV footage from the area showed the defendant walking along the fencing of the North Side Police Station, entering the grounds, and walking to the front of the building. He disappeared from view for a few seconds and then, having reappeared in the same area, he walked away. A few seconds later, a flickering glow can be seen on the footage which was the start of the fire. The defendant was identified as a result of that CCTV footage. He had been seen in the area in the hours leading up to the fire and had been observed to have been intoxicated.
6. The defendant was arrested the next day, and in interview denied any responsibility for the fire. He accepted he had been drinking, stating he was an alcoholic and that he had taken both ganja (that day) and crack cocaine (a month or so before). He appeared before the Summary Court on 7 August 2023 and was arraigned before the Grand Court on 15 September 2023 and entered a plea of not guilty. He was subsequently re-arraigned on 1 November 2024, where he entered his plea of guilty.



Credit

7. Section 10 of the *Cayman Islands Sentencing Guidelines* states, on the issue of credit for guilty pleas: *“The reduction principle is employed because a guilty plea avoids the need for a trial, saves considerable costs and resources, and in the case of an early plea, saves victims and witnesses from the ordeal of giving evidence. It also acts as an encouragement to others to plead guilty where appropriate.”*
8. The guilty plea did not come at an early stage – it was entered at the thirteenth Grand Court hearing and following the setting of several trial dates, causing additional delay for the Crown’s witnesses, including one who was under the age of sixteen.
9. I accept, however, that given the complexities of the defendant’s addiction, and further his employment situation and his knowledge as to the consequences of his guilty plea on his livelihood, the defendant did not plead guilty as early as he might have done. Mr. Hughes, nevertheless, invites those factors to be taken into account in allowing 25% credit. He also points to the fact that by his guilty plea, he avoided a trial that may have involved one of his children giving evidence.
10. I accept that in the defendant’s particular circumstances, there is good reason to be generous with credit, and accordingly, I will give the defendant just over 20% credit for his guilty plea.

Sentencing Submissions

11. The maximum sentence for the offence of arson is life imprisonment. There are no Cayman Islands Sentencing Guidelines for the offence of arson. The offence mirrors what is contained within section 1(3) of the Criminal Damage Act 1971 in England and Wales, for which the maximum sentence is the same.



Culpability

12. The Crown submits that the fire involved the deliberate setting alight of flammable items in the corner of the garage and suggests that the very nature of how the defendant started the fire can demonstrate nothing else than a clear intention to cause very serious damage to property given that it must have been obvious to the defendant that it was almost inevitable that serious damage to that police station would occur. The Crown submits that that factor alone places the case in the highest category of culpability.
13. However, they also accept that this offence was unsophisticated, unplanned, without premeditation, and committed entirely on impulse. All factors they suggest are indicative of Category C culpability. That being so, they suggest that balance requires this to be seen as a Category B/C offence for the purposes of culpability, taking into consideration all the factors involved, including the defendant's alcoholism (accepting that it is an illness).
14. The defence submits that the defendant's decades-long addiction to alcohol, together with his intellectual level, as referred to in the SIR (which they accept is likely to have been affected by 40 years of alcohol addiction), are very relevant factors when assessing culpability. He was intoxicated that night – which, of course, would ordinarily be a clear aggravating factor – but they submit that his intoxication, after so many years of addiction, is such as to serve to reduce his culpability as it is said that his alcoholism amounts to a chronic medical condition. That fact, combined with what the Crown accepts was an unplanned impulsive offence, is such that the defence also suggests that this case could be said to fall on the borders of Culpability B and C.

Harm

15. No one doubts or disputes that the assessment of harm here is high. It is clearly category one. There was serious consequential economic and social impact, together with a high value of damage. The social impact is perhaps most keenly felt by the residents of that part of Grand Cayman.
16. The Community Impact Assessment prepared by RCIPS sets out that the fire resulted in officers from North Side having to relocate and operate out of the East End Police Station, causing a



significant impact on response times and day-to-day operational policing. It has become apparent since that members of the community (both those who live nearby and those who operate businesses in that area), especially senior citizens, have expressed their fears and concerns at not having ready access to their police station, to walk in, and have direct contact with police officers.

17. The report, written by Inspector Bogle, concludes thus:

“The arson attack has disrupted the community safety and security and heightened fear about safety and security”.

18. The financial consequences of the offence are significant with a cost in excess of CI\$170,000.

The Court’s Conclusions on Categorisation

19. Having listened carefully to the very balanced and fair submissions made by both the prosecution and the defence in this case, I note that a Category B1 offence on the England and Wales Sentencing Council guidelines, would have a start point of 18 months, with a range of 9 months to 3 years, whilst a Category C1 offence would have a start point of 9 months, and an upper end range of 18 months.
20. I am invited by the defence to take a start point that falls mid-way between the B1 and C1 start points, but I consider that the social impact of this offence is especially serious, and therefore, it is my view that to take a start point which is at the top of the C1 range or is the start point of the B1 range (both, therefore 18 months) is appropriate in this case.

Aggravating Factors

21. The Crown very fairly reminded me not to double count. Mr. Hughes, for the defence, draws my attention to what is said about the impact of intoxication on the Sentencing Council guidelines when that intoxication is a result of an addiction. Although, therefore there is clear evidence that the defendant was under the influence of both alcohol and ganja that night, given his decades-long addiction, I am not going to further aggravate the start point based on this factor given what

I shall come on to in a moment as to the efforts the defendant has made to address that addiction since this offence was committed.



Mitigating Factors

22. The mitigating factors in respect of this defendant are as follows:

- He is the sole breadwinner for his family, including his unemployed wife and 14-year-old son.
- He has pleaded guilty.
- He has demonstrated a determination and has taken voluntary steps to address his decades long addiction – he has not consumed any alcohol, ganja or cocaine for nearly a year and a half.
- He hopes to regain his job – a job lost as a result of his conviction in this case.
- He has extremely limited previous relevant convictions. He has nine previous offences on his criminal record. In March of 2020, he was convicted of criminal damage for which a compensation order was imposed. He has no other relevant previous convictions, as the remainder of the record primarily relates to aged offences of serious violence. The convictions that he does have are such that he has never been sentenced to a sentence of immediate imprisonment before.
- He spent time on remand, and was also on a lengthy curfew in connection with this offence which is said to have been a sobering and salutary lesson as to the consequences of offending.

Hope For Today Foundation

23. The Court is very grateful to Mr. Brent Hydes from the Hope For Today Foundation, who attended the sentencing hearing. He spoke of the difference in the man who sits in court today versus the man they met a year ago. Mr. Hydes confirmed that over the past year of living at Hope For Today, the defendant has complied with all the house rules and has remained sober and



clean. He appears to have been a model resident. Mr. Hydes urged me in the strongest terms not to send him to prison and potentially reverse all the progress that the defendant has made. Mr. Hydes confirmed that a residential place at the foundation remains open to the defendant for the next 6 months. That place comes with the requirement to comply with all the rules of the house, including curfew timings that are set by Mr. Hydes. The Court considered the support that Mr. Hydes and his foundation can give Mr. Ebanks vital to his continued rehabilitation. Mr. Hydes recommended that the defendant be required to attend relapse prevention programmes.

The Court's Conclusion on Sentence

24. It is my conclusion that this offence is so serious that nothing short of a custodial sentence can suffice to mark the severity of this offending by a man who set a public building on fire with the impact that followed on the residents of this Island.
25. However, I must consider whether any such sentence can safely be suspended. Given the length of the sentence of imprisonment that I have concluded that this defendant deserves, it is capable of being suspended in accordance with section 22(4) of the *Penal Code*.
26. The defendant has made significant progress at the Hope For Today Foundation. I am very grateful to Mr. Hydes of that organisation for coming to court today and assisting me with the defendant's behaviour and progress over the time that he has been with that organisation. He has, after decades of addiction, demonstrated through his actions that he is willing to and can do what it takes to maintain his sobriety. It is that factor that is at the forefront of my mind when I reach the conclusion that, although he must face a sentence of imprisonment, the proper course for me to take that best meets the defendant's rehabilitative needs and protects society best in the long term is to suspend that sentence.
27. Accordingly, the sentence that I will pass is a Suspended Sentence Supervision Order, in accordance with section 21 of the *Alternative Sentencing Act* (ASA).
28. My starting point for the reasons I have already set out is 18 months.



29. After applying the credit to which I think the defendant is entitled and having taken account of all that I have set out above, my sentence is one of 14 months imprisonment, suspended for 24 months.
30. The defendant will be under the supervision of the Probation Service for 24 months as part of that sentence. I also invite the Probation Service to consider whether the following conditions should form part of that supervision:
- a. Defendant is to abstain totally from consuming any alcohol and drugs.
 - b. He is to attend any treatment programme thought appropriate.
31. As part of this sentence, I also impose a Community Sentence Order (s.42 Penal Code) of 200 hours of unpaid work.

Compensation/Restitution


32. There were clearly significant financial consequences as a result of the fire, with the total cost to repair the police station and to replace the damaged items within the excess of CI\$100,000.00. The Crown submits that whilst the building may have been insured, that nevertheless, the Court should make an award of some level pursuant to section 33 of the *Penal Code*.
33. The defence submits that it would be inappropriate to make such an award in the circumstances of the case and rely on *R v Inwood* (1974) 60 Cr App R 70, in which Scarman LJ said (at p. 73):
- 'Compensation orders were not introduced into our law to enable the convicted to buy themselves out of the penalties for crime. Compensation orders [are] a convenient and rapid means of avoiding the expense of resort to civil litigation when the criminal clearly has means which would enable the compensation to be paid.'*
34. They submit that given the account of the defendant's finances, as stated within the Social Inquiry Report (SIR), and specifically his recent loss of employment, it would be inappropriate to make such an order.

35. Given the defendant's lack of means, lack of certainty of future income, and his family responsibilities, I have concluded that it would simply be to set the defendant up to fail if I were to make such an order.

Time to Count in the event of Breach Proceedings

36. I note that the defendant spent about 8 months on remand in custody in connection with this offence and he has spent the past 12 months on a varying length of curfew, but all of which amounted to no less than 12 hours per day. If he should fail to comply with the requirements of this sentence and should face breach proceedings that time should be taken into account when deciding how much of the sentence to activate.
37. The sentence is therefore a 14-month sentence of imprisonment, suspended as part of a Suspended Sentence Supervision order for 24 months together with a Community Service order of 200 hours of unpaid work. During that sentence, the defendant should be required to continue his sobriety and to undertake further rehabilitative work. The consequences of the breach were made clear to him, and he confirmed that he understood.

Dated the 23rd day of May 2025



**The Hon. Justice Emma Peters
Judge of the Grand Court**