

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF THE  
NAME OR IDENTIFYING PARTICULARS OF THE VICTIM OR HER  
DAUGHTER REMAINS IN FORCE**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 62/2014  
[2014] NZSC 115**

BETWEEN                      PAUL ANDREW GOTTERMAYER  
   Applicant  
  
AND                              THE QUEEN  
   Respondent

Court:                      McGrath, William Young and Glazebrook JJ  
  
Counsel:                      A S Greig for the Applicant  
   A Markham and K J Cooper for the Respondent  
  
Judgment:                      19 August 2014

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed.**

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**REASONS**

[1] Mr Gottermeyer stabbed and killed his wife at around 7.30am on 11 July 2012. In addition to multiple other stab wounds, he cut her throat through the front of her voice box.<sup>1</sup> She would have taken some minutes to bleed to death on the kitchen floor of the flat where she was living with the couple's three year old daughter.<sup>2</sup> Mr Gottermeyer had brought the knife with him to the flat.<sup>3</sup>

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<sup>1</sup> She suffered some 12 wounds in total.

<sup>2</sup> The couple had separated and Mr Gottermeyer still lived in the family home in Kaiapoi (in a red zone area).

<sup>3</sup> There is an issue whether the knife was a kitchen knife Mr Gottermeyer had brought with him from Kaiapoi (in the front pocket of his hoodie) or whether it was a knife, used in his market

[2] The couple's three year old daughter was in the flat at the time. There is dispute over how much she saw and heard<sup>4</sup> but, after the attack, she was shut in the lounge by Mr Gottermeyer with a drink and snacks and left alone to be discovered later in the morning by the mother's partner.

[3] Mr Gottermeyer pleaded guilty to murder and was sentenced to life imprisonment, with a minimum term of imprisonment of 10 years.<sup>5</sup> On appeal by the Solicitor-General that was increased to 12 years.<sup>6</sup>

[4] Mr Gottermeyer seeks leave to appeal on the basis that s 104(1)(e) of the Sentencing Act 2002 should not have applied. Mr Gottermeyer suffers from psychiatric problems and there was evidence that the attack would not have occurred but for his mental illness (a major depressive episode) and that his responsibility was in all probability diminished.

[5] The Court of Appeal held that s 104(1)(e) is applied to the objective manner in which a murder is committed. The Court held that it was engaged in this case for the following reasons:<sup>7</sup>

[T]he use of a knife (whatever its provenance), the number and nature of the wounds inflicted, the fact that the victim took some time to bleed to death, and the fact that the couple's child was in the house at the time meant that a high level of brutality, cruelty and callousness was involved.

[6] Mr Gottermeyer's mental health issues were, however, taken account of by the Court of Appeal at both stages of the *R v Williams*<sup>8</sup> process, to arrive at the 12 year minimum period of imprisonment.<sup>9</sup>

[7] It has not been shown that there was any error of principle in the Court of Appeal's approach and no miscarriage of justice arises as it was open to the Court of Appeal to set the minimum term at the level it did.

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gardening business, that he had retrieved from the car after the couple argued about the sale of the Kaiapoi house and, it appears childcare arrangements.

<sup>4</sup> There was evidence from the daughter's statement that she heard her mother scream, saw her father with the knife and her mother bleeding.

<sup>5</sup> *R v Gottermeyer* [2013] NZHC 2599 (Fogarty J).

<sup>6</sup> *R v Gottermeyer* [2014] NZCA 205 (O'Regan P, Wild and White JJ).

<sup>7</sup> At [90].

<sup>8</sup> *R v Williams* [2005] 2 NZLR 506 (CA) at [52]–[54].

<sup>9</sup> *R v Gottermeyer*, above n 6, at [94]–[95] and [102].

[8] The application for leave to appeal is dismissed.

Solicitors:  
Crown Law Office, Wellington for the Respondent