

**IN THE HIGH COURT OF NEW ZEALAND  
TIMARU REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TE TIHI-O-MARU ROHE**

**CRI-2021-076-807  
[2024] NZHC 1704**

**THE KING**

v

**LAUREN ANNE DICKASON**

Hearing: 26 June 2024

Appearances: A R McRae and S M H McManus for Crown  
K J Beaton KC and A M Toohey for Defendant

Judgment: 26 June 2024

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**SENTENCING REMARKS OF MANDER J**

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[1] Lauren Dickason, you are for sentence this morning having been found guilty by a jury of murdering your three young daughters — Liané, Maya and Karla.

**The facts**

*The offending*

[2] On 28 August 2021, you arrived in this country with your family from South Africa and following a two-week period of COVID quarantine at an Auckland hotel, you travelled to Timaru where your husband was taking up a surgical position at the local hospital. Temporary rental accommodation had been provided and you and your husband spent the following days attempting to settle into your new environment.

[3] On the evening of 16 September, your husband left home to attend a professional function. At some stage after he departed the house you went into the garage and retrieved a packet of cable ties. You gathered the children together in a bedroom and told them they were going to make necklaces. You attached the cable ties together and made ligatures which you placed around the children's necks and tightened in an endeavour to strangle them. When that appeared insufficient to cause death you suffocated each of them by smothering them with a towel or blankets. The children's bodies were placed in their beds by you, as if asleep. You then attempted to take your life by an overdose of medications but this proved ineffective.

[4] When your husband came home, he found you at the kitchen bench in a disoriented state before making the appalling discovery of his children's bodies. After emergency services were called, you were taken to hospital. You were discharged the following day, and interviewed by police that evening. You provided an account of what had occurred since arriving in New Zealand and described how you had taken your children's lives. It is indisputable that you were suffering from a pre-existing recurrent major depressive disorder at this time.

*Personal history*

[5] Mrs Dickason, you are a 43-year-old woman who was born in South Africa. There is nothing remarkable about your upbringing. However, you suffered your first experience of depression when just 15 years old. It is a condition with which you have attempted to cope throughout your life. You graduated from medical school and became a general practitioner. After marrying in 2006, you and your husband experienced difficulty conceiving and this resulted in a prolonged period of fertility treatment. You self-prescribed antidepressant medication in late 2008, and experienced a miscarriage in January 2013. Liané was born in September 2014. In October the following year, you sought psychiatric assistance for postpartum depression, although by November 2015 this appeared to have resolved.

[6] Between January and March 2017, you had a number of sessions with a clinical psychologist as a result of poor mental health. At the time you were undertaking further IVF treatment in an effort to become pregnant again. In November 2018, Karla

and Maya were born. In May the following year, you again began consulting a psychiatrist for ongoing depressive symptoms and had regular consultations over that year for postnatal depression.

### *Immigration to New Zealand*

[7] In 2019, you and your husband made a decision to immigrate to New Zealand, which was announced to family and friends in January the following year. A previous consultation with your psychiatrist in October indicated your mood and presentation had improved, although you were still on medication. The initial plan was for the family to depart to New Zealand in August 2020 but there were delays regarding your husband's medical registration and then there was the impact of COVID-19.

[8] The move to this country was delayed further and the arduous process of transferring your family's lives to another country was difficult. In July 2021, there were riots and civil unrest in South Africa that caused you particular stress and fears for the safety of your family. Despite measures taken in the period leading up to your departure to isolate from friends and relatives in a bid to remain COVID-free, the children unexpectedly contracted the condition. This meant your travel plans were again disrupted and had to be further delayed. This caused further stress as you attempted to reorganise your departure.

[9] Over this transitional period your mental health fluctuated. Initially, the impact of COVID and other stressors brought on another period of depression. However, in late November 2020, in your last consultation with your psychiatrist in South Africa, your mental state was recorded as having improved and, in around mid-March 2021, you stopped taking antidepressant medication. A letter written by your psychiatrist in May that year, which notably was for immigration purposes, confirmed you suffered from a major depressive disorder but that your "mood had stabilised well over the years". It referred to an anti-depressive drug that you took as your "chronic medication".

[10] There are various sources of information relating to the state of your mental health during 2021, but I think it plain that it was in decline. You were suffering from depression and were experiencing acute stress at this time. You recommenced taking

your antidepressant medication in early August, some three weeks prior to your departure to this country. There was evidence that over this period you experienced intrusive and unwanted ideations of harming your children, and of having carried out internet searches about overdosing children. You were observed as having lost a considerable amount of weight. These details of your personal history, your life in South Africa, the events leading up to your arrival in this country, and your psychiatric state at this time were exhaustively traversed at trial.

[11] The days following your arrival in Timaru were spent attending to multiple immigration requirements, and organising and preparing the family for their new life. These matters were primarily attended to by you, while your husband was inducted into his new medical role at the local hospital. Liané had commenced school earlier in the week and the twins started preschool the following day. They appear to have settled in well. However, there were indications you were finding it difficult to adjust. Particular pressures appeared to be coping with the children at home and the various requirements that accompanied the establishment of a residence in a new country, including the provision of various documents with which you were charged with sourcing.

[12] You have been described at this time as experiencing marked sleep impairment, poor appetite and weight loss, loss of any sense of enjoyment, diminished energy, fluctuating feelings of hopelessness, morbid preoccupations, and persistent and pronounced anxiety symptoms — all markers of severe depression. You related how on the day the twins went to playcentre of crawling into bed with a hot water bottle and attempting to process everything that had been happening in the last few months. You felt very alienated and concluded that you and your husband had made a very bad mistake in coming to this country, which you described as very different from home.

#### *Police interview*

[13] In your police interview you referred to feeling lost and not being able to control the children's behaviour. You related in this interview how, on the night of the offending, the children had settled down in front of the television at the time your husband left, but things deteriorated. You told the interviewing officer:

After Graham left the kids were watching TV, then they started with their normal hijinks, jumping on the couches, pushing ah, pushing each other around. Just not calming down for bedtime and, just being out of control, they didn't listen to me at all like I'll say something to them and they're just like water off a duck's back. I think that is one thing lockdowns taught me is I don't know my kids at all, even though they're with me most of the time. And is just, and you think you are going to move to a different town and things are going to be different. ... And it brings up a whole lot of new problems.

... And I think it's been from, we had to isolate at our mother in law's house because one of the kids tested positive for COVID we had to delay our travel plans and it was MIQ, now we're in this little house and Graham and I haven't, probably haven't even held my hand and last night, there is always a kid or something in between us ... We're missing each other.

[14] You confirmed, when referring to the children's deaths, that this was something you had been thinking about for a while. You said to the interviewing officer:

I had been thinking about it for sure, I was trying to find a way to ease the pressure, the school's been locked and we've managed to get through it because in South Africa we can still have contact with friends but here I've got nobody. It was a big shock to us.

[15] You referred to "something" having "just triggered me" last night.

### **Mental impairment**

[16] The children's deaths followed a deterioration in your mental health and coincided with an acute mental breakdown, from which you must inevitably have been still suffering at the time of your police interview approximately 24 hours after the event. Your trial was largely occupied by extensive evidence from mental health experts about the mental disorder which afflicted you.

#### *Psychiatric opinion at trial*

[17] The five health assessors who gave evidence agreed you were suffering from a major depressive disorder at the time of the offending. They disagreed about whether you were psychotic at this time. Dr Hatters-Friedman was of the view there was a psychotic component to your presentation. Mr Metoui and Dr Barry-Walsh also considered there were elements of your presentation and history that could reflect a psychotic component. Dr Monasterio and Dr McLeavey were of the view that you were not psychotic at the time of the offending.

[18] Dr Monasterio diagnosed you in the lead up to and at the time of the offending as having a major depressive disorder that was described as recurrent and being of moderate to severe severity. He did not find your condition as having been related to postpartum depression, although he conceded he could not be sure if that was the case. He described the factors leading up to your reported different motives for the offending as “complex and multifaceted” but there was no clear indication of an altruistic motive to spare the children from harm or suffering. He considered any confident understanding of your motive for killing the children was impossible.

[19] Dr McLeavey opined that you most likely suffered from a “recurrence of” your known major depressive disorder. In her view, you suffered from a persisting depressive disorder (dysthymia) which had in the past included periods of sustained remission. In her opinion any “altruistic” motivation was fuelled more by a need for control and anger, reflecting your vulnerable personality. In her view, this was a tragic case of a mentally disordered woman with a vulnerable personality who killed her children in the context of a situation which she perceived to be beyond her limited capacities to manage. It was accepted your mental or psychological health was substantially compromised at the time of the offending, but it was not accepted an infanticide defence was available.

[20] Professor Hatters-Friedman diagnosed a major depressive disorder with mood-congruent psychotic features which she described as being a relapse of your postpartum depression following cessation of antidepressant medication, which worsened during the months prior to your arrival in this country. She advanced an “altruistic” motive for your killing of the children based on you being severely depressed and having developed psychotic thinking by which joint filicide and suicide was the way out for yourself and your children. It was noted that subsequent to your offending you were consistently described in hospital as depressed and overwhelmed, rather than expressing acute anger toward your children or husband.

[21] Dr Barry-Walsh was also of the view that you suffered from a major depressive illness with concomitant anxiety, which he characterised as severe. He described you having been in the grip of a rapidly worsening depression which by the time of the offending had overwhelmed you and caused you to view the world through a negative

and nihilistic lens. He considered your offending was consistent with an “altruistic filicide” and that you were suffering from the delusion that the children would be better off dead. Your level of commitment to your belief was emphasised by your description of the lack of emotional response to Liané’s pleas.

[22] Mr Metoui found you suffered from a severe major depressive disorder at the time of the offending. He considered this was an extension and part of your chronic postnatal depression from which you had suffered since 2015, after the birth of Liané, and had re-emerged after the birth of the twins in 2019 and episodically thereafter. Mr Metoui opined that such was the severity of your depressive illness and associated distorted thinking at the time that, at a minimum, it involved ‘overvalued ideas’, if not delusional ideation, about your inability to keep caring for your children; your failings as a mother and wife; demise of your and your family’s lives, and the world in general; and ultimately that you and your three children were better off dead. It was his view that at the time of the offending you had come to believe that life was no longer worth living for either you or your children. It was this, as he put it, “cognitive shift”, Mr Metoui said, that allowed you to offend in the manner that you did.

#### *Post-trial*

[23] Since your trial I have had the benefit of receiving further reports about your psychiatric state from three forensic psychiatrists, all of whom opine that you meet the criteria for a major depressive disorder. You were described by Dr Dean as having considerable remorse for your offending. He referred to you as experiencing some symptoms of trauma but that you did not meet the threshold for a diagnosis of post-traumatic stress disorder. Dr Dean noted that information received from your treating clinicians indicated that your current mental state can be attributed to distress due to the psychosocial aspects of your offending and your conviction, rather than what was described as a biological condition.

[24] Dr Barry-Walsh, who also gave evidence at your trial, advised that you displayed recognition of the impact of your offending on others and that you have expressed distress, regret and remorse for the deaths of the children. However, he also noted there was evidence of anger towards others which he related as being part of the

grieving process and with coming to terms with the index offending, and that you had limited insight, particularly in terms of processing both the offending and verdicts. In relation to the risk of further offending, this was considered to be minimal having regard to the unique set of circumstances in which the offending had occurred that was unlikely to recur, and that from a treatment perspective, the focus needed to be on the risk you present to yourself rather than to others.

[25] Dr Short, in an extensive report, opined that you present a low risk of violence towards others in the future and a very low risk of reoffending in any form. She advised that, from a psychiatric perspective, the best way to reduce any future risk would be to provide you with the appropriate treatment and oversight, with mitigations to reduce the risk of relapse and to manage what she described was the greater risk to you, being that of suicide. She confirmed you continue to suffer from a major depressive disorder which, while partially treated, means you remain mentally disordered.

[26] I will return to the issue of your current psychiatric condition later in my sentencing remarks.

### **Impact of offending**

[27] I have received victim impact statements from the children's father, Graham Dickason, and other family members, including the children's grandparents and their aunts speaking on behalf of themselves and their families.

[28] Liané was aged six years and 11 months when she died. Karla and Maya were aged two years and 10 months. They have been described to me as wonderful, clever, lovely little girls who were, and remain, deeply loved. It is difficult to truly comprehend the devastating effect and grief caused not only by their deaths but from the circumstances in which their lives were taken.

[29] I need to acknowledge the grace and stoicism with which Mr Dickason has conducted himself throughout this nightmare. I also acknowledge the unfathomable pain he must bear and the grievous loss both sides of the family have had to endure. All the family are united in expressing their deep love for the children, but I also need



to acknowledge the personal range of emotions and feelings that have been expressed to me regarding this terrible event, and which no doubt will continue in the form of lasting grief.

[30] I know that, difficult as it has been, you have read and, indeed, listened this morning to the victim impact statements and that their content has been distressing for you. I have read your letter in which you express how deeply sorry you are for the pain and heartache that has been caused.

### **Framework for sentencing**

[31] I turn now to the legal framework that I must apply in approaching your sentencing. An offender who is convicted of murder must be sentenced to life imprisonment unless, given the circumstances of the offence and the offender, such a sentence would be manifestly unjust.<sup>1</sup> Where a life sentence is imposed the Court must impose a minimum period of imprisonment which may not be less than 10 years and must be the minimum the Court considers necessary to hold the offender accountable for the harm caused, to denounce their conduct, deter such offending, and to protect the community.<sup>2</sup>

[32] Whether the imposition of a sentence of life imprisonment would be manifestly unjust must be assessed in conjunction with the engagement of s 104 of the Act.<sup>3</sup> That provision directs that in certain circumstances a minimum period of imprisonment of at least 17 years must be imposed by the Court unless satisfied it would be manifestly unjust to do so.<sup>4</sup> There is no dispute this provision potentially applies because there were three victims who, as young children, were particularly vulnerable and the murders were committed with a high level of brutality.<sup>5</sup>

[33] Because those circumstances are present, s 104 is engaged. It is therefore necessary for me to assess the impact of that section before considering whether a sentence of life imprisonment would be manifestly unjust. This is because the

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<sup>1</sup> Sentencing Act 2002, s 102(1).

<sup>2</sup> Section 103(1) and (2).

<sup>3</sup> *Van Hemert v R* [2023] NZSC 116, [2023] 1 NZLR 412 at [34].

<sup>4</sup> Sentencing Act, s 104.

<sup>5</sup> Section 104(1)(h), (e) and (g).

implications of that provision may well influence, if not potentially determine, the assessment of whether or not the presumption of life imprisonment can or should be displaced.<sup>6</sup>

[34] The purposes and principles of sentencing set out in the Act are also relevant to that assessment.<sup>7</sup> In the circumstances of this case, they include the interests of the victims,<sup>8</sup> your rehabilitation and reintegration,<sup>9</sup> the gravity of the offending and the degree of your culpability,<sup>10</sup> the seriousness of the offences which represent the gravest of homicides,<sup>11</sup> the imposition of the least restrictive outcome,<sup>12</sup> and your particular circumstances.<sup>13</sup>

### **Notional minimum term of imprisonment**

[35] The orthodox process of addressing the question of manifest injustice under s 104 requires, as an initial step, an assessment of the minimum period of imprisonment that would otherwise be imposed under s 103(2) of the Act if an offender is sentenced to life imprisonment.<sup>14</sup> The Crown and your counsel have addressed that question.

[36] As has been acknowledged, sentencing a parent for the murder of three children is unprecedented in this country. The aggravating factors are stark. Not only were the children vulnerable because of their age but they were entirely dependent upon you as their mother, who they looked to for care and protection. They would have viewed you as an unconditional source of safety and love and been entirely unsuspecting. The offending represents a fundamental breach of trust.

[37] There is the use of the cable ties as ligatures that were placed around the girls' necks, and the use of blankets to suffocate them when this did not appear to provide

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<sup>6</sup> *R v Smith* [2021] NZCA 318 at [45].

<sup>7</sup> Sentencing Act, ss 7, 8 and 9.

<sup>8</sup> Section 7(c).

<sup>9</sup> Section 7(h).

<sup>10</sup> Section 8(a).

<sup>11</sup> Section 8(b).

<sup>12</sup> Section 8(g).

<sup>13</sup> Section 8(h).

<sup>14</sup> *R v Williams* [2005] 2 NZLR 506, (2004) 21 CRNZ 352 (CA) at [52]–[54]; and *Davis v R* [2019] NZCA 40 at [27].

an effective means of asphyxiation. Your actions extended over some period. Distressingly, it is apparent that at least Liané appreciated your homicidal intentions and sought to save her and her sisters' lives by praying and resisting. Finally, there is the obvious and incalculable harm that has been caused as a result of your actions.

[38] By reference to various sentencing decisions, all of which inevitably have their own distinctive circumstances, the Crown and your counsel have sought to identify a starting point for what is described in this part of the sentencing exercise as the notional minimum period of imprisonment that would otherwise apply if the aggravating features of your actions were assessed on their face in isolation.<sup>15</sup> Because of the different facts of each case, drawing guidance from other cases is difficult. However, from a review of other cases, the Crown has ventured a starting point for a minimum period of imprisonment to be in the range of 24 to 26 years. Based on a broad comparison with other sentencing decisions that involve the killing of dependent children, your counsel have submitted the range would be marginally lower — between 22 to 24 years imprisonment.

[39] For the purposes of this exercise, should a life sentence be imposed, I would adopt a starting point for any notional minimum period of imprisonment of 24 years. That minimum period of imprisonment reflects the murder of three vulnerable children by their mother in violent and prolonged circumstances. However, that assessment makes no allowance for the state of your mental health and ignores the major depressive disorder from which you were suffering at the time. That factor significantly affects your moral culpability.

[40] The Crown and your counsel have made competing submissions regarding the extent to which your impaired mental functioning reduces your culpability. By reference to various authorities, they have advanced respective discounts of 30 and 40 per cent.<sup>16</sup> In the event a life sentence is imposed, that would broadly result in a notional minimum period of imprisonment of between 14 and 17 years. The Crown argues that because the indicated notional minimum period of imprisonment, which

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<sup>15</sup> *R v Howse* CA444/02, 7 August 2003; *Savage v R* [2020] NZHC 2553; *R v Tarapata* [2015] NZHC 1594; *R v Harrison-Taylor* HC Auckland CRI-2004-092-1510, 12 September 2005.

<sup>16</sup> *Savage v R*, above n 15; *R v Harrison-Taylor*, above n 15; *R v Tarapata*, above n 15; *Van Hemert v R*, above n 3; and *Tu v R* [2023] NZCA 53.

takes into account your mental health at the time, approximates the 17-year minimum term mandated by s 104, it could not be considered manifestly unjust to impose a sentence of life imprisonment with a minimum term of that length.

[41] However, this analysis does not address the more fundamental question as to whether any deduction for your mental impairment would in the circumstances be adequate to accurately reflect the extent to which your offending was affected by your mental disorder and be sufficient to prevent a minimum term of imprisonment of at least 17 years from being manifestly unjust. And moreover, whether, as argued by your counsel, would render the imposition of a life sentence manifestly unjust given the circumstances of the offence and your personal circumstances.<sup>17</sup>

### **Findings upon which sentencing proceeds**

[42] In making these assessments I must proceed on the basis of the facts that are essential to the jury's verdicts.<sup>18</sup> Because your defence of insanity was rejected, I must accept that you were not so affected by your major depressive disorder to not know your actions in killing the children were morally wrong. In relation to the partial defence of infanticide, there was no issue that the balance of your mind was disturbed. There was a dispute as to whether that was by reason of you not having fully recovered from the effects of giving birth or by reason of any disorder consequent upon childbirth. The jury also had to decide whether the disturbance of your mind was to such an extent that you should not be held fully responsible for the children's deaths. The jury's verdicts meant the Crown discharged the burden upon it to negative or disprove beyond reasonable doubt that this was not infanticide.

[43] The Crown acknowledged at trial that at the time of the offending you were significantly mentally unwell. It was accepted by all the mental health experts that you were suffering from a major depressive episode. However, while the Crown accepted you were suffering from this condition, its position, as it has repeated today, was that your anger and frustration at your children's behaviour on the evening of the offending and your need for control was what caused you to kill your children. Its

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<sup>17</sup> Sentencing Act, s 102(1).

<sup>18</sup> Section 24(1)(b).

case was that, in the context of the position you found yourself, you “*in that isolated moment*” lost control and systematically murdered your three children.

[44] The Crown’s submission is that, rather than being directly causative of the offending, your major depressive episode impacted on your ability to cope with the stressors you were experiencing in your life at that time. It is submitted that, while your depressive disorder may be viewed as having significantly contributed to what occurred, by itself it is insufficient to displace the presumption in favour of the imposition of a life sentence or provide the basis for a finding that a 17-year non-parole period would be manifestly unjust.

[45] Your counsel have submitted the jury’s verdicts do not require an acceptance of the Crown’s position that you killed the children as a result of having “snapped” or that you were motivated primarily or directly by anger, resentment, or the need for control of your children and husband. I accept that is so. There is evidence of the children having upset you that night and of you becoming angry with them. However, I do not consider you were lashing out or venting your anger at the children at the time you took their lives. As observed by your counsel, the systematic and methodical way you did that does not support a finding that you were simply an angry mother acting in an acute fit of rage.

[46] I do not discount you experienced anger and frustration at the three little girls acting their age earlier that night, but I consider that was likely to have been a further stressor that added to your sense of hopelessness about the situation you found yourself in as a result of your distorted and impaired cognition that was the product of your depression. In the depths of your mental illness, I accept that, to the extent you considered you could no longer control your children, as with the warped perception of the predicament you had created for yourself and your family by the “bad decision” to immigrate to this country, this was a symptom of your mental impairment which had been foreshadowed by the unwelcome, previously ego-dystonic thoughts you had experienced in South Africa of harming the children.

[47] The psychiatric defence put forward at your trial was that you had an altruistic motive for taking your children’s lives and that, having decided to take your own life,

you genuinely believed they would be better off dead because you saw no future for them. There may have been some difficulty with the application of that typology as a complete answer to your actions given the determination and perseverance you exhibited to take the children's lives in comparison with the apparently ad hoc and somewhat desultory way you went about attempting to take your own life that night. I hesitate to make such an isolated observation given the complexities of this case but, even on the basis of this having been your motivation, that rationale did not necessarily exclude, as the jury must have concluded, that you knew your actions were morally wrong.

[48] I am bound to proceed on that basis. However, I am satisfied your actions were the product of your mental disorder. This tragic event would not have occurred but for the major depressive episode from which you were suffering. Some reliance was placed on various text messages to show you found parenting difficult and were at times frustrated with your children. That was likely to have been the case but the evidence of those who knew you well, including your husband, was of a loving, nurturing mother who was constantly attentive to her children's needs, their safety, and was devoted to their wellbeing.

[49] That night you were suffering from a major depressive disorder marked by a general sense of hopelessness. You were in despair at the situation you found yourself in, having arrived, isolated, without family and, as you perceived it, effectively alone in an alien environment. Whether you saw the only way out as being suicide, in which the children had to join you in death, or you somehow perceived the children's deaths as a means of alleviating a source of stress and despair, or some combination of both, your warped thinking at this time was causative of your actions.

[50] I accept your counsel's submission that but for the severe mental impairment from which you were suffering that night this would not have happened. There is a direct causal connection between your mental illness and your offending which significantly reduces your moral culpability. As a result, although your legal responsibility for this offending remains, many of the sentencing objectives, including

the needs of denunciation and deterrence, are significantly moderated, if not eliminated, as relevant sentencing considerations.<sup>19</sup>

### **Whether s 104 applies**

[51] As noted, the Crown has submitted that a minimum period of imprisonment of 17 years should be imposed, in accordance with s 104 of the Act, and that it would not be manifestly unjust to do so. It emphasises that your offending involved three young victims and that, while your mental illness at the time reduces your culpability, that aspect can adequately be reflected in an adjusted minimum period of imprisonment that would otherwise be required to be imposed to reflect the aggravating circumstances of the murders. I do not accept that is sufficient.

[52] Last year, the Court of Appeal reviewed the way s 104 is to be applied and confirmed a number of relevant longstanding principles.<sup>20</sup> Section 104 reflects a statutory presumption that there should be a high level of punishment through the mechanism of a longer minimum period of imprisonment if certain aggravating circumstances are present, as they are in this case.<sup>21</sup> However, that was not to be to the exclusion of the limited judicial discretion available to a sentencing court to depart from the statutory minimum term in cases which meet the criteria of manifest injustice.<sup>22</sup> In that regard, the principles of sentencing codified in ss 7, 8 and 9 of the Act remain applicable as they reflect the important principle that the punishment should fit the crime, which is fundamental to the administration of justice.<sup>23</sup>

[53] The minimum 17-year period is not to be departed from lightly, and mitigating factors relating to personal circumstances will play “a lesser role” as the seriousness of the offending is to be the sentencing court’s focus.<sup>24</sup> However, the following approach has long been recognised and recently endorsed:<sup>25</sup>

[67] ... a minimum term of 17 years will be manifestly unjust where the Judge decides as a matter of overall impression that the case falls outside the

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<sup>19</sup> *E (CA689/2010) v R* [2011] NZCA 13 at [70].

<sup>20</sup> *Frost v R* [2023] NZCA 294, citing *R v Williams*, above n 14.

<sup>21</sup> *R v Williams*, above n 14, at [58].

<sup>22</sup> At [62].

<sup>23</sup> At [65].

<sup>24</sup> At [66]; *Webber v R* [2021] NZCA 133 at [33]; *Hohua v R* [2019] NZCA 533 at [44].

<sup>25</sup> *R v Williams*, above n 14, at [67]; *Frost v R*, above n 20, at [20].

scope of the legislative policy that murders with specified features are sufficiently serious to justify at least that term. That conclusion can be reached only if the circumstances of the offence and the offender are such that the case does not fall within the band of culpability of a qualifying murder. In that sense they will be exceptional but such cases need not be rare. As well, the conclusion may be reached only on the basis of clearly demonstrable factors that withstand objective scrutiny. Judges must guard against allowing discounts based on favourable subjective views of the case. The sentencing discretion of Judges is limited in that respect.

[54] The purpose of the legislation was to create a benchmark to be imposed in certain circumstances but not in a way which created a mandatory sentencing regime.<sup>26</sup> The matter remains one of overall impression.<sup>27</sup>

[55] While on its face the murder of three little girls by their mother would constitute a wicked crime, I do not consider s 104 was designed to apply to offending which at its root involves the dire mental breakdown of the offender. The qualifying circumstances that reflect the horrifying features of these murders may apply but they do not take into account their relationship with the severe mental disorder from which you were suffering that night.

[56] The provision of a minimum period of imprisonment of 17 years, which s 104 mandates, seeks to satisfy the sentencing purposes of accountability, denunciation, deterrence, and the protection of the community. In your case, those purposes are heavily qualified, if not, as I have already commented, in some respects eliminated as a result of the mental impairment under which you were labouring. All of the aggravating features which would otherwise trigger s 104 are linked to your mentally disordered state that was the product of your major depressive disorder, and must be viewed in light of your mental condition at the time.

[57] As I have observed, the Crown has submitted that aspect of the circumstances of your offending can be reflected in a significant discount from the minimum period of imprisonment that would otherwise be imposed. However, I do not consider the legislative policy that sits behind s 104 intended the provision to apply to cases where the offender's psychiatric condition was so predominant to their offending. I therefore

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<sup>26</sup> *R v Williams*, above n 14, at [58].

<sup>27</sup> At [67]; *R v Harrison-Taylor*, above n 15, at [44].



conclude it would be manifestly unjust to impose a minimum period of imprisonment of 17 years.

### **Whether a sentence of life imprisonment would be manifestly unjust**

[58] I turn now to the question of whether a sentence of life imprisonment would be manifestly unjust. Many of the considerations I have already discussed are relevant to this assessment. It has been observed that where one or more of the factors in s 104 apply it is less likely that the manifestly unjust threshold will be reached to displace a sentence of life imprisonment.<sup>28</sup> However, that statement was premised on Parliament’s intention that for the most serious types of murders lengthy periods of imprisonment are to be imposed. As I have already concluded, I do not consider a case with this extensive psychiatric dimension was intended to fall within the scope of the legislative policy that requires the imposition of such a long minimum term of imprisonment.

[59] Mandatory relevant considerations for a finding of manifest injustice under s 102 are the circumstances of the offence and the offender. Both elements must be considered, but manifest injustice is to be found (if it is to be found at all) from an overall weighting of those two considerations. It is possible that one element may dominate the analysis in favour of dispensation under s 102.<sup>29</sup> The term “manifestly” means in this context that the injustice in imposing life imprisonment must be clear.<sup>30</sup> The assessment of the circumstances of the offence and the offender must be made against the purposes and principles of sentencing identified in the Act, to which I have earlier referred.<sup>31</sup>

[60] The presumption of life imprisonment will only be displaced by such strongly mitigating circumstances as would render such a sentence manifestly unjust.<sup>32</sup> The courts have “rarely been persuaded that offenders who are suffering from severe mental illness or disability should avoid life imprisonment for murder”.<sup>33</sup> However,

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<sup>28</sup> *Hamidzaden v R* [2012] NZCA 550, [2013] 1 NZLR 369 at [69]–[70].

<sup>29</sup> *Van Hemert v R*, above n 3, at [57].

<sup>30</sup> At [62], citing *R v Rapira* [2003] 3 NZLR 794 at [121].

<sup>31</sup> At [62].

<sup>32</sup> At [78].

<sup>33</sup> At [78], citing Mathew Downs (ed) *Adams on Criminal Law — Sentencing* (looseleaf ed, Thomson Reuters) at [SSA102.02].

there may be cases where the circumstances of a murder may not be so warranting of denunciation and the mental or intellectual impairment of the offender may be so mitigating of moral culpability that, absent issues of future risks to public safety, it would be manifestly unjust to impose a sentence of life imprisonment.<sup>34</sup>

[61] It has been recognised that a substantial proportion of offenders imprisoned in New Zealand suffer from a mental impairment.<sup>35</sup> As observed by the Crown, depressive conditions are a common mental disorder in the general population which can influence people's conduct. The Supreme Court has observed that where mental impairment is a direct cause of criminal offending and where the defence of insanity does not apply, the normative response under the Act remains an adjustment to the term of imprisonment, or, relevantly, the minimum period of imprisonment, by way of discount.<sup>36</sup> Diminished moral culpability as a result of mental health issues mitigating offending, as I have already noted, diminish the need for deterrence, accountability and denunciation as sentencing concerns but they can be reflected in significant deductions in the sentence that would otherwise be imposed.<sup>37</sup>

[62] The Crown has submitted that the link between your mental health and your offending is insufficient to render a life sentence manifestly unjust. It relies on the proposition that while your conduct was likely influenced by your psychiatric condition, it was not to a degree that deprived you of the powers of reasoning, and that you were fuelled more by a need for control and anger, an issue which I have already addressed and which I will return to shortly. Your counsel, on the other hand, have submitted that the brutality of the murder of your vulnerable children does not preclude a finding that it would be manifestly unjust to impose a life sentence.<sup>38</sup> They impressed upon me your remorse and your lack of any inherent propensity for violence which would otherwise give rise to public safety concerns. This has been confirmed by the three psychiatrists who provided reports for the purpose of sentencing.

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<sup>34</sup> *R v O'Brien* (2003) 20 CRNZ 572 (CA) at [36], cited with approval in *Van Hemert*, above n 3, at [78].

<sup>35</sup> At [79].

<sup>36</sup> At [79].

<sup>37</sup> *Orchard v R* [2019] NZCA 529, [2020] 2 NZLR 37 at [46] and [48].

<sup>38</sup> Citing *Van Hemert*, above n 3, at [64]; *R v Wihongi* [2011] NZCA 592, [2012] 1 NZLR 775; *R v Rihia* [2012] NZHC 2720; *R v Simeon* [2021] NZHC 1371; and *R v Lawrence* [2021] NZHC 2992.

[63] Ordinarily, the commission of multiple murders involving both brutality and vulnerable victims would strongly point away from, if not preclude, a finding that a life sentence would be manifestly unjust. However, as I have made plain, those factors must be viewed in light of your mental condition at the time. In large measure, I consider the issue reduces to whether your major depressive disorder is to be viewed as having been causative of your offending, or is to be relegated, as the Crown submits, to something that merely contributed to what occurred but which would be insufficient to render life imprisonment manifestly unjust. The Crown, in support of its submission, have referred to your actions having been fuelled more by a need for control and anger that reflected your vulnerable personality.

[64] I have already discussed this issue of control and anger, which was a point of difference between the experts and between the Crown and defence cases. However, I do not consider that aspect is decisive in terms of the analysis that I must perform for the purposes of sentencing. As I have earlier observed, to the extent you may have been attempting to exert control or had feelings of anger towards the children, I consider your reactions to such stressors were the product or manifestation of your psychiatric condition which rendered you unable to cope or to get through another day. It was in that state of despair and sense of hopelessness — a state of altered reality and emotional numbness — that you killed the children. I do not consider your actions can be meaningfully separated from your psychiatric state at the time and that there existed a strong causal nexus. Unlike in many, if not most cases where mental illness has played its part, I consider your severe depression dominated your reasoning process, such as it was, and that the appalling murders, as I have already observed, have to be viewed in the context of the cognitive distortion and impaired judgment from which you were suffering at the time, which not just contributed to your actions but drove them.

[65] There is no suggestion that you have any propensity for violence, and I have concluded the offending would not have occurred but for your psychiatric state. These factors have previously been held as pointing in favour of finding a sentence of life imprisonment to be manifestly unjust notwithstanding the fact a defence of insanity

was unavailable.<sup>39</sup> I consider the operative extent of your mental impairment on your offending cannot be adequately recognised by an adjustment to any minimum period of imprisonment that may otherwise have been imposed and that, in the circumstances, the imposition of life imprisonment would be manifestly unjust.

[66] In reaching that decision, I am mindful of the risk of undervaluing the sanctity of human life, and in particular the value of these little children's lives that were only just beginning. I am also wary of paying insufficient regard to their vulnerability and the gross breach of trust that their deaths represent. The fact that not one but three young lives were taken has been impressed upon me by the Crown and is impossible to ignore. The circumstances of the murders are truly appalling. However, I do not consider this is a case limited to an offender acting while in a vulnerable psychological state.<sup>40</sup> Rather, this offending involved a mother who was afflicted with a disease of the mind that was causative of her actions. It is to be contrasted with those cases where an offender's mental health has been a significant contributing factor but whose culpability falls well short of being erased.<sup>41</sup>

[67] There is no suggestion you are a risk to the community or that there are any public safety considerations. That can be a highly relevant factor when dealing with offenders with psychiatric conditions that present a heightened risk of danger and raise the need for the type of extended supervision that accompanies an indeterminate life sentence. This is a case that involves a conspiracy of circumstances which is difficult to see being replicated. Some issue has been taken by the Crown with your state of remorse. However, I do not consider you are other than deeply regretful about what occurred.

[68] To the extent you maintain the defence presented at trial, you are entitled to do so. It is suggested this demonstrates a lack of insight but, in my view, having regard to the enormity of your actions, it is more likely linked to a need to attempt to rationalise what occurred, in accordance with a school of psychiatric opinion. As your husband has empathetically acknowledged, you have lost everything that he has lost.

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<sup>39</sup> *Van Hemert v R*, above n 3, at [82].

<sup>40</sup> See *R v Smith* [2021] NZCA 318.

<sup>41</sup> *Tu v R* [2023] NZCA 53 at [30].

You struggle with how badly you have hurt him and are horrified at the pain, trauma and distress your actions have caused. You have expressed to me how horrified you are at being responsible for the deaths of your three beautiful girls. I do not consider any question arises as to your genuine remorse.

### **Finite sentence**

[69] You have been found criminally responsible for the murder of your children and, having reached this stage in the sentencing process, I am now required to impose an appropriate determinate sentence. In setting such a sentence, I have had regard to the circumstances of the murders, your personal circumstances and the sentencing purposes and principles, which I have already identified. In fixing a determinate sentence I must be mindful of the value the community places on human life and that the deliberate killing of three children represents the most serious of crimes. The circumstances of these murders are grave.

[70] In some measure, the setting of an appropriate finite sentence takes the sentencing exercise back to those considerations and calculations which I reviewed when setting the nominal minimum period of imprisonment that would have applied had I imposed life imprisonment. A finite sentence and a minimum period of imprisonment are two distinct sentencing concepts but there is a substantive degree of overlap insofar as each process endeavours to set a term of imprisonment which reflects the circumstances of the offending and that of the offender. The approach taken to the setting of a notional minimum term of imprisonment resulted in a minimum term ranging between 14 and 17 years.

[71] There is little to no guidance to be obtained from other cases where determinate sentences have been imposed for murder because the circumstances of each vary so much and, as with your case, involve a unique combination of factors relating to the offence and the offender. As the Court of Appeal has remarked, orthodox sentencing methodology does not apply readily to cases of this kind.<sup>42</sup> What is required for the purposes of evaluating an appropriate sentence is a proportionate response to the seriousness of your offending. In my view, an adequate response requires the

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<sup>42</sup> *Dickey v R* [2023] NZCA 2 at [210].

imposition of a determinate sentence of no less than 18 years' imprisonment. I make no order for the imposition of a minimum period of imprisonment. In arriving at that sentence I have taken into account your relative isolation in this country and the absence of local family and social support.

### **Disposition**

[72] The remaining issue is whether I should order you to be detained in a hospital as a special patient under the Mental Health (Compulsory Assessment and Treatment) Act.<sup>43</sup> If a court is satisfied on the evidence of one or more health assessors that an offender's mental impairment requires the compulsory treatment of the offender, the Court may sentence them to a term of imprisonment and order the offender to be detained in a hospital as a special patient.<sup>44</sup> Based on the views of three psychiatrists, your counsel submit that such an order should be made.

[73] The medical opinion that I have received is unanimous that you are mentally disordered as that term is defined under the relevant legislation.<sup>45</sup> You have a recurrent major mental disorder, namely, a major depressive disorder which is complicated by symptoms of anxiety and what is described as a "complex grief reaction", which remains only partially treated. You are described as having a persisting disorder of mood and of remaining at high risk of suicide. The second requirement about which I must be satisfied is that, as a consequence of your mental impairment, you require compulsory treatment because of the risk you present to yourself.<sup>46</sup>

[74] I have recently received a joint report from the three health assessors, including from the psychiatrist engaged by the Court.<sup>47</sup> They confirm you meet the criteria for mental disorder within the meaning of the relevant legislation. It is their view that

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<sup>43</sup> Criminal Procedure (Mentally Impaired Persons) Act 1992, s 34(1)(a)(i).

<sup>44</sup> Section 34(2).

<sup>45</sup> Mental Health (Compulsory Assessment and Treatment) Act, s 2 defines the term:

**mental disorder**, in relation to any person, means an abnormal state of mind (whether of a continuous or an intermittent nature) characterised by delusions, or by disorders of mood or perception or volition or cognition, of such a degree that it —

(a) poses a serious danger to the health or safety of that person or of others; or

(b) seriously diminishes the capacity of that person to take care of himself or herself; —

and **mentally disordered**, in relation to any such person, has a corresponding meaning

<sup>46</sup> Criminal Procedure (Mentally Impaired Persons) Act, s 34(2).

<sup>47</sup> Section 38.

your mental impairment requires compulsory treatment in your own interest. In particular, they jointly opine that because of your mental illness, the ongoing risk of suicide with which you present, and what are described as “related matters around insight”, you require compulsory inpatient treatment. You are noted as having a history of variable compliance with treatment prior to and during your current hospitalisation, and that sentencing will likely adversely impact on your mental state and further increase your risk of suicide. I am informed that you will likely require a significant period of detention in hospital to assist you to come to terms with your offending and to develop resilience in order to allow you to be safely managed within a prison setting.

[75] The Crown referred me to the statutory requirements for the making of a compulsory treatment order, which includes the Court determining whether or not, having regard to all the circumstances of the case, it is necessary to make such an order. Some emphasis, at least initially, was placed on the *compulsory* aspect of such treatment. It was submitted that you have substantially complied with your treatment to date and that compulsion is not required. However, I consider the focus must be on the necessity of making a compulsory treatment order. This is reflected in s 34(2) of the Criminal Procedure (Mentally Impaired Persons) Act, which requires the Court to be satisfied the offender’s mental impairment requires treatment. I do not consider the fact a mentally disordered person has been compliant with their treatment, or that a person is not required to be compelled, renders a compulsory treatment order inappropriate. Nor is it solely a question of a person’s capacity or competence to consent to such treatment.

[76] You present as having what is described as an “acute-on-chronic suicidality” and an abnormal state of mind characterised by an intermittent disorder of mood that is of a degree that it poses a serious danger to your safety, such is the high ongoing risk of suicide. Your mental state is described as fragile with “a poor prognosis if your treatment is not optimised”, that your treatment needs are complex. Despite your high risk of suicide and the need for further and intensive intervention, initial indications were that compulsory inpatient care had nothing further to provide beyond that which could be undertaken on a voluntary basis within the prison system. However, that is no longer the case. There is now a consensus that an order under s 34 is required,

without which it is opined a premature placement in custody would, without a shift in your current clinical state, increase your likelihood of suicide over the medium to long term.

[77] It is proposed that you be subject to inpatient treatment in a facility that has not previously been available to you which cannot be provided in prison. You are described as primarily at a high and clear risk of suicide for which you require extensive ongoing treatment and rehabilitation which can only be provided in hospital. It is proposed that you be transferred to a different clinical unit, operated by another forensic mental health service, which will provide you with a structured therapeutic environment, without which your likelihood of suicide will increase over the coming months to years. The advice I have received is that an order made pursuant to s 34 would provide the best prospect of improving your resilience to the point where you could then manage within a prison setting.

[78] The Crown abides the decision of the Court regarding whether an order is required. On the basis of the forensic psychiatrists' evidence, I accept their uniform views that your mental impairment requires compulsory treatment in a hospital. I am satisfied there is the necessary causal connection between your mental disorder and the need for compulsory treatment in your interests and for your own safety. I find that you remain mentally disordered and that your impairment requires compulsory treatment. An order will issue accordingly.

### **Sentence**

[79] Mrs Dickason, will you please now stand.

[80] For the murder of each of your three daughter's — Liané, Karla and Maya — you are sentenced to 18 years' imprisonment. Those sentences are to be served concurrently.

[81] There will be an order pursuant to s 34(1)(a)(i) of the Criminal Procedure (Mentally Impaired Persons) Act that you be detained in a hospital as a special patient under the Mental Health (Compulsory Assessment and Treatment) Act. It will be for



the relevant medical authorities to determine when you may be fit to be transferred to prison.<sup>48</sup>

[82] You may stand down.

Solicitors:  
Crown Solicitor, Christchurch

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<sup>48</sup> Mental Health (Compulsory Assessment and Treatment) Act, ss 47 and 48.