ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS OF CONNECTED PERSON (DECEASED'S TEENAGE SON) PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011. SEE http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360349.html

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-A-TARA ROHE

CRI-2023-035-546
[2024] NZHC 3689

THE KING

v

WIRE MANUEL REDDINGTON

Hearing:	5 December 2024
Appearances:	T S Jenkin for Crown I R Hard and M G Kilbride for Defendant
Date:	5 December 2024

SENTENCING REMARKS OF McHERRON J

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[1] Wire Reddington, you have been found guilty by a jury of the murder of Jamie Gill. I must now sentence you.

[2] The main issues I will decide today are whether you should receive a sentence of life imprisonment and, if so, how long is the minimum term of imprisonment before you can apply for parole.[1]

[1] Sentencing Act 2002, ss 102–104. There is a presumption of life imprisonment unless a sentence of life imprisonment would be manifestly unjust.

Factual background

[3] I will sentence you based on the facts that I accept as proved, as the Judge who presided over your trial, and based on the essential elements of the charge of murder, which the jury found were proved.

[4] There is no significant dispute about the facts, although your lawyer says you have no reliable memory of what happened.

[5] Mr Gill had been staying with you, your brother Tipene and your mother Bella at Te Kopi Rd in the days leading up to his death. You said you told Mr Gill he would be safe with you. In a phone call, you also told Mr Gill's mother Lyn he was safe and you would care for him.

[6] You were smoking methamphetamine and drinking heavily on 23 and 24 June 2023. At one stage you consumed prescription medication belonging to Mr Gill.

[7] On the Friday night, the 23rd of June, you accused Mr Gill of stealing and punched him in the face causing a bloody nose. The following evening, you started saying that people were after Mr Gill. You accused him (without any foundation) of being a rapist and of hiding medication from you. Tipene told you not to bring your mates home and pick on them. You slapped Mr Gill on the mouth. Tipene intervened and your mother, Bella, broke up the fight.

[8] Tipene left to help put your mother to bed. When he returned, you and Mr Gill were on the ground fighting in front of the bed in the sleepout. You had stabbed Mr Gill with a pair of scissors, causing puncture wounds to his left upper back and arm. Mr Gill also had a cut to his head and was bleeding from his mouth. There was blood on the wall. Tipene broke up the fight and separated you and Mr Gill by locking you out of the sleepout.

[9] After you calmed down, you, Tipene and Mr Gill kept drinking for a time before Tipene went back inside the house to check on Bella.

[10] When Tipene returned to the sleepout, you and Mr Gill were gone. Tipene went outside and called for you but heard no answer. He did not see you again for some time. You returned to the sleepout covered in mud wearing just your boxers. Tipene gave you a bottle of water to clean up and fell asleep.

[11] In between times, the evidence allowed reconstruction of the following factual narrative. In the driveway, you threw a plate at Mr Gill and then attacked him. He was bleeding. His blood, mixed with the mud from the driveway, was splattered onto the fence. You removed his hoodie and singlet during the fight. You lost your pounamu in the mud.

[12] We do not know the precise details of how you hurt Mr Gill. But we know that you severely injured him. The forensic pathologist and scene examiner gave evidence allowing the Court to conclude that you inflicted blunt force trauma in a physical struggle in which you hit and/or kicked Mr Gill's head and body, twisted or yanked his neck, strangled him (which was clear from the petechial and scleral haemorrhages in Mr Gill's eyes, and uneven bruising on Mr Gill's neck muscles) and bit his right upper back, left neck and left cheek, and bit off parts of his ears. There was blunt force trauma to Mr Gill's right eye, either from your punching him or holding his head down in the ground; there were scrapes over Mr Gill's face and head, and bruises on his scalp. There were tears on the inside of Mr Gill's mouth either from your punches or from your pressing him into the ground. And there were abrasions and bruises to Mr Gill's left hand, both arms and both legs.

[13] While he was unconscious or perhaps semi-conscious, you dragged Mr Gill on his back from the area where you injured him in the mud, down the driveway, through the gate into the paddock, where you flipped Mr Gill from his back onto his front and held him down, or at the very least left him, to suffocate on the mud and grass and to die of lack of oxygen.

[14] The Crown submits it is open to me to make a factual finding that you held Mr Gill down, given his injuries and that mud and grass were found past his vocal cords. But even if you did not hold him down you at least intentionally left him to suffocate and die. I agree with the Crown's submission that it does not make much

difference in terms of the seriousness of your offending which of those scenarios is correct.

[15] After you left Mr Gill in the paddock, you went inside and took a shower. The jeans you were wearing at the time have never been found. You tried to conceal the murder, and indeed your involvement in it. But your efforts of concealment were not well organised or thought through and you made no real effort to conceal Mr Gill's body. Indeed, my impression of the evening is that this was a chaotic, impulsive attack informed by your mental state. Your subsequent attempt to suggest that others may have been involved in Mr Gill's killing, first the mysterious lights from the car at the corner, and then your attempt to blame Tipene for killing Mr Gill, were farfetched scenarios. It is unsurprising the jury rejected them as reasonable possibilities.

[16] We have heard the victim impact statements from members of Mr Gill's family. I acknowledge your bravery, your grief and your enduring sadness.

[17] The primary victim of your offending is of course Jamie Gill, who has lost his life at a young age. What happened is a tragedy for everyone, including you and your whānau.

[18] Jamie's ex-partner [ ] described his death as the most "distressing, heartbreaking, savage & disgusting thing that has ever happened to [her] family." Jamie's mother Lyn says she has been sentenced to sorrow for the rest of her life. His brother Ben says you took away the opportunity for them to rekindle their relationship; and Jamie's teenage son [ ] says he asks every night: why?

[19] It is you, Mr Reddington, who must bear responsibility for the grief and trauma your offending has caused to Mr Gill's family.

Is a sentence of life imprisonment appropriate?

[20] Your defence of insanity failed at trial. I accept you suffer from post-traumatic stress disorder and have a dysfunctional personality, but it did not reach the high threshold for a defence of insanity.

[21] That presumption that on conviction for murder an offender should be sentenced to life imprisonment is a long-standing and strong one, reflecting the sanctity accorded to human life in our society and its associated abhorrence of the crime of murder. It will rarely be clearly unjust to impose life imprisonment for the purposes of the residual discretion conferred by s 102 of the Sentencing Act.[2]

[22] You had a very difficult childhood and have struggled throughout your life. Sadly, this factor exists in many murders.[3] Yours is not a "compelling" or "exceptional" case to qualify for a sentence less than life imprisonment,[4] as both counsel agreed. And there would be no principled basis on which I could impose any other sentence than a sentence of life imprisonment.

Is s 104 of the Sentencing Act 2002 engaged?

[23] In any case where the Court imposes a sentence of life imprisonment on a charge of murder, it must also specify the minimum term of imprisonment the offender must serve before being eligible to apply for parole.[5] The minimum term must not be less than ten years and must be that required to reflect the sentencing purposes of deterrence (both general and specific), denunciation, the need to hold you accountable for the offending and the need to protect the public.[6]

[24] The Crown contends that you committed murder with a high level of brutality. The Crown also says that Mr Gill was particularly vulnerable.[7] The Defence does not resist this. If I agree, I am required to impose a minimum term of at least 17 years' imprisonment.[8] I may only impose a minimum term of imprisonment less than that if I am satisfied that it would be manifestly unjust to impose a minimum term of 17 years.

[25] To qualify for this higher minimum term, "brutality" must be present to a high level.[9] It is reserved for the "most serious of cases".[10]

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2 *R v Williams* [2005] 2 NZLR 506 (CA) at [57].
3 See *Samson v R* [2022] NZCA 266; *R v Turner* [2015] NZHC 189.
4 *Van Hemert v R* [2021] NZCA 261 at [36] citing *R v Rapira* [2003] 3 NZLR 794 (CA) at [121].
5 Sentencing Act, s 103(1).
6 Sentencing Act, s 103(2).
7 Sentencing Act, s 104(1)(e) and (g).
8 Sentencing Act, s 104(1).
9 *R v Gottermeyer* [2014] NZCA 205 at [79(d)].
10 *R v Williams*, above n 2 at [34].

[26] Having regard to the following factors, in combination, I find there was a high degree of brutality in your offending.[11]

[27] The fact that you bit Mr Gill's face, neck and back and tore his ears off with your teeth. This element contributes to the barbaric nature of the act, and the indignity you brought on Mr Gill in death. As you have heard, the injuries you inflicted compounded the pain to Mr Gill's family, by preventing them from seeing Jamie for a final time before his funeral.

[28] Second, manual strangling is a "particularly intimate and intimidating form of physical violence".[12]

[29] Third, the prolonged and multifaceted nature of your attacks leading up to and including the murder, involving stabbing with scissors, blunt-force trauma, twisting or yanking of the neck, dragging, and suffocation.

[30] Having regard to all these factors, I conclude you committed murder with a high level of brutality and callousness. But I consider this was at the lower end of culpability created by s 104(1)(e).

[31] I also consider Mr Gill was particularly vulnerable within the meaning of s 104(1)(g). He thought you were his friend. You told his mother he was safe with you. She thought you were rescuing him from a situation where he thought he was threatened. Your attacks on him were a distinct betrayal of the trust he had placed in you and your whānau.

[32] The only people present at the property other than Mr Gill were your family members. He was isolated with poor cellphone service. He had his own mental health difficulties, was paranoid, and had consumed significant quantities of alcohol and drugs.[13] Messages he sent to his mother on the late afternoon before he died indicated

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11 In line with *R v Oti* [2021] NZHC 1800, *R v Tione* [2016] NZHC 2439; *Lavemai v R* [2016] NZCA 363.

12 *K (CA106/2020) v R* [2020] NZCA 656 at [157].

13 Despite the similar sizes and strength of Mr Reddington and Mr Gill, I see some similarities with *K (CA106/2020) v R*, where the victim was intoxicated, in a strange apartment, with someone she thought she could trust.

he was worried for his life, that if she called the police it would end badly, and that she should not even ring his phone. The last message, sent at 5.28 pm said "no police serious theres nowea 2 hide". But Jamie's mother had no idea where he was texting her from and could not help her son.

[33] The mix of substances Mr Gill had consumed would have affected his ability to fight you off. He was already suffering puncture wounds from the earlier attack with scissors when you commenced your violent assault. He likely had a broken nose from the punch the day before.

[34] Although we do not know the exact sequence of events, Mr Gill clearly would have been in a visibly vulnerable and injured condition throughout.[14] Further, and significantly, it would have been evident when you turned him over in the muddy paddock that he was semi-conscious or unconscious and unable to move himself. He would have been essentially "defenceless" as he suffocated through your intentional actions.[15]

[35] I conclude, based on these factors, that Mr Gill was particularly vulnerable and that is another reason why I must impose a minimum period of imprisonment of at least 17 years unless satisfied it would be manifestly unjust to do so.

[36] Accordingly, I have concluded that s 104(1) is engaged on both of the bases advanced by the Crown. However, in respect of both criteria, I consider culpability is at the lower end of s 104(1).

[37] Where s 104(1) is engaged, the Court must determine the length of the minimum term of imprisonment that will be imposed putting aside that section. That typically involves assessing the circumstances and culpability of the offending with minimum terms of imprisonment in other comparable cases.[16] This is recognised as a difficult exercise.[17]

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14 *R v Oti*, above n 11, at [70(f)].

15 At [76] and *R v Harrison* [2016] NZCA 381, [2016] 3 NZLR 602. See also *Jury v R* [2024] NZCA 320 at [120] where the victim was "unable to fend for himself" as he was on the ground and *R v Candy* [2023] NZHC 414.

16 *Davis v R* [2019] NZCA 40, [2019] 3 NZLR 43; *R v Williams*, above n 2.

17 *R v Pukepuke* [2023] NZHC 3700 at [34].

[38] If, following this exercise, it is clear that the minimum term of imprisonment would ordinarily have been less than 17 years, it is necessary to then consider whether it would be manifestly unjust to impose a minimum term of 17 years' imprisonment. This requires the Court to determine whether, as a matter of impression, the offending in question is of a type that Parliament intended s 104(1) to apply to.[18]

[39] The first case on which the Crown relies in support of its submission that a minimum term of around 17 years would normally be imposed was *R v Williams*.[19] That case involved the beating and then murder of a school aged child by Mr Williams, followed by a concerted effort to conceal her body to evade detection. Taking into account mitigating factors an MPI of 17 years was ultimately imposed.

[40] The Crown also refers to *R v Fenton*. Mr Fenton murdered his 17 year old partner in their home following a sustained and highly brutal beating. It was held that the murder itself justified an MPI of 17 years' imprisonment.[20]

[41] The Crown also submits that the murder in *Te Hiko* is comparable as it involved a defendant who beat his partner to death using "tremendous force" using punches, kicks and a metal pole, continuing to attack her while she was unconscious and completely defenceless.[21] Again, an MPI of 17 years' imprisonment was adopted.

[42] The Crown also refers to *Lavemai* as a useful comparator.[22] In that case, Mr Lavemai beat a neighbour to death after consuming alcohol and methamphetamine. The offending was aggravated by the fact that it occurred during a robbery. However, the Crown submits that in your case Mr Reddington that the assault in *Lavemai* was less protracted and less brutal. An MPI of 17 years' imprisonment was imposed.

[43] Finally, and you will have heard Ms Jenkin refer to this case in her oral submissions, the Crown refers to *Arnopp* as a case where the circumstances of the

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18 At [35].
19 *R v Williams*, above n 2.
20 *R v Fenton* HC Whangarei CRI 2006-088-3599, 28 February 2007.
21 *Te Hiko v R* [2019] NZCA 41.
22 *Lavemai v R*, above n 11.

murder were similar to the present case, as Mr Arnopp after consuming illegal drugs and alcohol beat his friend to death in his own apartment, including by mutilating his genitals.[23] In that case Mr Arnopp pleaded guilty and had other background factors that causatively contributed to his offending. Mr Arnopp was sentenced to an MPI, as Ms Jenkin said earlier, of 15 years. However, the Crown says if Mr Arnopp's case had proceeded to trial a higher MPI would have been warranted.

[44] Having regard to all these cases, and again recognising that there are similar and different elements in each, I consider your case would warrant a lesser minimum term than 17 years. Although in some respects the level of brutality is comparable or less, the disparity in vulnerability and the degree of concealment is more variable. Only *Arnopp* involved comparable personal mitigating factors (including relating to upbringing and mental health) as your own. Having regard to the minimum periods concerned, I conclude that, but for the operation of s 104(1), your offending is likely to attract a minimum term of significantly less than 17 years' imprisonment.[24]

Is it manifestly unjust to impose a minimum period of imprisonment of 17 years?

[45] There is a strong presumption in favour of imposing a 17 year minimum period of imprisonment when s 104 is engaged.[25]

[46] However, in your case, the Crown and the Defence agree that because of your personal circumstances it would be manifestly unjust to impose a minimum period of imprisonment of 17 years in your case.

[47] The Crown seeks a minimum term of imprisonment of 14–16 years. The Defence submits 12 years would be appropriate.

Mr Reddington's personal circumstances

[48] In sentencing for murder, the principles of deterrence, denunciation and community protection are "more powerfully engaged", even where an offender's

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23 *R v Arnopp* HC Palmerston North CRI-2006-054-5847, 29 February 2008.

24 See the comparable starting points in *R v Todd* [2024] NZHC 897 at [29] and *R v Bonner* [2012] NZHC 1581 at [26].

25 See *Malik v R* [2015] NZCA 597 at [32].

background has contributed to the offending.[26] So I must give your history, distressing as it is, less weight in my sentencing of you.[27]

[49] Any drug-induced psychotic effects that may have contributed to your offending are not a mitigating factor.[28] Although the jury did not accept your defence of insanity. I can still take into account any mental illness that you were suffering from and which contributed to your offending.[29] This is not to diminish the consequences of your offending, but simply to recognise that because your post-traumatic stress disorder from your upbringing and your dysfunctional personality has contributed to your offending, your moral culpability may be less than that of an offender who had no such illness.

[50] Although you have in the past had diagnoses that pointed to the possibility of schizophrenia, I do not consider the evidence establishes you were suffering from schizophrenia at the time of the offence. Mental illness is not the reason for your offending.[30] I accept that you have experienced, and may have been experiencing during that week in June 2023, paranoia, hallucinations, hypervigilance and delusions. But these were likely due to your voluntary consumption of illegal drugs and alcohol.

[51] Your counsel, Mr Hard, argued for a significant discount of about 15 per cent to recognise the strong causative effect on the offending of your upbringing and mental state. He says your background is "uniquely bad" and "extraordinarily significant". I consider that is an exaggeration, but I accept your personal background is likely to have had a causative contribution to your offending, therefore reducing your culpability.[31]

[52] It is clear on the evidence before the Court, including the Alcohol and Drug Report, the PAC Report prepared for sentencing and the three psychiatrists' reports used in the trial of Drs Barry-Walsh, Falce and Lokesh, that you had a deprived and

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26 *Berkland v R* [2022] NZSC 143 [2022] NZSC 143 at [94].
27 *Hohua v R* [2019] NZCA 533 at [44].
28 Sentencing Act, s 9(3).
29 *R v Rameka* [2024] NZHC 324 at [31] citing *R v Gottermeyer* [2014] NZCA 205 at [86] and *R v Hussein* [2022] NZHC 3034 at [28].
30 *Van Hemert v R* [2023] NZSC 116, [2023] 1 NZLR 412 at [2] and [26].
31 *Berkland v R*, above n 26, at [107]–[112].

neglectful upbringing. You experienced extreme violence, suffered a traumatic brain injury, and were sexually abused. You were, in Crown counsel's words, set up to fail. Your mother abused drugs and alcohol during her pregnancy, and both your parents were imprisoned in your early childhood. You describe yourself as being "passed around, like a pay cheque" to wider whānau members who did not care for you. You have post-traumatic stress disorder, and a history of depression and multiple suicide attempts. You have significant addiction issues. Throughout the trial, the Court heard first-hand accounts of the suffering and ongoing violence within your whānau.

The appropriate MPI

[53] I agree with both counsel that a minimum period of imprisonment of 17 years would be manifestly unjust in your case, based on the significant mitigation your personal circumstances provides, and the fact that I have assessed culpability at the lower end of s 104(1).[32] My overall impression is that your case falls outside the scope of the legislative policy underlying s 104 having regard to the principles of sentencing in ss 7–9.

[54] I am reinforced in my decision by the recent Court of Appeal decision of *Jury v R*, in which the profound trauma suffered by the offender as a child and young person meant an MPI of 17 years was manifestly unjust.[33] That murder engaged the same factors of s 104 that are present here, and I consider the life circumstances of yourself Mr Reddington and of Mr Jury to be broadly comparable.

[55] In all the circumstances, a proportionate minimum term of imprisonment that reflects the significance of the offending, the principles and purposes of sentencing, and your personal circumstances is one of 14 years.

Other factors

[56] You have several previous convictions, including injuring with intent to injure, male assaults female and strangulation. The Crown does not seek a discrete uplift to

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[32] In line with *R v Gottermeyer* [2014] NZCA 205 at [86]. I have considered *Hohua v R* [2019] NZCA 533, where the presumption was not displaced, but consider Mr Reddington's situation goes further.

[33] *Jury v R* [2024] NZCA 320 at [121]–[130].

the minimum period of imprisonment for these convictions in the circumstances. I agree that is appropriate.

[57] I will not give further recognition for your mental state. I have adequately addressed this in concluding a 17–year MPI would be manifestly unjust. You pose a significant danger to others without intensive rehabilitation, treatment and support. The public needs to be protected from you.[34]

[58] Finally, the last word comes from Mr Gill's son, [ ]. Your actions mean that his Dad will never see him grow to adulthood and his kids will not have a grandfather. [He] spoke wisely when he said "bad past experiences can lead you to different ways, one being doing awful things and using it as an excuse, and the other being using past experiences to motivate you to be better". That will be the challenge for you, Mr Reddington, during your imprisonment and beyond that, upon release. I hope that you will use your time in prison well, and that you will positively engage with any treatment available in respect of your addiction issues and mental health.

Sentence

[59] E tū koa, Mr Reddington, please stand. On the charge of murder, you are sentenced to life imprisonment. You must serve a minimum term of 14 years' imprisonment before being eligible to apply for parole.

[60] You may stand down.

McHerron J

Solicitors:
Crown Solicitor, Wellington

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34 *Timutimu v R* [2024] NZCA 296.