

unjust and was to be quashed once we had determined the determinate sentence that was to replace the life sentence, and set a timetable for submissions from the Crown and any reply submissions on behalf of Mr Webster.² Those submissions have been received. This judgment determines the determinate sentence that is to replace Mr Webster’s life sentence.

[2] The facts of the murder are set out in more detail in our 18 December 2025 judgment.³ In brief, Mr Webster (then aged 18 years), William Candy (39 years) and Mr Ramsay (33 years) were co-workers employed at a farm. Mr Ramsay was said to owe money to Mr Candy, Mr Candy’s partner Jodie Hughes, and Mr Webster. Mr Candy subjected Mr Ramsay to a prolonged assault at a location away from the farm. When Mr Candy arrived back at the farm with Mr Ramsay, his eyes were closed and he was limp and floppy. Mr Webster joined in with Mr Candy in stomping and kicking Mr Ramsay in the head. Mr Ramsay was dragged along a track to a rubbish pit, with his ankle tied to Mr Candy’s car, where Mr Candy and Mr Webster dumped him. This was a case where s 104 of the Sentencing Act 2002 applied because there was a “high level of brutality” and Mr Ramsay was “particularly vulnerable” as a result of the earlier assault by Mr Candy.⁴

[3] The Crown submits the starting point should be approached in terms of the “orthodox” two-stage approach discussed in the High Court decision of *R v D* rather than the approach this Court took in *Dickey v R*.⁵ The correct approach will be argued before a permanent court of this Court later this year. Until then, we consider the better approach is to compare the starting points and mitigating factors of comparable cases under the *Dickey* approach and cross-check them against the Crown’s submissions under the *R v D* approach and the submissions for Mr Webster.

² *Webster v R* [2025] NZCA 679.

³ At [4]–[11].

⁴ Sentencing notes, above n 1, at [46]–[48], referring to s 104(1A)(e) and (h) of the Sentencing Act 2002. The sentencing Judge also described the offending as depraved and callous (under s 104(1A)(e)): at [47].

⁵ *R v D* [2024] NZHC 2118; and *Dickey v R* [2023] NZCA 2, [2023] 2 NZLR 405.

[4] As to the starting point, relevant comparator cases are:

- (a) *R v Yu*:⁶ a group involved in methamphetamine planned to confront the victim and kill him if he admitted he had been planning to rob the group's head. Mr Yu's role involved pointing a gun at the victim while he was tied to a chair and questioned by another member of the group, and then covering the victim's mouth while another member of the group stabbed him to death. Mr Yu also helped the group clean up and bury the victim's body. Section 104 applied because of the calculated and lengthy planning.⁷ Mr Yu (aged 26) was not the principal offender but had an instrumental role.⁸ Aggravating factors were the extreme violence, premeditation, use of a weapon, multiple attackers, vulnerability of the victim, and that the offending occurred in an organised crime context.⁹ A starting point of 19 years' imprisonment on the *Dickey* approach was taken.¹⁰
- (b) *Lo v R*:¹¹ the principal offender (aged 15 years) initiated an unprovoked violent physical assault on the victim. When Mr Lo (aged 17 years) joined in, the victim was already unsteady on his feet and had swelling and bruising to his face.¹² Mr Lo and the principal offender punched, kicked and stomped on the victim's head and prone body when he had fallen to the ground from a punch inflicted by Mr Lo. Mr Lo initially walked away when a witness told them to stop but then returned and rejoined the assault for a short while. When the assault ended, the victim was "snoring" and non-responsive.¹³ This Court considered a starting point of 16 years' imprisonment on the *Dickey* approach was appropriate.¹⁴

⁶ *R v Yu* [2023] NZHC 1391.

⁷ Sentencing Act, s 104(1A)(b).

⁸ *R v Yu*, above n 6, at [91].

⁹ At [92].

¹⁰ At [93].

¹¹ *Lo v R* [2024] NZCA 359.

¹² At [5]–[6].

¹³ At [8]–[9].

¹⁴ At [50].

(c) *Taylor v R*:¹⁵ the principal (sole) offender, aged 18 years, murdered his mother while she was lying in her bed by striking her head several times with a 10 kg dumbbell, causing her skull to cave in and widespread intercranial haemorrhaging. He then placed towels on the top of a stove, which he turned on, and left the address. A little later he called the police and told them his mother was dead.¹⁶ Section 104 was engaged because of the brutality of the murder.¹⁷ This Court considered a starting point of 22 years' imprisonment on the *Dickey* approach was appropriate.¹⁸

[5] We consider the present case is most similar to, but somewhat more serious than, *Yu* due to the more direct role Mr Webster had in killing Mr Ramsay. We do not agree with the Crown that there is any material distinction in the vulnerability of the victim at the time Mr Webster and Mr Yu respectively became involved. Moreover, Mr Yu was part of a criminal group and engaged in the plan from the outset, whereas Mr Webster's premeditation was based on the fact that Mr Candy, his co-offender, had called him on his way back to the farm after his initial attack on the victim. The present case is also similar to but more serious than in *Lo*, where Mr Lo's contribution to the murder did not engage s 104 and the offending did not involve the awful feature of dragging the victim chained by his ankle to a vehicle. The present case is somewhat less serious than *Taylor* because Mr Taylor was the principal (sole) offender.

[6] On this basis, we consider the appropriate starting point is 20 years' imprisonment. This is a little higher than the 18- to 19-year starting point put forward on Mr Webster's behalf in his reply submissions on the *Dickey* approach.

[7] As to mitigating factors, we consider that *Taylor* is most comparable. Mr Taylor was a similar age, and like Mr Webster, was genuinely remorseful, accepted responsibility and entered an early guilty plea. Mr Taylor's culpability was materially reduced because he was suffering from a complex and profound set of interrelated psychological and psychiatric difficulties and the offending occurred in the context of

¹⁵ *Taylor v R* [2025] NZCA 693.

¹⁶ At [2] and [6]–[7].

¹⁷ At [35].

¹⁸ At [44].

a co-dependent relationship. Mr Webster, who had clinically significant neurocognitive impairments likely related to foetal alcohol spectrum disorder, was socially vulnerable, easily led and suggestible and this was seen as critical to his involvement in the offending. Mr Taylor's effective total discount for mitigating factors was a little over 30 per cent.¹⁹ Both are viewed as having a low risk of similar serious violent offending. A similar effective total discount for Mr Webster would mean an end sentence of 14 years' imprisonment.

[8] We now cross check this against the Crown's submissions on the *R v D* approach. Relying on the above three comparator cases, but adjusting the starting points to align with the *R v D* approach, as well as relying on a High Court case that followed the *R v D* approach,²⁰ the Crown proposes a starting point of 36 years. Then, on the orthodox approach to mitigating factors for sentences other than finite sentences for murder on the *Dickey* approach, it submits that a combined discount of 62 per cent would be appropriate, comprising 25 per cent for the guilty plea, eight per cent for remorse, 25 per cent for youth and four per cent for good character. That leads to an end sentence of 14 years' imprisonment.

[9] We consider the appropriate end sentence is 14 years' imprisonment with an MPI of seven years (50 per cent). We note that this was also initially proposed on Mr Webster's behalf. Mr Webster's reply submissions proposed an end sentence of 12 years and six months' imprisonment with an MPI of 50 per cent. However, we consider that sentence to be insufficient to reflect the overall seriousness of the offending.

Result

[10] The appeal is allowed. The sentence of life imprisonment with a minimum period of imprisonment of 12 years is set aside.

¹⁹ 50 per cent for mitigating factors before the uplift applied on the *Dickey* approach for the seriousness of the offending.

²⁰ *R v Ronaki* [2024] NZHC 3019.

[11] A sentence of 14 years' imprisonment with a minimum period of imprisonment of seven years is imposed.

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