

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

**I TE KŌTI MATUA O AOTEAROA
KIRIKIROA ROHE**

**CRI-2022-019-3342
[2023] NZHC 2376**

THE KING

v

AARON NICHOLAS WILSON

Date of hearing: 29 August 2023

Appearances: J N Hamilton for Crown
A-M Beveridge for Mr Wilson

Date of sentence: 29 August 2023

SENTENCING NOTES OF JAGOSE J

Counsel/Solicitors:
Ann-Marie Beveridge, Barrister, Hamilton
Hamilton Legal, Hamilton

[1] Mr Wilson, on 9 May this year, Campbell J entered conviction against you on your guilty plea to the murder of Betty Maree Paparoa. I know my words aren't worth very much but I offer the Court's condolences to Ms Paparoa's survivors.

[2] Mr Wilson, I am now to sentence you for that offending. In doing so, I must accept as proven all facts essential to your guilty plea.¹ For your murder of Ms Paparoa, I must sentence you to imprisonment for life, unless the wider circumstances of your offending made that manifestly unjust.²

[3] If sentencing you to life imprisonment, I then must impose a minimum period of imprisonment before you may even be eligible for parole. That must be a period of at least ten years' imprisonment,³ or at least 17 years if I find Ms Paparoa's murder to have been in specified exceptional circumstances; the latter period, again, unless manifestly unjust.⁴

[4] If you are then to be released depends entirely on you satisfying the Parole Board, if released, you do not pose an undue risk to the safety of the community.⁵ If then released, you will be subject to release conditions for the rest of your life.⁶

[5] I have listened and read what counsel have had to say, both for you and for the Crown. Neither suggest life imprisonment would be manifestly unjust in your circumstances. The Crown recommends a starting point minimum period of imprisonment of 16½–17 years but acknowledges then an end sentence of at least 17 years would be manifestly unjust, as not permitting any discount for your guilty plea. Your counsel suggests your offending was not so heightened as to require at least the 17-year minimum period and recommends a minimum period of 14½–15 years' imprisonment. I am not bound by their views; I have to come to my own decision. I must satisfy myself of the appropriate sentence for the gravity — for the seriousness — of your offending, including your culpability — your responsibility — for it.

¹ Sentencing Act 2002, s 24(1)(b).

² Section 102(1).

³ Section 103(2).

⁴ Section 104(1).

⁵ Parole Act 2002, s 7.

⁶ Section 29(4)(b).

Your offending

[6] I need first to cover off the background to your offending, to set out in public the conduct for which I am sentencing you.

[7] After meeting as flatmates in the Waikato's Ngāruawāhia, you and Ms Paparoa lived together for some years, most recently in Cambridge. Your relationship is said to have been volatile at times, particularly over disagreements about your shared expenses, but not violent. Nonetheless — at home together on the night of 7 August 2022, after your day of smoking cannabis and methamphetamine — you killed her.

[8] You cut and stabbed her with a knife, inflicting some 39 wounds. A pathologist infers from her wounds Ms Paparoa was physically subdued on the floor, but not unconscious. Her injuries caused significant internal bleeding, blood loss and respiratory failure. In addition to defensive wounds on her right arm and both hands, Ms Paparoa had 10 cuts and 18 stabs to her chest and further cuts and stabs to her head and neck. The last included a largely superficial cut extending 13 cm across her neck, appearing an attempt to cut her throat. She is likely to have died within minutes of your stabs to her chest.

[9] That all is consistent with your statement to police, in which you reported having become uncomfortable about Ms Paparoa's questions about your past. You secreted the knife, a razor blade and a screwdriver about the house before leaving it for some time. On your return, you recovered the knife and attacked Ms Paparoa as she got up from the couch on your approach to her, inferentially knocking her to the floor and holding her down there.

[10] You then left the house again and, in the early hours of 8 August 2022, visited family members at addresses in Hamilton, Te Aroha and Paeroa. You told various of your family you had killed Ms Paparoa by stabbing her, which they reported in emergency calls to the police. After police located Ms Paparoa's body and sought you out, you fled by car and then on foot. When eventually found later that day, you gave the police false details and violently resisted arrest.

Victim impact statements

[11] I have multiple victim impact statements from Ms Papanoa’s children, siblings, grandchildren and in-laws. Some you have heard read this morning. I have read them all. They painfully illustrate how your horrendous actions removed a much-loved and much-respected elder from them, and from the community she served as Māori warden, with devastating consequences for all. Their statements help me understand their view of your offending. And I encourage you to reflect on them with an open mind, to inform you of their perspectives of the impact of your offending.

Personal circumstances

[12] Mr Wilson, I turn to your personal circumstances, so far as they are discernible from the material before me. You are nearly 44 years old. Except for contact with two of your sisters, your family and whānau relationships are unclear. You appear not to have maintained relations with your father. Your working life also is unclear, of some labouring work and benefit support.

—criminal history

[13] You have 25 previous convictions, none in the last decade. However, the most recent — for offending in 2008 and 2012 — related to your convictions for serious family violence. That has obvious, if dated, resonance for your present offending.

—pre-sentence report

[14] A probation officer’s pre-sentence report considers your use of drugs, engagement in unhealthy relationships and use of violence are contributing factors to your offending. The report-writer assesses you at low risk of reoffending, or medium risk if you continue to use drugs. But, based on your murder conviction, she assesses your risk of harm to others as high. She refers to psychiatric assessments of your fitness for trial, which diagnosed you as “fulfil[ling] the criteria for antisocial personality disorder and alcohol polysubstance abuse disorder” but not psychotic.

[15] Your lawyer also instructed your psychological assessment at that time, which provisionally assessed your cognitive functioning in a “Low Average range, lower than

91% of other persons of a similar age”. I say ‘provisionally’ because the psychologist was unable to complete his assessment. You declined to continue with it. The psychologist observed some of your test results were variable, if not the result of some unusual aspect of your abilities, indicating higher scores were possible.

[16] The report-writer observed you seemed “devoid of emotion” in discussing Ms Paparoa’s murder and not to present with any genuine remorse for it. Family members told her you had a history of becoming very angry, agitated and aggressive under the influence of alcohol or drugs. She records your advice you were arguing with Ms Paparoa about your family violence convictions before you secreted the weapons and left the house but returned to kill her. You said you had had enough of her “mind games” and you “just lost it”. You blamed Ms Paparoa for your actions.

—s27 report

[17] You have asked I hear Jarrod Gilbert on your background and its relevance to your offending and sentence. He says you affiliate to Ngāti Tara Tokanui iwi, based around Hauraki/Coromandel’s Paeroa, but lack strong links to it. From his one-hour interview with you, to some degree corroborated in discussion with your oldest sister, he considers some normalisation of violence between your parents in your childhood and your substance abuse likely contributed to your offending.

Approach to sentencing for murder

[18] I now explain how I will go about sentencing you. Ultimately, my sentence is to reflect this community’s repudiation of your crime, the punishment being “determined not on impulse or emotion but in terms of justice and deliberation”.⁷

[19] I must have regard for the statutory purposes and principles of sentencing.⁸ I must hold you accountable for your offending and for the harm you have caused.⁹ Your sentence should be sufficient to denounce your conduct,¹⁰ deter you and others

⁷ *R v Puru* [1984] 1 NZLR 248 (CA) at 249.

⁸ Sentencing Act 2002, ss 7 and 8.

⁹ Sections 7(1)(a) and 103(2)(a).

¹⁰ Sections 7(1)(e) and 103(2)(b).

from committing such offences,¹¹ and to protect the community.¹² I must consider the gravity and seriousness of your offending, and take into account its effect on victims.¹³ The sentence must take into account the desirability of consistency in sentencing,¹⁴ and anything in your circumstances as would make an otherwise appropriate sentence “disproportionately severe”¹⁵.

[20] The purposes and principles of sentencings have no ranking,¹⁶ except insofar as assessment of a minimum term of imprisonment endorses only four of s 7’s eight sentencing purposes.¹⁷ That subset is to:¹⁸

... address features of an offence that aggravate its seriousness or point to a need for community protection. Mitigating factors can and do offset these features when setting a minimum period, but the fact remains that the statutory criteria for a minimum period do not include the full set of sentencing purposes and principles that apply when a determinate sentence is being fixed.

Thus any “favourable personal circumstances” have limited mitigatory weight in sentencing for murder.¹⁹

[21] I said earlier, murder attracts a sentence of life imprisonment, unless manifestly unjust.²⁰ If so sentencing, I must impose a non-parole period of at least ten years.²¹ In specific cases “especially worthy of accountability and denunciation”,²² the non-parole period must be of at least 17 years (unless manifestly unjust).²³

[22] As you have been convicted of murder, you must be sentenced to imprisonment for life unless, given your circumstances and those of your offending, a sentence of life imprisonment would be manifestly unjust.²⁴ If not, then I must decide: (a) what

¹¹ Sections 7(1)(f) and 103(2)(c).

¹² Sections 7(1)(g) and 103(2)(d).

¹³ Section 8(a), (b) and (f).

¹⁴ Section 8(e).

¹⁵ Section 8(h).

¹⁶ *Moses v R* [2020] NZCA 296, [2020] 3 NZLR 583 at [4], citing *Hessell v R* [2010] NZSC 135, [2011] 1 NZLR 607 at [37].

¹⁷ Sentencing Act, s 103(2).

¹⁸ *Malik v R* [2015] NZCA 597 at [28] (footnote omitted).

¹⁹ *Brown v R* [2011] NZCA 95 at [18], citing *R v Walsh* (2005) 21 CRNZ 946 (CA) at [28].

²⁰ Sentencing Act 2002, s 102.

²¹ Section 103.

²² *Malik v R*, above n 18, at [29].

²³ Sentencing Act 2002, s 104.

²⁴ Section 102(1).

notional non-parole period would apply under s 103; (b) if a s 104 category applies; and if so, (c) if a non-parole period of 17 years or more would be manifestly unjust.²⁵ But I need not reinvent the wheel if “application of the comparator methodology could answer both the question of whether s 104 applied and that of the appropriate MPI”.²⁶

[23] Addressing the non-parole period has inherent difficulties where there are statutory floors but no ceiling other than that offered by mortality.²⁷ Nonetheless, I am required “to benchmark the instant case against the ‘standard range of murders’, a concept elusive at best”,²⁸ and especially when “no two [murder] cases are ever identical”.²⁹

Your murder sentence

—life imprisonment?

[24] I start by considering if your imprisonment for life would be manifestly unjust. Neither the Crown nor your lawyer suggests it might be, but I need to make that assessment myself.

[25] A departure from life imprisonment must be justified by the circumstances of your murder of Ms Papanoa *and* your own circumstances.³⁰ I must make an overall assessment of that justification, in light of sentencing’s purposes and principles.³¹ The necessary injustice must be clear; life imprisonment only is to be displaced in exceptional cases.³²

[26] There is no closed list of cases in which a sentence of life imprisonment would be manifestly unjust; power to depart from the presumption should not be “unduly proscribed”.³³ Still, the presumption only will be departed from in “exceptional” and

²⁵ *Davis v R* [2019] NZCA 40, [2019] 3 NZLR 43 at [25], restating the traditional two-stage approach to sentencing for murder in *R v Williams* [2005] 2 NZLR 506 (CA).

²⁶ *Frost v R* [2023] NZCA 294 at [36].

²⁷ *R v Bell* CA80/03, 7 August 2003, [2003] BCL 886 at [7].

²⁸ *R v Paul* CA496/05, 1 August 2006, [2006] BCL 820 at [27].

²⁹ *Preston v R* [2016] NZCA 568, [2017] 2 NZLR 358 at [158]–[160].

³⁰ *R v Rapira* [2003] 3 NZLR 794 (CA) at [121]; and *R v Cunnard* [2014] NZCA 138 at [33].

³¹ *R v Rapira*, above n 30, at [121].

³² At [121].

³³ *R v Cunnard*, above n 30, at [15].

“rare” cases.³⁴ Such include an elderly man’s ‘mercy’ killing of his demented wife,³⁵ or a mentally-impaired defendant killing their abuser.³⁶ Your circumstances are not of those cases. I cannot identify any factor, let alone one of the required exceptionality, as may displace imprisonment for life as the presumptive sentence for your murder of Ms Paparoa.

[27] Overall, sentencing you to life imprisonment would not be manifestly unjust. Life imprisonment is the default sentence for a murder conviction; it reflects “society’s recognition of the sanctity of human life and its condemnation of anybody who wrongfully takes another life”.³⁷ The circumstances do not mitigate your moral culpability to displace the presumption of life imprisonment on your conviction for Ms Paparoa’s murder.

—*your culpability*

[28] I count at least eight aggravating features in your attack on Ms Paparoa.³⁸ They are: (1) your use of actual violence; (2) your use of a weapon; (3) your attack to Ms Paparoa’s vital organs; (4) carried out with a high level of cruelty and brutality; (5) as the product of your calculated planning; (6) in the context of family violence; (7) on a particularly vulnerable person; and (8) with the loss of her life. I cannot identify any mitigating features of your attack on Ms Paparoa at all.

[29] I have considered comparable fatal stabbing cases involving calculated planning against vulnerable victims.³⁹ I particularly draw comparisons with *Blake*, *Hamidzadeh* and *Kaur*, upholding 17-year minimum non-parole periods:

³⁴ *R v Rapira*, above n 30, at [121]; *R v Wihongi* [2011] NZCA 592, [2012] 1 NZLR 775, at [93]; *Hamidzadeh v R* [2012] NZCA 550, [2013] 1 NZLR 369 at [55].

³⁵ *R v Law* (2002) 19 CRNZ 500 (HC).

³⁶ *R v Wihongi*, above n 34. See also *R v Rihia* [2012] NZHC 2720.

³⁷ *R v Cunnard*, above n 30, at [16].

³⁸ Sentencing Act 2002, s 9.

³⁹ *Beazley v R* [2020] NZCA 65 (Sentencing Act 2002, s 104(1)(b), (c), (e), and (g): 17 years); *Hohua v R* [2019] NZCA 533 (s 104(1)(c) and (e): 17 years); *Momoisea v R* [2019] NZCA 528 (s 104(1)(c) and (d): 17 years); *Singh v R* [2019] NZCA 436 (s 104(1)(b), (c) and (e): 19 years); *Kaur v R* [2017] NZCA 465 (s 104(1)(b) and (e): 17 years); *Christison v R* [2017] NZCA 168 (s 104(1)(b), (c) and (e): 17 years); *Akash v R* [2017] NZCA 122 (s 104(1)(e): 17 years); *Preston v R*, above n 29 (s 104(1)(b), (c) and (e): 19 years); *Singh v R* [2016] NZCA 582 (s 104(1)(b) and (c): 16 years); *Blake v R* [2016] NZCA 82 (s 104(1)(e): 17 years); *Dawood v R* [2013] NZCA 381 (s 104(1)(b) and (e): 17 years); *Hamidzadeh v R*, above n 34 (s 104(1)(e): 15 years and 6 months); *Thurgoood v R* [2012] NZCA 23 (s 104(1)(b), (c) and (e): 19 years); *Wallace v R* [2010] NZCA 46 (s 104(1)(d) and (e): 18 years).

- (a) you planned this attack, secreting weapons and returning to the house to take Ms Paparoa by surprise. Your actions were not ‘in the moment’ or impulsive;
- (b) your killing of Ms Paparoa was highly brutal and callous, as illustrated by your many wounds of her, including as appears intended to cut her throat, while she was conscious but subdued by you; and
- (c) your attack on Ms Paparoa as your intimate partner in your shared home means she was particularly vulnerable.⁴⁰ Such vulnerability may be thought correlative to unlawful entry or unlawful presence under s 104(1)(c), meaning those cases also are informative.

The presence of those s 104(1)(b), (e), and (g) factors means a non-parole period of at least 17 years is required to meet the statutory purposes. None of the appellate cases I have considered addresses precisely that mix of factors. Appellate guidance is to the effect that extensively planned and brutal family violence resulting in murder supports a starting point in the range of 18–20 years.⁴¹ However, your more limited planning would allow a lower starting point, thus presumptively of 17 years. Such is consistent with recent first instance sentencing for that same mix of factors.⁴²

—*personal circumstances*

[30] Turning to your personal circumstances, your guilty plea entitles you to a discount on your non-parole period.⁴³ The typical one- to two-year discounts often given may be thought “too light” in some circumstances,⁴⁴ if disincentivising guilty pleas and adding to delay in resolution, and trauma, stress and inconvenience for victims.⁴⁵ I do not see that here. Your guilty plea came relatively late in May 2023,

⁴⁰ *Everett v R* [2019] NZCA 68 at [19], citing *Solicitor General v Hutchinson* [2018] NZCA 162, [2018] 3 NZLR 420 at [27]; *Marong v R* [2020] NZCA 179 at [35].

⁴¹ *Christison v R*, above n 39, at [34]–[35], citing cases referred to in *R v Gottermeyer* [2014] NZCA 205 at [80]–[81] and, in particular, *Dawood v R*, above n 39, and *Thurgood v R*, above n 39.

⁴² *R v Singh* [2023] NZHC 2040 (Sentencing Act, s 104(b), (c) and (g): 17 years).

⁴³ *Hessell v R*, above n 16, at [45]–[46] and [62].

⁴⁴ *Frost v R*, above n 26, at [43], citing *R v Hessell* [2009] NZCA 450, [2010] 2 NZLR 298 at [70]; and *R v McSweeney* [2007] NZCA 147 at [10], and [47(c)], citing *R v Hessell*, above, at [70].

⁴⁵ *Frost v R*, above n 26, at [50], citing *R v Hessell*, above n 44, at [67].

well after your fitness was established in October 2022 for November 2023 trial. I will apply a one-year discount only on account of your guilty plea.

[31] Otherwise, the presence of mitigating factors under s 9(2) rarely would displace the statutory presumption under s 104.⁴⁶ Absent the required exceptionality, questions of manifest injustice only arise if the notional assessment is “lower than the statutory presumptive minimum”.⁴⁷

[32] You do not qualify for any discount available for credible personal background factors causing impaired choice and (therefore) diminished moral culpability.⁴⁸ You told Dr Gilbert you “grew up in a home where [you] felt loved”. You said you did well at primary and intermediate school but left high school and family for an itinerant and unsettled life. Your background, if in your first 10 years marred by alcohol-fuelled violence between your parents, also is of their demonstration of the value of its cessation over the subsequent 15 years until your mother’s death. Your criminal record shows your relatively continuous low-level offending for some 10 years from the age of about 15, when you said you started drinking and drug-taking. No discount is available for your resort to substance abuse alone.

[33] I take your mental health into account, but note the doctors all assess your presentation to some degree to be artificial. As such, it does not offer any basis for further discount. That artificiality also is evident in your engagement with each the Corrections’ report-writer and Dr Gilbert in your attempts to blame Ms Paparoa for your attack on her. As such, there obviously can be no discount for remorse.

[34] I accept, because a guilty plea discount could not be achieved if I imposed a 17-year non-parole period, that minimum period would be manifestly unjust. I therefore will impose a non-parole period of 16 years. Standing back, I am satisfied that is proportionate to your murder of Ms Paparoa.⁴⁹

⁴⁶ *Hamidzadeh v R*, above n 34, at [86], citing *R v Williams*, above n 25, and *R v Parrish* (2003) 21 CRNZ 571 (CA).

⁴⁷ *Davis v R*, above n 25, at [30].

⁴⁸ *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509 at [91]–[94] and [107]–[112]; *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648 at [161]–[162]; *Poi v R* [2020] NZCA 312 at [32]–[51]; and *Carr v R* [2020] NZCA 357 at [55].

⁴⁹ *Frost v R*, above n 26, at [86], citing *Hessell v R*, above n 16, at [77], and *Dickey v R* [2023] NZCA 2, [2023] NZLR 405 at [175] (citing *R v Williams*, above n 25, at [67]).

Sentence

[35] Mr Wilson, please stand. On your convictions, I sentence you to life imprisonment, with a minimum period of imprisonment of 16 years. You may stand down.

—Jagose J