

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

**CRI-2020-090-002497
[2021] NZHC 3394**

THE QUEEN

v

ELI BOB SAUNI EPIHA

Hearing: 10 December 2021

Appearances: B Dickey, A McClintock and N Herewini for Crown
M A Edgar and V J Feyen for Defendant

Sentencing: 10 December 2021

SENTENCING NOTES OF VENNING J

Solicitors: Meredith Connell, Auckland
M Edgar and V J Feyen, Auckland

[1] Eli Epiha, you are before the Court this morning for sentence for the murder of Constable Matthew Hunt, the attempted murder of Constable David Goldfinch and for driving dangerously and injuring Mr Mohammed Sattar.

[2] The sentence for murder in New Zealand is life imprisonment. That is the sentence the Court will impose. The issue for the Court this morning is whether you should serve that sentence without parole, in other words, a whole of life sentence, or if that would be manifestly unjust. If it would be manifestly unjust, then the Court must impose a minimum period you are to spend in prison before you are eligible to be considered for parole.

[3] Before I deal with the sentencing in more detail, I want to first acknowledge the people in the courtroom and watching this sentence. First, the family and supporters of Constable Hunt. The sentence of the Court today is imposed on behalf of society as a whole in response to Mr Epiha's actions. It is not an attempt to measure or value Constable Matthew Hunt's life. It could never be.

[4] Next, Constable Goldfinch, and his family and supporters. I acknowledge the dignity that you and Constable Hunt's family and supporters have shown throughout the trial and this sentencing. I also acknowledge the Police colleagues of Constables Hunt and Goldfinch who have felt the loss of Constable Hunt and have supported his family and Constable Goldfinch and his family.

[5] I also acknowledge the whanau and other supporters of Mr Epiha. It must have been difficult for you Mrs Epiha in particular (and other members of your whanau) to hear the details of Mr Epiha's actions on 19 June last year. It will be important for him that over the term of the sentence he must serve that you continue to support him.

[6] Mr Epiha, I start by summarising the offending. On 19 June 2020 Constables Hunt and Goldfinch were on road policing duties on Triangle Road in West Auckland. The Toyota Verosa you were driving approached an intersection with Triangle Road. You had to brake the Toyota at the last moment to avoid a truck coming down the road. Your driving drew you to their attention. They decided to follow the Toyota and speak to the driver. You realised that the Police were following you. You turned into

Reynella Drive and sped away. There is no doubt you were trying to avoid the officers and get away. You knew you had two illegal firearms in your car and did not want to be caught with them.

[7] You drove recklessly and dangerously and, after cresting the hill in Reynella Drive you lost control when you had to take evasive action to avoid a rubbish truck. You hit Mr Sattar's car, which was parked at the side of the road. Mr Sattar was at the boot of the car loading it for a family holiday. As a result of the collision he was badly injured. Your Toyota was effectively immobilised but you managed to park it up in a nearby drive. Almost immediately the Police Officers arrived at the scene.

[8] Constable Goldfinch got out of the car and approached your car. His intention was to help you. He expected to find you, the driver, injured as a result of the accident. Instead, you got out of the car, picked up the most lethal of the two weapons that you had available to you, the semi-automatic Norinco firearm. You pointed that firearm towards Constable Goldfinch and pulled the trigger. Constable Goldfinch backed off and ran to the other side of the road in an attempt to shelter behind a parked Suzuki SUV. You pursued him across the road and fired further shots at him.

[9] Constable Goldfinch then described a sort of cat and mouse situation that took place around the SUV. You were trying to get around it to get at him. He was trying to keep the SUV between him and you so you could not get a clear shot at him. He pleaded with you to stop. He put his hands up and told you to just "f'ing walk away". He said he wouldn't arrest you. Constable Goldfinch's evidence about your response was chilling. He described you looking at him like you were thinking about it and it was as though you just "clicked" and decided you were going to kill him. You then leaned the weapon over the top of the SUV and shot at him through the roof of it. Remarkably the shot missed him.

[10] Constable Goldfinch then ran down Reynella Drive to get away. He described the bullets you were firing pursuing him. The ground was exploding around him. He felt an explosion of acid in his hip area as he was hit there. Despite his injuries, he continued to run for his life. He crossed the road and escaped down the driveway of

84 Reynella Drive where he radioed for help and eventually jumped the fence to escape.

[11] In all you fired 10 shots at Constable Goldfinch, four of which hit him, one in the hip, two in his calf and one on the boot. Fortunately the shots were not fatal. They easily could have been. The shots you fired were potentially lethal to him and also to innocent bystanders and homeowners in Reynella Drive. The scientist, Angus Newton, described the shots which missed Constable Goldfinch travelling directly into houses or ricocheting into fences.

[12] As Constable Goldfinch fled, Constable Matthew Hunt put through a call from the patrol car radioing for assistance. After Constable Goldfinch escaped you noticed Constable Hunt, who by this stage had got out of the police car, likely in an attempt to try and help his colleague, despite the fact he was not armed and was facing a man with a firearm. He only made a few steps away from the police car before you fired at him four times from close range. You hit him with each one of those four shots. The first shot was a glancing blow off his left chest as he turned away from you, the other three were fired when he was turned away and had his back to you. The last two shots were fired when Constable Hunt was falling or was close to the ground. The internal damage he suffered from the last three shots was not survivable.

[13] While Constable Hunt lay dying in the road you ignored him and instead went and collected the other gun from the Toyota before waiting to be driven away from the scene by Ms Bracken. While you were standing beside the getaway car waiting for her you paid Constable Hunt no attention. You were just concerned about yourself and getting away.

[14] At trial you said Constable Hunt asked for help and that you thought about it for a few seconds. You said you thought about chucking him in the police car and going to the hospital but decided against that when you heard sirens. I reject that evidence. On the day your actions displayed no concern for anyone other than yourself. Your evidence that you appeared calm because you were practising “mindfulness” because you were stressed was bizarre. Your actions after you had shot the officers were captured on a witness’ phone video and they were plain for all to see.

[15] Shortly before trial you pleaded guilty to the murder of Constable Hunt. You tried to qualify your plea by saying you were pleading guilty to reckless killing. The Court did not accept that and you pleaded guilty to murder. Despite that you maintained the stance throughout the trial that your actions were just reckless. You refused to accept full responsibility for your actions.

[16] The Court has confirmed you are to be sentenced on the basis that when you fired the shots at Constable Hunt you intended to kill him.¹ It is a nonsense for you to suggest and to maintain otherwise.

[17] You also pleaded guilty to driving dangerously causing injury.

[18] At your trial you were found guilty of the attempted murder of Constable Goldfinch. Given Constable Goldfinch's evidence and the fact you fired 10 shots from a semi-automatic firearm either towards or directly at him, the verdict of guilty of attempted murder was inevitable. His evidence about the circumstances when you confronted him at the Suzuki SUV and then fired at him, then subsequently hitting him four times as he fled down the road, was compelling.

[19] Given the murder of Constable Hunt the focus of the sentence this morning is on the sentence for murder, but I do not discount the significance of your offending against Constable Goldfinch and Mr Sattar. That offending is relevant to the sentence the Court must impose.

[20] At the time you murdered Constable Hunt you were subject to the three strikes regime. His murder was your second strike. Section 86E of the Sentencing Act 2002 is engaged. It provides that the Court must sentence you to imprisonment for life and order you to serve the sentence without parole unless the Court is satisfied that, given the circumstance of the offence and the offender it would be manifestly unjust to do so. If the murder is a stage two offence as in your case, and the Court does not make an order for imprisonment without parole, the Court must direct that you serve a minimum period of imprisonment.²

¹ Ruling (6) of Venning J, dated 28 July 2012

² Sentencing Act 2002, s 86E and s 103.

[21] In the cases of *R v Harrison* and *R v Davis* the Court of Appeal confirmed the approach the sentencing Court should take where the sentence for murder is a second or third strike offence.³

[22] The start point is the presumption of life imprisonment without parole.

[23] The next step is for the Court to consider your culpability on the particular facts of this case as compared with other murder cases and to determine what the appropriate sentence would be, applying ss 102 to 104 of the Sentencing Act.

[24] The final step involves recognising the statutory presumption and determining whether the exception applies having regard to the need to comply with the overall constitutional requirement that the sentence must not constitute a disproportionately severe punishment. The overall question is whether it would be grossly disproportionate, given the circumstances of the offending and your personal circumstances, for you to be subject to a life sentence without parole.

[25] The Court of Appeal confirmed such an approach is required because it meets the tension between the sentence of whole of life imprisonment without parole mandated by s 86E and the constitutional requirement under s 9 of the Bill of Rights Act 1990 to avoid a disproportionately severe punishment.⁴ In a different sentencing context, the Supreme Court recently confirmed that by enacting the three strikes regime Parliament did not intend to require judges to impose sentences that breach s 9 of the New Zealand Bill of Rights Act.⁵

[26] To inform consideration of whether life without parole would be manifestly unjust in your case I turn to consider the notional minimum period of imprisonment that would otherwise be appropriate having regard to the considerations in ss 102 to 104 of the Sentencing Act.

³ *R v Harrison* [2016] NZCA 381, [2016] 3 NZLR 602; and *R v Davis* [2019] NZCA 40, [2019] 3 NZLR 43.

⁴ *R v Harrison*, above n 3, at [107]–[111].

⁵ *Fitzgerald v R* [2021] NZSC 131.

[27] Before doing so I note on behalf of the Crown Mr Dickey acknowledges that the Court may consider, particularly having regard to your age, that the disparity between the appropriate minimum period of imprisonment and life without parole might produce a manifestly unjust result. In that case the Crown says a minimum period of imprisonment of between 24½ and 26½ years would be appropriate.

[28] Mr Edgar, on your behalf, has submitted the Court should not impose a whole of life sentence and that the appropriate starting point for sentence would be a minimum non-parole period of 20 years, but argues for a reduction from that for a variety of mitigating personal circumstances. He urges the Court not to impose a sentence that leaves you without hope.

[29] As with any sentence I have regard to the principles and purposes of the Sentencing Act 2002. The sentence I impose must hold you accountable for your actions, which on my assessment you are yet to fully accept, and to acknowledge the ongoing harm and loss caused to the victims, their families and the wider community by your actions. The victim impact reports read this morning should have made it clear to you Mr Epiha the effect your actions have had on so many people and will continue to have on them. The family of Constable Hunt will never fully recover from his loss. The Commissioner of Police has said your actions have profoundly affected all 14,000 members of the Police organisation. Your actions have caused unnecessary anxiety and stress on ordinary officers and their families as they go about their work each day.

[30] Police men and women work for all members of society. Each day they undertake difficult, demanding and dangerous work. They stand in harm's way on behalf of others. It affects all society when a police officer is killed.

[31] The sentence must also denounce your conduct and deter you, but importantly others from such offending. A clear message is required to be sent to those people who place themselves outside the norms of a civilised society and carry firearms that the carrying and use of firearms in the community is unacceptable. In particular, criminals need to know that the use of firearms against police officers will have severe consequences.

[32] A related consideration is the need to protect the community from people like you who are prepared to carry and use firearms.

[33] In this case s 104 of the Sentencing Act is engaged in a number of respects. First, you murdered Constable Hunt while he was acting in the course of his duties.⁶ Next, the murder of Constable Hunt was committed in exceptional circumstances.⁷ It was in the course of a rampage by you against the Police Officers. It would be artificial to separate your offending against Constable Goldfinch and the killing of Constable Hunt. Your actions towards the Police Officers was consistent throughout. You deliberately attempted to kill one and deliberately killed the other. However, for present purposes, I put the impact of your attempted murder of Constable Goldfinch to one side as it warrants separate consideration.

[34] Although perhaps unnecessary as s 104 is engaged, I also accept the Crown submission that, in this case, the murder of Constable Hunt was committed with a high degree of brutality or callousness.⁸ While Mr Edgar is correct that all murders are in some sense brutal, cruel or callous, the use of a semi-automatic firearm against an unarmed Police Officer by shooting him from short range four times, the last three when his back was turned was cowardly, and displayed a degree of brutality and callousness. It also showed a real determination on your part to kill Police Officers. Your actions immediately following that of ignoring him as he lay dying while you calmly collected the other weapon and then waited to be driven away from the scene were particularly callous. Overall, your actions towards Constable Hunt displayed a cold-hearted indifference as to the consequences of your actions and to him.

[35] I have considered a number of cases which have involved the imposition of MPI's for particularly serious murders. The Crown have referred in particular to three cases: *R v Taani*, *R v Maheno* and *R v Tully*.⁹ The most relevant is *Tully*.

⁶ Sentencing Act 2002, s 104(1)(f).

⁷ Section 104(1)(i).

⁸ Section 104(1)(e); *R v Gottermeyer* [2014] NZCA 205 at [79]; and *R v Slade* [2005] 2 NZLR 526.

⁹ *R v Taani* [2019] NZHC 1746; *R v Maheno* [2013] NZHC 2430; and *R v Tully* [2016] NZHC 1133.

[36] Mr Tully killed two social welfare workers and attempted to murder another one. An MPI of 27 years was ultimately imposed. That was upheld by the Court of Appeal on appeal. There are differences between Mr Tully's case and yours. Of course each case is different. Unlike Mr Tully your actions were, I accept, not premeditated. I accept you did not set out that morning to kill the Police Officers. However, your actions on the day were not limited to a one-off shot, instantly regretted and not repeated. You engaged in a shooting spree. The Police Officers were your targets. You could have stopped at any time and particularly after Constable Goldfinch had retreated behind the SUV and pleaded with you to stop but you persisted. You deliberately pursued Constable Goldfinch, hitting him four times and then you deliberately turned your gun on Constable Hunt and killed him. The semi-automatic firearm you used was more lethal than the pump action firearm used by Mr Tully. Further, you fired 14 shots compared to his five or six.

[37] Mr Edgar referred to the case of *Luff*.¹⁰ Mr Luff, who was 17 years old at the time of his offending, shot and killed one police officer and shot and injured another. Justice Ronald Young considered a minimum non-parole period of 20 years could reasonably be justified. Ultimately because of Mr Luff's early guilty plea, young age, genuine remorse and background with no previous convictions, a minimum non-parole period of 17 years was imposed. I consider Mr Luff's case can be distinguished on a number of grounds. As Mr Dickey submitted, the decision did not discuss in any detail the principles in ss 102 to 104. The firearm used was a rifle. A lesser number of shots were fired, and as noted, Mr Luff was only 17 years of age, and in fixing the end sentence the Judge took into account his early guilty plea and genuine remorse.

[38] Having regard to the purposes and principles of the Sentencing Act and the aggravating features of your murder of Constable Hunt which include: killing an unarmed officer who was no threat to you, the use of a semi-automatic weapon, firing four shots at close range, three of which hit him when he had his back to you, and your callous indifference to his situation immediately after you had shot him, I consider an appropriate starting point for the MPI required to reflect your culpability for that offence alone would be 24 years.

¹⁰ *R v Luff*, HC Palmerston North S4/02, 18 September 2002.

[39] In fixing the appropriate minimum non-parole period it is also relevant to take into account the totality of your offending on the day, which includes the attempted murder of Constable Goldfinch and the dangerous driving causing injury of Mr Sattar.

[40] Your attempted murder of Constable Goldfinch is near the most serious of cases for attempted murder. There is nothing in your particular circumstances that would make the imposition of a penalty near the maximum for the attempted murder inappropriate. The only feature that supports a penalty less than the maximum 14 years is that, to your good fortune, Constable Goldfinch showed remarkable resilience in getting away from you and in recovering from his injuries. He refuses to let your actions define his future. A sentence of 12 years' imprisonment for the offending against Constable Goldfinch alone would be justified. Further, given the circumstances of that offending, and your past history, a minimum non-parole period of eight years would have been required in order to meet the requirements of s 86 of the Sentencing Act if that sentence were a standalone sentence.

[41] Sentencing is not a mathematical exercise. It involves judgment and requires consideration of the total effect of the sentence in response to an offender's actions. It is not a case of just adding the appropriate MPI for the attempted murder of Constable Goldfinch to what might otherwise be the appropriate MPI for the murder of Constable Hunt. But your further offending is nevertheless a relevant consideration to the MPI that is appropriate for the totality of your actions.

[42] Having regard to the attempted murder of Constable Goldfinch and also the injuring of Mr Sattar, who was an innocent bystander, and taking account of totality, I consider an uplift to the MPI of a further five years is required to reflect the seriousness of your actions that day, which takes the adjusted start point for the MPI to 29 years.

[43] I then turn to your personal aggravating or mitigating factors. I consider an uplift of six months is required to take account of the fact the offending occurred while you were on release conditions for previous offending involving a firearm. You had only been out of jail for seven months when you committed this offending. I do not consider it appropriate to uplift the MPI for that previous offending given that it is related to the imposition of an MPI.

[44] I turn to your personal mitigating factors. Mr Edgar has submitted you should be given credit for pleading guilty to the murder and dangerous driving charges. Your plea of guilty to murder was of little value. It was not an acknowledgement or acceptance of culpability on your part. It did not amount to an acceptance of the true nature of your actions. Your persistence in asserting you were pleading guilty of reckless killing as opposed to refusing to acknowledge your actions and your intent, was entirely misguided. The trial still took almost the same length of time it would have taken even if there had been further evidence regarding the killing of Constable Hunt. You had no possible defence to the murder of Constable Hunt. The Crown's case against you on that charge was overwhelming as it was in relation to the driving dangerously causing injury to Mr Sattar. There can only be a very modest reduction of some six months to the MPI for the guilty pleas.

[45] Mr Edgar also submitted that you were remorseful and should have a credit for that. I do not accept that at all. Your arrogant attitude throughout the process of the trial and while giving evidence was obvious for all to see. The suggestion that you wanted to attend a restorative justice meeting with the victims while maintaining you only recklessly shot Constable Hunt was frankly insulting to them and again displayed your complete lack of empathy and refusal to accept responsibility for your actions.

[46] Your lack of remorse is confirmed in the pre-sentence report. The probation officer records that:

While Mr Epiha verbalised that he was remorseful and accepts responsibility, ... his expression of remorse was not without the implication of provocation. This was evidenced by his belief that the Police Officers did not follow process by continuing to advance on him knowing he was armed, which then escalated him resulting in him discharging the firearms. For this reason, the report writer assesses a lack of genuine remorse for the effects of his actions on the victims
... .

And relevantly the probation officer goes on to note that:

It is the assessment of the report writer that any sense of remorse verbalised by Mr Epiha is linked to his consequential loss of freedom and current circumstances. He advised he would like to opportunity to participate in Restorative Justice with Constable Hunt's whanau.

[47] Mr Edgar referred to the s 27 report and suggested the material in it suggested you were remorseful. The report writer records that you said you were not proud of your actions. That falls significantly short of true remorse. True remorse requires acknowledgement of your actions and an acceptance of the full consequences of them on others, which you have yet failed to do.

[48] Mr Epiha, you have provided a letter to the Court for today, which I have considered. You do, in that, address yourself to the family and supporters of the victims. I have read the letter carefully, looking in it for a full acknowledgement of responsibility at this stage of your actions. But it does not have that. I have to say that I am cynical about your statements in that letter. When you were sentenced for your previous offending you also produced a letter to the Court.¹¹ In that case the Judge said the letter showed some insight or understanding, and you were someone who has the potential to succeed in life, judging by what you had written in this letter. After reading the letter the Judge also noted you had been taking part in some programmes, and largely or in part at least, influenced by what you had said in that letter and the potential that the Judge assessed you might have the Judge imposed a lesser sentence than otherwise would have been imposed at that time.

[49] You repeat similar matters in the letter before the Court this morning. But despite that earlier sentence, here you are, as a result of your actions seven months after release from jail and while subject to release conditions. Your expressions of remorse are too little, too late to have any meaningful effect. They strike me as more a concern at the situation you now find yourself in rather than the true remorse. They are driven by your own personal interests.

[50] The s 27 report and the pre-sentence report both recognise your troubled upbringing. You are of New Zealand Maori and Niuean ethnicity. You were raised in an environment of instability. There were multiple changes in home and schools by the age of 10. You were surrounded by people with gang affiliations. Some of your uncles were said to be affiliated with King Cobras. Others of your extended whanau were associated with other gangs. You yourself became immersed in a youth gang,

¹¹ *R v Epiha* [2016] NZDC 22419.

the Bloods which led inevitably in turn to juvenile offending and appearances before the Youth Court. By the age of 17 you were a fully-fledged member of the Bloods. Despite your engagement with iwi social services your life, in your own words, continued to spiral downhill right up until you went to jail at the age of 19 in 2015. In December of that year you were arrested for drug offending, commission of a crime with a firearm, and the numerous charges of unlawful possession of a firearm or explosives.

[51] The s 27 report writer notes the shame that you have brought on your family by your actions. Your uncle, Warren Epiha, has confirmed that whakamā in his address to this Court this morning. The Epiha family will carry that with them. Despite your maternal grandfather's undoubted proud service in the New Zealand Army and other services, the name Epiha will be remembered for your cowardly killing of a Police Officer. That is a shame that you and your whanau will bear for the future.

[52] The s 27 report writer also refers to the comments of Williams J in *R v Rakuraku* to support a reduction in your sentence.¹² In that case the Judge considered that the sentence should take proper account of the defendant's background circumstances and disadvantaged background.¹³ The Judge had taken a starting MPI of 18 years and reduced it by one year for the factors he identified.

[53] Mr Epiha I accept you have had a disadvantaged background, but given the seriousness of the actions in your case, the allowance the Court will give for that must be constrained. In the Court of Appeal decisions of *Hohua v R* and *Webber v R*,¹⁴ the Court confirmed that, while cultural considerations in the offender's background are relevant to the issue of sentencing and may lead to an adjustment in the starting point it is relevant that sentencing for murder is different to sentencing for other violent offending. The MPI imposed for murder must reflect the seriousness of your crime and must give effect to the statutory purpose. For those reasons an offender's background of deprivation may carry less weight in the context of such a sentencing exercise.¹⁵

¹² *R v Rakuraku* [2014] NZHC 3270.

¹³ At [58].

¹⁴ *Hohua v R* [2019] NZCA 533; and *Webber v R* [2021] NZCA 133.

¹⁵ *Hohua v R*, above n 14, at [44].

[54] In *Webber* the Court considered a discrete discount and consideration of the s 27, cultural background and personal matters, may also be relevant as it has a part to play in the decision that it would be manifestly unjust to impose a life sentence without parole. That in itself can provide a meaningful recognition of cultural and social deprivation.

[55] Your background may explain in some way why you involved yourself in violence and had ready access to firearms but it does not excuse your actions towards the Police Officers on 19 June 2020. You made free choices on 19 June last year: from trying to flee from the Police initially, then after the accident picking up the semi-automatic firearm and confronting the Police Officers, to firing the total of 14 shots at the Officers.

[56] Having regard to those considerations, in my assessment the most that can be deducted for all factors, apart from the guilty plea, that can properly be said to be mitigating is a reduction of two years in the MPI. That leads to an adjusted MPI of 27 years. I then test that by asking myself if, having regard to totality, that is too much. I am satisfied it is not. An MPI at that level is required to reflect the totality of your offending and the seriousness of your actions on 19 June last year. It follows that it is unnecessary to consider whether an MPI of 17 years would be unjust.¹⁶

[57] The next issue for the Court is, bearing that MPI in mind, whether life without parole would be manifestly unjust.¹⁷

[58] There are a limited number of factors in your favour Mr Epiha, if it can be put that way. The first is that this is a stage 2 murder as opposed to a stage 3 murder. You are subject to one strike at present. That is however relevant to the issue of recidivism which underpins the three strike legislation. The purpose of the strikes legislation is to punish recidivist offenders. While serious, your previous offending is relatively limited.

¹⁶ *R v Harrison*, above n 3, at [109].

¹⁷ Sentencing Act 2002, ss 103 and 104.

[59] The circumstances of your first strike offending are also relevant. It also involved the use and discharge of an unlawful firearm. You were with others in a car from which shots were fired at the victim's home. However, in sentencing you the Judge noted the summary of facts to that offending did not disclose whether you were the shooter or whether you were just present with others during the shooting. That is relevant to an assessment of your culpability for that set of offending.

[60] As noted in the case of *Webber* another factor relevant to this consideration are the matters covered in the s 27 report.¹⁸ Also as Williams J said in *Rakuraku*, the sentence must fit both the circumstances of the offence and the offender.¹⁹ Your background and social deprivation are relevant to an assessment of whether, in your circumstances, a whole of life sentence would be manifestly unjust.

[61] The principal factor in your favour on this consideration is your relatively young age. At the time you committed this offending you were 24 years old. The minimum period of imprisonment I have calculated you should serve of 27 years means you would be 51 before you would be eligible, even for consideration of parole. The life expectancy of someone born the year you were born is approximately 74 years. There is a real issue whether requiring you to serve a further 23 years without the possibility of parole would be manifestly unjust.

[62] I note that the Crown accepts that, having regard to your age, that disparity might produce a manifestly unjust result.

[63] Taken overall, Mr Epiha, and having regard to the purpose behind the three strikes regime which was it was to apply to "those few who fail to heed warnings and continue to offend regardless of consequences", I have determined that while your offending could support a whole of life sentence, your personal circumstances mean it would be manifestly unjust to sentence you to a whole of life. While the community requires protection from you that can be provided for by a substantial MPI.

[64] I am obliged to give you a further warning that:

¹⁸ *Webber v R*, above n 14.

¹⁹ *R v Rakuraku*, above n 12.

- (a) if you are convicted of any serious violent offences other than murder or manslaughter, you will be sentenced to the maximum term of imprisonment. That will be served without parole or early release unless it would be manifestly unjust.
- (b) If you are convicted of manslaughter committed after this warning, you will be sentenced to imprisonment for life. The Judge must order you to serve 20 years' imprisonment unless it would be manifestly unjust to do so, in which case the Judge must order you to serve a minimum of 10 years.
- (c) If you are convicted of murder after this warning then:
 - (i) you must be sentenced to life. The Judge must order you to serve this sentence without parole unless it would be manifestly unjust to do so;
 - (ii) if the Judge finds it manifestly unjust to do so then the Judge must impose a minimum period of imprisonment of at least 20 years unless that would be unjust, in which case a different MPI will be imposed.
- (d) If you are sentenced to preventive detention you must serve the maximum term of imprisonment of the most serious offence you are convicted of unless a Judge considers that would be manifestly unjust.

[65] Mr Epiha, please stand:

- (a) for the murder of Constable Hunt you are sentenced to imprisonment for life. You are to serve a minimum period of imprisonment of 27 years;
- (b) for the attempted murder of Constable Goldfinch you are sentenced to imprisonment for 12 years;

(c) for driving dangerously causing injury to Mr Sattar you are sentenced to imprisonment for one year.

[66] Stand down.

Venning J