

**ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS,
OCCUPATION OR IDENTIFYING PARTICULARS OF VICTIMS PURSUANT
TO SECTION 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
AUCKLAND REGISTRY**

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

**CRI-2020-090-1335
[2021] NZHC 3498**

THE QUEEN

v

**JAYDEN RAY JOSEPH TREGIDGA
MONTELL FORD KONRAD SILA KENI**

Hearing:	16 December 2021
Counsel:	H D L Steele and R S Ching for Crown D R F Gardiner for Mr Tregidga J-A Kincade QC and W J S Mohammed for Mr Keni
Sentence	16 December 2021

SENTENCING NOTES OF TOOGOOD J

Solicitors/Counsel:
Crown Solicitor, Auckland
D Gardiner, Auckland
J-A Kincade QC, Auckland

[1] Jayden Ray Joseph Tregidga and Montell Ford Konrad Sila Keni, you appear for sentence on various charges associated with the kidnapping and torture of a victim whom I call “Mr D”. I make a permanent order under s 202 of the Criminal Procedure Act 2011 forbidding the publication of the names, addresses and occupations of Mr D and his parents, who have provided victim impact statements.

[2] Mr Tregidga, you pleaded guilty on 10 June 2021 to charges of kidnapping; aggravated robbery; unlawful possession of a pistol; wounding with intent to cause grievous bodily harm; injuring with intent to injure and a representative charge of threatening to kill.¹ At your request, I deferred entering convictions on those charges to enable you to complete rehabilitation courses you were attending while remanded in custody. I now formally convict you on charges 1 to 5 inclusive and charge 11 in the Crown charge notice dated 5 March 2020 as amended. Charges 6 to 10 inclusive against you are withdrawn by leave.

[3] Under the three strikes law, I am required to give you a first warning of the consequences if you are convicted of any serious violent offence committed in the future while that law remains in force.²

[4] If you are convicted of any serious violent offence (except murder) committed after today, you will receive a final warning. If the judge imposes a sentence of imprisonment for that offence, you will serve that sentence without parole or early release. If you are convicted of a murder committed after today, you will be sentenced to imprisonment for life and you must serve that sentence for life also without parole, unless it would be manifestly unjust to do so.

[5] Mr Keni, I delivered a sentence indication on 11 June 2021, which you accepted later that day, pleading guilty to charges 1 and 11 in the Crown charge notice

¹ Kidnapping, Crimes Act 1961, s 209(b) – maximum period of imprisonment: 14 years. Aggravated robbery, Crimes Act 1961, s 235(b) – maximum period of imprisonment: 14 years. Unlawful possession of a pistol, Arms Act 1983, s 50(1)(a) – maximum period of imprisonment: 3 years. Wounding with intent to cause grievous bodily harm, Crimes Act 1961, s 188(1) – maximum period of imprisonment: 14 years. Threatens to kill (representative), Crimes Act 1961, s 306(1)(a) – maximum period of imprisonment: 7 years. Injuring with intent to injure, Crimes Act 1961, s 306(1)(a) – maximum period of imprisonment: 5 years.

² Sentencing Act 2002, s 86B.

of kidnapping and injuring with intent to injure.³ I had indicated that I would adopt a starting point of five years' imprisonment and afford you a 15 per cent discount for your guilty plea. I will sentence you today consistently with that indication, with appropriate adjustments for personal mitigating factors based on the various reports that have been filed since the sentence indication was given. Charges 2 to 10 inclusive against you are withdrawn by leave.

[6] The sentencing has been delayed, with your consent, while we waited for a time the hearing could be conducted in open court rather than on-line.

[7] I acknowledge the presence here in court of Mr D's parents, and through remote means, of your families. I understand that Mr D may be following this hearing from a remote location. All of you who are family members of the defendants and Mr D deserve the sympathy of the Court.

Background

[8] Mr Tregidga and Mr Keni, these are the facts of your offending based on the agreed summaries to which you have pleaded guilty.⁴ As is evident from the charges on which each of you has been convicted, your involvement in the offending was more substantial, Mr Tregidga.

[9] On 20 November 2019, Mr Keni, you went with the principal offender, Mr Hourigan, to a store in Westgate, Auckland where you were involved in buying a length of rope and latex rubber gloves subsequently used in Mr D's kidnapping and the events which surrounded it. It is possible to infer that this shows that you were aware of and involved in the preparation and planning for the kidnapping, but for sentencing purposes, on the basis of the agreed summary alone, I am not prepared to make that finding beyond reasonable doubt. Moreover, I am told that one of the co-offenders, Mr Sefulu, has said that you did not participate in the planning of what was to happen to the victim, Mr Keni.

³ Criminal Procedure Act 2011, Part 3, Subpart 2.

⁴ Sentencing Act 2002, s 24(1)(a) and (b).

[10] The next day, Mr Hourigan lured Mr D to your home in New Lynn, Mr Tregidga. You say that their arrival was unexpected and on the summary of facts I cannot dispute that and make a finding to the contrary beyond reasonable doubt. Nevertheless, you did not turn the co-offenders away. Mr D was set upon by Mr Hourigan, two other offenders – Mr Kea and Mr Sefulu – and you. You threw a punch at him initially which missed, but you were involved over the course of several hours in the restraint, the violence, punching and kicking, stripping him naked and so on. His phone, keys, wallet and cash were stolen; he was threatened with a cut-down .22 rifle, including by you at one point. Mr Hourigan accused Mr D of “robbing” another person and owing thousands of dollars; he told Mr D to say where the money was. Mr D was tied with his arms and legs behind his back in a hog-tied fashion, left on the ground and then kicked and punched brutally, having been gagged with a t-shirt which was taped into place. For a period of some two hours, according to the summary, he received kicks and punches to the head; he was urinated on at some stage and Mr Hourigan threatened to burn him alive and cut off his penis. Mr D was then forced into the rear footwell of his car and taken, still bound and gagged, to another building in Whenuapai where he was tied to a chair. Liquid was sprayed into his eyes; he was shot once in each foot and a blow torch was used to burn his right hand, back, chest, feet, legs and stomach. He was struck several times over the head with a metal object and a pair of secateurs was used to cut off his left little finger.

[11] By any measure, this was extreme violence involving torture of the most brutal and barbaric kind.

[12] For sentencing purposes, I take the kidnapping and the injuring as part of a continuing event. Mr Tregidga, you have admitted that you were involved in the initial attack on Mr D and you were either directly involved or assisted and encouraged the others in the tying up of Mr D and the kicks and punches that occurred at your house. I accept that you were not present when Mr D was taken to Whenuapai where he suffered the most harm through being sprayed in his eyes, shot in both feet, blowtorched, struck with a metal object and having his finger amputated.

[13] Mr Keni, your part in the kidnapping was providing encouragement, if not assistance, to the others by your presence at Whenuapai and particularly by your involvement in an element of the violence at the end, and not in a minor way.

[14] Neither of you went with the other offenders and Mr D to the Whenuapai address and you did not arrive there until shortly after Mr D's finger was amputated. Mr D's brutalised body and his stricken condition must have been obvious to you both, however. Rather than withdrawing from the enterprise or trying to persuade the others to bring it to an end, both of you joined in, using a lit cigarette to burn Mr D's eyelids and shoulder at a time when he was broken and utterly defenceless.

[15] Mr D was driven away from the Whenuapai building by Mr Hourigan and Mr Sefulu. He managed to escape and was then found by a member of the public who took him to hospital where he received treatment and surgery for his horrific injuries, including concussion, the burns, the wounds to his feet and the amputation.

[16] When apprehended by the Police, you both declined to comment on the allegations of your involvement in the offending.

Victim impact statements

[17] This was a highly traumatising experience, not only for Mr D but also for his parents who were told of his condition and the fact that he had been taken to hospital. Of course, they went to visit him and saw for themselves the horrific injuries he had suffered. Mr D's mother said her son was so badly beaten up she could not recognise him.

[18] I have read the victim impact statements. Mr D says that you have had a catastrophic effect on his life. Were it not for his bravery in jumping from his own car, he doubts he would still be alive. He says that you have not only hurt him, but also his family and his friends. Some of them continue to suffer. Mr D feels bad every day for what your co-offenders and you put his parents through.

[19] In his victim impact statement, Mr D highlights the need for your co-offenders and you to be incarcerated, as no one in their right mind could take away someone's

freedom in the way you did. He stresses that, regardless of your backgrounds, none of the acts perpetrated against him are ever okay.

[20] Mr D's mother records how you turned their lives upside down, detailing the horrific nature of the acts your co-offenders and you performed on her son – five of you against one of him. She blames you, Mr Tregidga, for letting the torture continue to deliver everlasting injuries. She writes of putting her life on hold throughout the court proceedings and says that, while your last-minute plea of guilty discounts from your sentence, it does nothing for the pain and suffering her son and their family have suffered.

[21] Mr D's father records the horror of the night where he found out you had helped to torture his son. He details the shock and the image of his son lying on his back in hospital bandaged and suffering from the wounds your group had inflicted on him. It has haunted him and will continue to haunt him every day. He says it is unlikely that the family will fully recover from the experience.

[22] I extend the Court's deep sympathy to Mr D and his parents for their suffering. Mr D will continue to suffer everlasting physical and, I do not doubt, mental and emotional injury as a result. That all underlines the seriousness of the offending overall.

[23] All of that said, I need to remind myself that neither of you was involved in the worst of the violence which caused the most serious of Mr D's injuries.

Approach to sentencing

[24] Sentencing is a two-step process. The first step is to set a starting point that reflects the seriousness of your offending by reference to similar cases and to any aggravating or mitigating features of the offending. From there, it is necessary to adjust that starting point, upwards or downwards, to take account of your personal circumstances, including your guilty pleas.⁵

⁵ *Moses v R* [2020] NZCA 296 at [46]–[48].

[25] I am required to have regard to the statutory purposes and principles of sentencing.⁶ I must hold you accountable for your offending and encourage you to be responsible for and acknowledge the harm you have caused. The sentence should be sufficient to denounce your conduct and protect the community by imposing where appropriate a sentence that will deter you, and others, from offending in this way in the future. I have to consider the gravity and seriousness of your offending and take into account its impact on your victims. I am required also to have regard to the need for consistency as between you and others who have offended in similar ways in the past, including your co-offenders. Finally, the sentence is to be the least restrictive that is appropriate in the circumstances, consistent with appropriate sentencing levels.

[26] I turn to consider the appropriate starting points.

Starting points

Crown submissions – Mr Tregidga

[27] On behalf of the Crown, counsel submit that the appropriate global starting point for you, Mr Tregidga, is 10 years' imprisonment. This assessment is based on:

- (a) numerous aggravating features identified in the Court of Appeal's guideline judgment;⁷
- (b) benchmarking your offending against that of your co-offenders, with your role being less culpable or blameworthy than that of Mr Sefulu (for whom the sentencing Judge adopted a starting point of 15 years);⁸ Mr Hourigan (16 years);⁹ and Mr Kea (15 years);¹⁰ but more culpable than Mr Keni for whom I have indicated a starting point of five years' imprisonment; and
- (c) other kidnapping cases involving serious violence.¹¹

⁶ Sentencing Act 2002, ss 7 and 8.

⁷ *R v Taueki* [2005] 3 NZLR 372 (CA) at [40].

⁸ *R v Sefulu* [2020] NZDC 8233.

⁹ *R v Hourigan* [2020] NZHC 2753.

¹⁰ At [20].

¹¹ *R v Mulvey* [2016] NZHC 2568; *Couper v R* [2017] NZCA 588.

[28] Mr Steele notes your central role in the offending, but the Crown accepts that you were not present for the majority of the violence. It is submitted that your initial involvement enabled Mr D's restraint, "set the tone for what [was] to come" and demonstrated that you shared your co-offenders' senseless and cruel intent.

Defence submissions – Mr Tregidga

[29] On your behalf, Mr Tregidga, Mr Gardiner submits that a starting point of 10 years' imprisonment is excessive. He argues that your culpability was limited as you were not involved in planning the kidnapping and participated in the offending only after the other offenders arrived at your address. He notes, of course, that you were not involved in the extreme violence at Whenuapai and you were not involved in detaining Mr D over the whole 12-hour period.

[30] Mr Gardiner properly accepts, however, that there were multiple attackers; that Mr D was tied up and was vulnerable. He further accepts that Mr D suffered extensive injuries, caused in part by your attacks to his head, and that you threatened him with the firearm. But he submits that the violence in which you were involved is nevertheless less serious than that in the cases relied upon by the Crown and submits that the present case is more akin to another in which starting points of less than 10 years' imprisonment were taken.¹²

Discussion of starting point for Mr Tregidga

[31] Even though you played an integral part in offending that, overall, is properly characterised as almost incomprehensively barbarous and cruel,¹³ I am mindful of the need to identify the aggravating factors that were present in your role, Mr Tregidga. I note in that regard that:

- (a) you provided the address to which Mr D was lured and from which he would be kidnapped and you did not turn your co-offenders away;

¹² *R v Hill* HC Rotorua CRI-2005-063-3096, 27 October 2006.

¹³ Katz J at sentencing of co-offenders, Mr Hourigan and Mr Kea: *R v Hourigan* [2020] NZHC 2753 at [19].

- (b) you were the first of the offenders to attempt an attack on Mr D;
- (c) you worked with your co-offenders to overpower him, undress and restrain him;
- (d) you assaulted Mr D at your home; and
- (e) you joined the others towards the end of the episode, at the Whenuapai address, where you burned Mr D with a cigarette – you had no reason to go out there.

[32] The following five aggravating factors were part of your offending in my view:

- (a) the use of weapons (that is, a lit cigarette and the use of the feet);¹⁴
- (b) attacking the head;
- (c) facilitating crime;
- (d) the fact of multiple attackers; and
- (e) the vulnerability of the victim.

[33] As more than three factors are present, that places your offending in band three of the *Taueki* range where the appropriate starting points are between nine and 14 years' imprisonment.¹⁵

[34] Although your offending was less serious than that of Mr Hourigan, Mr Kea and Mr Sefulu, you were a willing participant, choosing to engage in and support your co-offenders' infliction of immense fear, pain and permanent harm to Mr D. You claim to have been intimidated into offending by the others who were older, but, I repeat, you did not need to go to Whenuapai.

¹⁴ Cigarettes used to burn Mr D's eyelids, but also feet as weapons – compare *R v Fatu* [2020] NZHC 1893 at [29]: “feet as weapons”, citing *Waipuka v R* [2013] NZCA 661 at [33].

¹⁵ *R v Taueki*, above n 7, at [34].

[35] I agree with the Crown that a starting point of 10 years' imprisonment is proportionate in your case.

Starting point for Mr Keni

[36] Mr Keni, I repeat now what I said to you about the appropriate starting point when I gave the sentence indication.

[37] For sentencing purposes, I took the kidnapping and the injuring as part of a continuing event and I regarded your part in the kidnapping as having been to provide encouragement, if not assistance, to the others by your presence and particularly by your involvement in an element of the violence. Taken by itself, the infliction of cigarette burns to eyelids is a particularly nasty type of assault and injury. And, like Mr Tregidga, you did not need to go out to Whenuapai.

[38] Looking at the guideline judgment,¹⁶ I identified the aggravating features of violence and cruelty in your part in the offending; the use of a weapon – the cigarette – and, in particular, the extreme vulnerability of Mr D who had been subjected to violence that rendered him absolutely defenceless and helpless, as would have been obvious to you. I had regard to other kidnapping cases referred to me by counsel,¹⁷ and I considered the starting points adopted by this Court in sentencing your co-offenders. I also listened to Mr Duff's submissions, who was then counsel for you, about the starting point. I was satisfied that the Crown pitched the appropriate starting point at a reasonable and responsible level and had not over-reached in suggesting five years' imprisonment. As indicated, therefore, that is the starting point I now adopt for you.

Personal factors

[39] Now I turn to consider the personal factors that require an adjustment to the starting points before I reach conclusions about the appropriate end sentences to be imposed.

¹⁶ *R v Taueki*, above n 7.

¹⁷ *Harema-Watts v R* [2017] NZCA 306; *R v Mulvey* [2016] NZHC 2568; *R v Salt* [2017] NZHC 146; *R v Hill* HC Rotorua CRI-2005-063-3096, 27 October 2006; *R v Wickens* [2019] NZHC 1894.

Mr Tregidga

[40] Mr Tregidga, I turn to your personal circumstances. I have had the benefit of receiving a pre-sentence report from the Department of Corrections and two further detailed reports prepared independently. There is a cultural background report prepared under s 27 of the Sentencing Act 2002 which addresses:

- (a) your personal, family, whanau, community and cultural background;
- (b) the way in which your background may have related to the commission of your offending;
- (c) processes that have been tried to resolve issues relating to the offence involving you and the victims of your offending;
- (d) how support from your family, whanau or community may be available to help prevent further offending and how your background and support may be relevant regarding possible sentences.

[41] I have also received a comprehensive psychological report.

[42] The reports together provide a detailed account of your childhood and upbringing and your transition into adulthood which, in many respects, began before you were in your teens as a result of early contact with a gang and criminal lifestyle and the consumption of drugs and alcohol when you were still only a child, leading you inevitably to facing a lengthy sentence of imprisonment as you do today. I have considered the reports in full and I have found them instructive and helpful. I do not propose to describe the detail here because it is sufficient to provide a brief summary to explain the approach I will take to your sentencing.

[43] The insightful observations of the report writers will assist the Department of Corrections and the Parole Board in future in their assessment of the rehabilitation measures to be made available in your case and your readiness for release back into the community in due course. I take the same approach to the reports I have received for you, Mr Keni.

[44] Mr Tregidga, you are a 27 year old man of Cook Island and Māori descent, although you do not appear to have any connection with your Cook Island culture and language and you have been disconnected from your whakapapa and Māori culture and tikanga. A sufficient picture of the deprived, abusive and dysfunctional upbringing, which undoubtedly led to your offending, can be seen in the following summary:

- (a) Although you describe your upbringing by your mother as “good” until you were eight years old, you then went to live with your father, a violent man who would drink, use drugs and be physically abusive towards you. He drew you into gang associations. You left your father’s residence at the age of 16 and lived on the street for a number of years until you met your former partner.
- (b) You became associated with the 27 Brotherhood Bloods gang at the age of 10, although you did not become fully integrated until you were 15 or 16. Although you later spent time away from the gang environment to focus on your family, you re-associated yourself with gang members on your return to Auckland, an event that led directly to your involvement in this offending.
- (c) While you felt a degree of kinship and family membership through your gang associations that was absent during your childhood, particularly when you lived with your father, it was that environment that made crime, drugs and alcohol an integral part of your lifestyle and that led to your leaving school in year 10 without any qualifications.
- (d) You have been exposed to violence throughout your life.
- (e) The psychological report reveals multiple symptoms of mood disturbance, fears of anxiety and depression. You are said to have presented with a background of complex trauma caused by your exposure to chronic physical and psychological abuse in childhood and

adolescence, the timing of which was significant in terms of the impacts on your capacity to self-define and self-regulate.

- (f) There appears to have been some sexual abuse in your past and you were also affected at a vulnerable time by the death of an aunt to whom you were close.
- (g) It appears you may have suffered, and may continue to suffer, from attention deficit hyperactivity disorder which was undiagnosed and went untreated.
- (h) The psychological traumas you have experienced appear to have reduced your capacity for empathy.

[45] There is therefore a clear connection between your background and the offending, including community or peer group influences of drug-taking, violence and gang membership.

[46] I have read the supporting material provided by counsel and I find it encouraging. While on remand in custody, you have completed numerous courses on parenting, budgeting, tikanga, spirituality, violence prevention and alcohol and drug use. You are seeking to build your relationship with the mother of your children and you have expressed remorse which appears to those who have been dealing with you as genuine. You offered to engage in a restorative justice process with the victims of your offending that others and I accept was genuine.

[47] Although your history of previous offending includes convictions for dishonesty, drug and alcohol abuse, driving and violence, it is not sufficiently extensive or relevant to justify any uplift in your sentence to provide additional deterrence.

Mr Keni

[48] Mr Keni, you are aged 24 and of Cook Island-Māori descent. Your background, not unsurprisingly, is similar to Mr Tregidga's and your path to this offending has identifiable similarities with his.

[49] The pre-sentence report and the s 27 cultural report, covering the matters I described earlier, have conveniently been summarised in the submissions I received from counsel. The following factors were identified:

- (a) disconnection from your Cook Island heritage;
- (b) being placed into the care of your godmother at aged four after being told you would be there for a weekend and then not being returned to the care of your mother until you were around six or seven;
- (c) the poor role model and influence of your father who was a patched member of the Mongrel Mob and was in and out of prison during your formative years;
- (d) the physical discipline you received from your father when he was out of prison, the violence beginning when you were five years old and not ending until you left his company when you were 16;
- (e) joining the Bloods street gang of which your brother and cousin were members;
- (f) the introduction to illicit substances from an early age, beginning smoking cannabis at the age of 11, consuming alcohol at 12 years, and with methamphetamine use beginning when you were 18;
- (g) you became a heavy user of methamphetamine and were addicted at the time of the offending.

[50] The violent abuse you suffered during your childhood led inevitably to your involvement in violence as an adult and there is no doubt that your early engagement with abusive substances and the gang culture led you directly into this offending.

[51] Surprisingly, you have only minor previous convictions which are not relevant for sentencing purposes.

[52] You also have engaged in a number of rehabilitation courses while in custody. You have worked in the prison kitchen and I have read the certificates establishing your success and the other supporting material. You also offered to engage in restorative justice with Mr D and his parents and, like Mr Tregidga, you have written to your victim expressing your remorse. I accept those sentiments as genuine.

Discussion

[53] Mr Tregidga and Mr Keni, I have taken into account the views expressed by counsel for the Crown and your counsel respectively concerning those factors that may be regarded as mitigating your offending and leading to a reduction in sentence from the starting points I have adopted for each of you.

[54] Consistently with the approach I took in giving you a sentencing indication, Mr Keni, I propose to apply a discount of 15 per cent for each of you for your guilty pleas. In ordinary circumstances, I would have been disinclined, having regard to the lateness of your pleas so close to trial, to recognise them by a discount greater than 10 per cent. That is at least in part because the delay in your pleas caused added anguish for your victims. But I have had regard particularly in this case to the fact that your guilty pleas have not only spared the administration of justice the expense and inconvenience of a trial, but have absolved Mr D from needing to give evidence. For any victim giving evidence in any case, there is an element of having to re-live the events. But this night was an horrific experience for Mr D and I am prepared to take into account that absolving him of the need to give evidence has meant that he will not be re-traumatised by having to recount the events in detail.

[55] In regard to other mitigating factors, I do not distinguish between you except regarding the discounts for cultural background and the period that Mr Keni spent on EM bail.

[56] Having regard to the submissions of counsel and considering, particularly, the helpful reports I have received, and bearing in mind the prospects that each of you has already demonstrated for rehabilitation and reform, I allow the following further discounts:

- (a) on account of the matters addressed comprehensively in the cultural background reports, I allow you a discount of 15 per cent, Mr Tregidga – it is greater than your co-offenders because your involvement was less serious, but is less than Mr Keni's, which I pitch at 20 per cent on account of his lesser involvement in the offending and his youth;
- (b) for genuine remorse and your willingness to engage in restorative justice, I allow a discount of five per cent to each of you;
- (c) and again, to recognise your rehabilitative efforts and mainly to encourage you further, a discount of five per cent also.

[57] That means that the total discount from your starting points on account of the factors mentioned will be 40 per cent for you, Mr Tregidga, and 45 per cent for Mr Keni.

[58] In addition, Mr Keni, you spent just on a year on EM bail, which imposed severe restrictions on your freedom, but which, unlike time spent in custody on remand, are not automatically taken into account as time served from your sentence. You may have been entitled to a significant discount if you had complied fully with the terms of your EM bail, but you did not. In the circumstances, I regard Ms Kincade QC's suggestion of a three month discount as appropriate.

MPI

[59] Finally, I consider whether a minimum period of imprisonment (MPI) should be imposed.¹⁸ I have already indicated to you, Mr Keni, that given all of the circumstances including the less culpable nature of your offending and the shorter sentence that will be imposed for you, I do not consider an MPI is appropriate.

[60] In your case, Mr Tregidga, the starting point of 10 years that I have adopted less a 40 per cent discount for mitigating factors produces an end sentence of six years' imprisonment. In the absence of an MPI, you would be eligible for parole after having served one third of your sentence. Despite Mr Gardiner's submissions to the contrary, I am not persuaded that eligibility for release after only two years would adequately reflect the need for denunciation and deterrence which your involvement in serious violent offending calls for.¹⁹ Consistently with the approach of the sentencing Judge in relation to the other three co-offenders, I consider an MPI to be required in your case.

[61] Mr Keni and Mr Tregidga, would you please stand.

[62] You are still young men. You have had appalling lives so far but I believe there is hope for your future. You have both shown a willingness to take responsibility for your disgraceful behaviour and you have taken steps to rehabilitate yourselves. You are fortunate to have loving and supportive families who continue to stand by you. You must take advantage of the opportunities for major change in your lives that will be provided to you now. You must end all associations with the gang environment, including while you are inside. Unless you do that, you will be back before the courts in the future and you can expect to be treated harshly.

[63] Mr Tregidga, on the charges of kidnapping, aggravated robbery, wounding with intent to cause grievous bodily harm and threatening to kill, I sentence you to concurrent terms of six years' imprisonment. On the charge of injuring with intent to injure I sentence you to a concurrent term of three years' imprisonment. On the charge

¹⁸ Sentencing Act 2002, s 86.

¹⁹ Section 86(2)(b) and (c).

of unlawful possession of a pistol I sentence you to a concurrent period 18 months' imprisonment. That is, a total of six years' imprisonment in all.

[64] On the charges, aggravated robbery and wounding with intent to cause grievous bodily harm, you will serve a minimum period of imprisonment of 50 per cent, that is three years' imprisonment.

[65] Mr Keni, a 45 per cent reduction in the five year starting point I have taken for you results in an end sentence of 33 months' imprisonment. A further deduction on account of the time you spent on EM bail reduces the sentence to 30 months' imprisonment.

[66] On each of the two charges to which you have pleaded guilty, therefore, I sentence you to concurrent periods of two years and six months' imprisonment without imposing a minimum term.

[67] You may both stand down.

[68] Again, I acknowledge Mr and Mrs D and also Mr D and I wish you well and as much good fortune as you might have in the future. I am grateful to counsel for their assistance with this case.

Toogood J