

**NOTE: SUPPRESSION OF FACTS AT [14] UNTIL FURTHER  
ORDER OF THE COURT.**

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

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

**CRI-2024-009-7035  
[2025] NZHC 1505**

**THE KING**

v

**ELLIOTT ALFRED JAMES CAMERON**

Hearing: 10 June 2025  
Appearances: B Hawes for Crown  
C M Ruane for Defendant  
Judgment: 10 June 2025

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**SENTENCING NOTES OF DUNNINGHAM J**

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[1] Mr Cameron you appear for sentence today for the murder of Frances Phelps.

[2] The lawyers are agreed that you must be sentenced to life imprisonment.<sup>1</sup> The only real debate at sentencing today is when you become eligible for parole, that is, what minimum period of imprisonment should be imposed and that will be the focus of what I talk about today.

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<sup>1</sup> Pursuant to s 102 Sentencing Act 2002.

## **The offending**

[3] I will now briefly outline the facts of your offending.

[4] Mrs Phelps who was 83 years old, lived alone in Mount Pleasant Road, Christchurch. You had been the gardener for her neighbour for over 10 years. Around 2021, you began doing some gardening for her and her husband. When her husband passed away in 2022, you continued to help her on a casual basis.

[5] At the time, you were living in Hillmorton Hospital as a voluntary patient. You were shortly to move to refurbished accommodation at the hospital and staff were assisting you to reduce the amount of belongings that you had accumulated before you moved into your new accommodation. It appeared that this caused you some anxiety which you had expressed to various staff members.

[6] On Friday 4 October 2024 you left the hospital at 8.50 am and caught the bus to Mount Pleasant. You arrived at the driveway of the victim's property shortly after 10 am. You met the victim at the garage door, and you took a small axe that you have previously used in the garden from inside the garage. You then struck the victim in the head with the axe multiple times causing catastrophic and fatal injuries to her. You then left her and caught the bus back to Hillmorton Hospital, arriving shortly after midday.

[7] Later that afternoon you disclosed to two separate nurses that, between 10 and 10.30 am, you had assaulted a woman in Mount Pleasant with an axe and they should call the police. The nurses reported this disclosure to police, but due to a number of factors, this was not taken further at the time. The victim's body was not found until 7 October 2024. However, it is believed she would have died very soon after, if not immediately, from the wounds you inflicted.

## **Victim Impact Statements**

[8] Before turning to sentence, I want to acknowledge the victims of your crime. Mrs Phelps was a much-loved mother, described as kind and generous and who was loved and treasured by all who met her. I have a victim impact statement from

Mrs Phelps' daughter. She has asked that it not be read in Court. Understandably, the publicity surrounding this murder has been very uncomfortable for a family that describes themselves as reserved and private. I will respect that desire for privacy by not commenting on the statement. However, it would come as no surprise that dealing with a beloved mother's death in such traumatic circumstances has been an emotional and difficult experience, and it has been exacerbated by the fact that her body was not found until sometime after her death. It has clearly been unimaginably painful for the family, not just to lose such a loved mother, but to lose her in the circumstances that I have just described.

### **The Sentencing Act**

[9] As your lawyer will have explained to you, the Sentencing Act provides the sentencing regime for murder. You must be sentenced to life imprisonment unless that would be manifestly unjust<sup>2</sup> and, if you are sentenced to life imprisonment, I must impose a minimum period of imprisonment of not less than 10 years.<sup>3</sup>

[10] In setting the minimum period I must consider what period is necessary to:

- (a) hold you accountable for the harm done to the victim and the community by your offending;
- (b) to denounce the conduct in which you were involved;
- (c) to deter you and other persons from committing the same or similar offence; and
- (d) to protect the community from you.<sup>4</sup>

[11] There is also a provision which said I must impose a minimum period of imprisonment of 17 years for murders with particularly serious aggravating features.<sup>5</sup> However, in this case the Crown accepts, and I agree, that while there are aggravating

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<sup>2</sup> Sentencing Act 2002, s 102.

<sup>3</sup> Section 103.

<sup>4</sup> Section 103(2).

<sup>5</sup> Section 104.

features of this case, they do not quite reach the threshold for engaging that section or the statutory minimum period of imprisonment of 17 years.

[12] Before I go on to discuss what minimum period of imprisonment to impose, I need to say something about your background and personal characteristics insofar as they are relevant to sentencing. In that regard, I have had the benefit of two thorough reports prepared under s 38 of the Criminal Procedure (Mentally Impaired) Persons Act 2003.<sup>6</sup> Those reports were prepared primarily to assess whether you had a defence of insanity and whether you were fit to stand trial. They were unanimous in saying that you were fit to stand trial on the charge of murder, and they did not consider you had a defence of insanity available. However, they also covered your background which I consider relevant to sentencing.

[13] At age 15 you had a brain tumour removed. This clearly caused a brain injury as from that point forward, you exhibited marked changes to your personality. Specifically, you displayed rigid thinking, a lack of empathy and engaged in aggressive outbursts. These led to your psychiatric admission due to aggressive outbursts in the family home. In 1970 you were committed as a patient under the Mental Health Act 1965 to Hillmorton Hospital in Christchurch, which at that time was known as Sunnyside Hospital.

**[Subject to suppression order]**

[14] [Redacted]

[15] Since then, you have resided at various psychiatric hospitals, initially in the North Island, but in 1992 you were transferred to what is now Hillmorton Hospital. For several decades there has been a clinical view that you did not require hospitalisation and could live in the community but attempts to transition you into the community have been opposed by you.

[16] Indeed, during your time as a voluntary patient, you have been recorded as making threats to harm or kill people and these have generally arisen in the context of

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<sup>6</sup> A report by Dr Amber Wakefield, a consultant forensic psychiatrist and, a report by Dr Simone McLeavey, a forensic psychiatrist.

discussions about your potential discharge from mental health services. However, I accept as your lawyer says, that you have not previously carried out these threats.

[17] The s 38 reports make it clear you do not suffer from a major mental illness. There is no evidence of enduring psychosis with functional decline, or mood disorder.<sup>7</sup> You do, however, meet the criteria for a Personality Change Due to Another Medical Condition, apathetic type, which has also been described as an Organic Personality Disorder in your earlier clinical notes. Put simply, you suffer from a persistent personality disturbance as a consequence of the brain tumour removal which occurred when you were 15 years old. This personality disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning, and you demonstrate a marked degree of apathy and indifference. The reports note there is no medical treatment for this condition, as medication is unlikely to change your rigid thinking and lack of empathy.

[18] On the other hand, you have a high level of intellectual functioning, with various IQ testing finding you have generally above average intelligence. Indeed, you have completed a Bachelor of Science degree in operations research, as well as a graduate diploma and post-graduate diploma in mathematics and statistics.

[19] There is some inconsistency as to what you recollect of the events on the day of 4 October last year. You have reported to some of the health professionals who interviewed you that you have no recollection of what happened, and you have said the same thing to your lawyer. However, the fact that you told staff on the day that you had harmed a female that morning and you understood that police would be involved and you may be imprisoned, suggests otherwise. You also provided a different account to police, being that you found the injured victim but did not call for services to help as you did not wish to be blamed for the injuries the victim had suffered.

[20] However, I also note that you actively tried to plead guilty to the charge of murder very promptly, including by writing to the Court directly on several occasions, and this suggests a willingness to acknowledge the facts of the offending. That said,

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<sup>7</sup> Section 35(1) report of Dr A Wakefield, p 28 at para 126.

as the pre-sentence report notes, you have not shown any notable level of remorse for your actions, and you explain that you were pleading guilty as you believed sentenced prisoners got better treatment. I do acknowledge though, that you have addressed me today to say sorry, but it does strike me as too little, too late.

[21] So, in all this, I find nothing that would make a sentence of life imprisonment manifestly unjust, nor does your lawyer seek to argue otherwise. You knowingly killed a vulnerable woman without any provocation from her and you have shown no real remorse at having done so. Any sympathy for the contribution your brain injury has had to your offending is offset by the clear danger you pose to the community, and which warrants a life sentence to achieve the purpose of community protection.

[22] In terms of the minimum period of imprisonment, the Crown proposes a starting point of 12 to 13 years' imprisonment, taking into account the aggravating features of the offending, but with a deduction of two years to reflect your guilty pleas and personal factors.

[23] Your lawyer has simply proposed a minimum period of 10 years' imprisonment to take account of your personal circumstances, including your age and health.

[24] While I take comfort from the fact the lawyers are not proposing materially different positions, I must be satisfied that the MPI they propose, is indeed appropriate.

[25] In terms of the aggravating factors, your victim was elderly, she lived alone, and she did nothing to provoke the attack. That said, I acknowledge that you, too, are elderly, but that does not mean she was not vulnerable given the trust she placed in you and the surprise nature of the attack. It is also an aggravating feature that the attack took place in the victim's own home, where she is entitled to feel safe, although I accept this was not a case of you being unlawfully present at the property.

[26] I accept that the use of a weapon is a somewhat aggravating feature, although it is common in homicides. I accept that the blows to the head and the catastrophic nature of the injuries reveal an intention to kill the victim.

[27] It is difficult to assess the degree to which premeditation was present. While the Crown said you had a history of threatening to kill people in order to ensure you remained at Hillmorton Hospital and you messaged the victim to arrange gardening at her property in the days prior to the offending, I do not consider there any real premeditation. As Mr Ruane points out, you made threats to harm or kill people before without carrying them out and here, you took the opportunity to use a weapon which was found at the scene which suggests this was a more spontaneous action rather than something you planned, in advance. Perhaps, as the Crown says today, it was a crime that was contemplated, rather than planned.

[28] In terms of the harm caused, I accept this was great, although that is almost always the case when a family loses a loved family member by a homicide.

[29] In setting the starting point the Crown has referred me to three cases.<sup>8</sup> I mention two of these which involved murders where the defendant had identified mental health issues. The first, *R v Wheeler*, involved the murder of a 70-year-old victim in his own home when Mr Wheeler became enraged that the victim had not paid him a debt of \$100.<sup>9</sup> He stabbed the victim three times and left him dying. A starting minimum period of imprisonment of 11 years was taken and one year was deducted to take into account the guilty plea, remorse and personal mitigating factors, including Mr Wheeler's mental health issues.

[30] In *R v Hussein*, Mr Hussein absconded from Hillmorton Hospital and walked to his family's address where he became angry and grabbed a knife.<sup>10</sup> He then attacked a stranger in the street, inflicting seven stab wounds to the victim's upper chest and shoulder area, before throwing the knife away and walking from the scene. But, for the offender's mental impairment, Mander J said that s 104 would require a 17 year starting point for the MPI. However, taking the condition into account, he adopted a minimum period of imprisonment of 13 years. He uplifted this for previous convictions and discounted it for personal factors, including a guilty plea, to come to an end of sentence of life imprisonment with a minimum period of 13 years.

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<sup>8</sup> *R v Craig* HC Christchurch CRI-2007-009-695 30 August 2007.

<sup>9</sup> *R v Wheeler* [2022] NZHC 2151, [2023] NZCA 563.

<sup>10</sup> *R v Hussein* [2022] NZHC 3034.

[31] While these cases are useful, they are not exactly on all fours with this case and, in the end, it is a matter of impression what minimum period of imprisonment should be adopted to satisfy the sentencing objectives of accountability, denunciation, deterrence and community protection. Here, I accept there are a number of moderately aggravating features of this case. However, your identified mental impairment also needs to be factored in. There is a clear causal nexus between it and your offending, but in light of your history, there is also a clear need for community protection. It is also important to take account of your age and state of health, because they are relevant to what minimum period is realistically required to protect the community from you which I consider is the primary purpose in sentencing you today.

[32] In my view, a starting minimum period of imprisonment of 12 years meets the purposes of s 103. From that, I accept the Crown's submission that a total of two years should be deducted for your guilty plea and your personal factors, including your mental impairment. That brings me to an end minimum period of imprisonment of 10 years. Standing back, I accept that the imposition of a life sentence on its own largely achieves the purposes of s 103 and there is no need to impose more than the 10 year minimum period of imprisonment.

[33] Mr Cameron would you please stand.

[34] For the murder of Frances Phelps, I sentence you to life imprisonment. I impose a minimum period of imprisonment of 10 years.

[35] Please stand down.

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