

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

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

**CRI-2024-004-5814
[2025] NZHC 2287**

THE KING

v

SIONE TUPOU

Hearing: 13 August 2025

Appearances: B D Tantrum and J L Gibson for Crown
A M M Ives for Defendant

Sentence: 13 August 2025

SENTENCING REMARKS OF LANG J

Solicitors/counsel:
Meredith Connell, Office of the Crown Solicitors, Auckland
A M M Ives, Barrister, Auckland

[1] Mr Tupou, you appear for sentence having pleaded guilty to charges of murder¹ and being in unlawful possession of a firearm.² The maximum penalty for the crime of murder is life imprisonment, whilst that for the charge of being in unlawful possession of a firearm is four years imprisonment.

[2] Convictions were not entered when you entered your guilty pleas. I enter them now.

Background

[3] You have pleaded guilty on the basis of an agreed summary of facts. This reveals that your offending has its genesis in an ongoing state of hostility, or feud, between your family and that of the victim. This stretches back as far as 2022. The summary records that, between 19 July 2022 and 25 July 2023, the police attended no fewer than five separate incidents involving violence between the two families. Several of these involved firearms being discharged at addresses occupied by members of your family.

[4] The report your counsel has tendered under s 27 of the Sentencing Act 2002 expands on the historic hostility between the two families. It is quite clear that you are before the Court today only because of this particular factor.

[5] On Saturday 13 July 2024, you and two associates travelled in a vehicle to a liquor store in Mount Wellington. You and one of the other occupants of the vehicle went into the liquor store and purchased a quantity of beer. You returned to the vehicle and placed the beer in the boot. You then got back into the left rear passenger seat of the vehicle. As you were placing the beer in the boot of the vehicle the victim, Mr Texas Doctor, parked his vehicle a short distance away. Another vehicle was parked between your vehicle and Mr Doctor's vehicle.

[6] As your vehicle began reversing out of the carpark, Mr Doctor left his vehicle and began to walk towards the liquor store. He recognised someone in your vehicle and acknowledged them by nodding his head. As soon as you saw Mr Doctor, you

¹ Crimes Act 1961, s 167(a).

² Arms Act 1983, s 45(1).

opened the door of your vehicle even though it was still moving. This prompted Mr Doctor to immediately turn around and return to the driver's seat of his vehicle.

[7] You then got out of your vehicle and walked towards Mr Doctor, carrying a firearm in your right hand. The type of firearm you were carrying cannot be ascertained because it has never been recovered. Whatever it was, you did not hold a licence authorising you to be in possession of it.

[8] The summary records that you walked up to within three metres of Mr Doctor's vehicle and discharged two shots in his direction whilst he sat in the driver's seat. You then got back into your vehicle, and your associate drove you away from the scene at speed. You handed yourself in to the police four days later, on 17 July 2024.

[9] When the police examined the boot of Mr Doctor's vehicle they found a firearm in the space where the spare tyre is kept.

[10] Not surprisingly, Mr Doctor's death has been devastating for his family. He was just 22 years of age at the date of his death. That is broadly similar to your age. I have had the benefit of several victim impact statements that graphically demonstrate the enormous harm that your offending has done, not only to Mr Doctor but also to his wider family. Some of these have been read to the Court today. As I told those present in the Court before the hearing began, nothing the Court can do today will go any way towards addressing the loss they have suffered as a result of your actions. The most that I can is that the sentencing process today will bring closure to his aspect of their grieving process.

Life imprisonment

[11] When an offender is convicted of murder, the Court is required to impose a sentence of life imprisonment unless that would be manifestly unjust.³ There is no suggestion in your case that it would be manifestly unjust for you to be sentenced to life imprisonment. That will therefore be the sentence I impose on you.

³ Crimes Act 1961, s 172(a) and Sentencing Act 2002, s 102(1).

Minimum term of imprisonment

[12] When a Court imposes a sentence of life imprisonment, it must also order that the offender serves a minimum term of imprisonment before being permitted to apply for parole.⁴ It is important to observe that this is not the sentence that you will be required to serve. Rather, it is the period of time you must spend in prison before you are able to apply for parole. It will be for the Parole Board to decide when, and on what conditions, you should be released from prison after you have served the minimum term.

[13] In certain circumstances the minimum term of imprisonment must be at least 17 years.⁵ The Crown does not suggest that the circumstances of your offending trigger this response.

[14] The minimum term to be imposed in your case must be at least 10 years and must reflect the period the Court considers necessary to satisfy several sentencing purposes.⁶ These are the need to hold the offender accountable for the harm done to the victim and the community by the offending, the need to denounce the conduct in question, the need to deter the offender and other persons from committing similar offences and the need to protect the community from the offender.

Starting point for minimum term of imprisonment

[15] The Crown accepts that it is not uncommon for the crime of murder to be committed using a weapon. Weapons such as firearms are commonly used with tragic consequences to commit that crime. As I have already noted, the firearm that you used to kill Mr Doctor has never been recovered, although the Crown suggests that it appears to have been a pistol. The Crown submits that your decision to use the firearm in the way that you did left no plausible outcome other than that which eventuated, and that is Mr Doctor's death.

⁴ Sentencing Act, s 103(1)(a).

⁵ Section 104.

⁶ Section 103(2).

[16] The Crown also points to the fact that you shot Mr Doctor twice at extremely close range. At the time you did so, he was effectively defenceless in his vehicle. Although a firearm was later found in the boot of Mr Doctor's vehicle, it was not available to him at the time you confronted him with a loaded firearm.

[17] The Crown has referred me to several cases involving the commission of the crime of murder using a firearm.⁷ Your counsel has also analysed these. In those cases, starting points of between 11 and 12 years have been selected for the minimum term of imprisonment. The factual situation in each of those cases differs in some way from those in your case. Nonetheless, taking the circumstances of your offending into account, the Crown submits that the starting point should be between 11 and 12 years imprisonment. Your counsel accepts the existence of the aggravating factors relied on by the Crown but submits that the cases suggest the starting point for the minimum term of imprisonment should be no greater than 11 years three months.

[18] You told the writer of the pre-sentence report that you did not intend to kill Mr Doctor but that you accept you were reckless in discharging the firearm in his direction when you were so close to him. By your plea, however, you have acknowledged that, at the very least, you consciously appreciated that you could kill Mr Doctor but nevertheless went on to discharge the firearm in his direction on not one but two occasions.

[19] I consider that the circumstances of your offending, and in particular the fact that you shot Mr Doctor twice from very close range, demonstrate an intention to kill him. There really can be no other explanation for your actions. Even if I was to accept that you were merely reckless, however, the level of recklessness is so great as to be broadly equivalent in terms of culpability to an intentional killing.

[20] Your actions must also be viewed in the context of the ongoing feud between the two families because I consider this to be an aggravating factor. I have no doubt that you armed yourself with a weapon in order to be ready to respond to any encounter you might have with a member of Mr Doctor's family. This was a chance encounter

⁷ *R v Lamositele-Brown* [2024] NZHC 118; *R v Talagi* [2025] NZHC 854 and *R v Simpson* [2024] NZHC 623.

because you had no means of knowing that Mr Doctor would arrive in the carpark whilst you were there. You nevertheless responded to his arrival by immediately resorting to your firearm without any provocation on his part. By returning to his vehicle immediately after he saw your group Mr Doctor made it clear that he did not want any confrontation to take place. Your actions in shooting him twice were therefore entirely unprovoked.

[21] The factual situations in the cases that counsel have cited to me have some similarities to your offending although, as always, each case is also different in material ways. They nevertheless provide some assistance in setting the starting point for the minimum term of imprisonment to be imposed in your case. However, the aggravating factors I have identified lead me to conclude that the seriousness of your offending is slightly greater than that in the cases to which I have been referred.

[22] I therefore propose to select a starting point for the minimum term of 12 and a half years imprisonment. This encompasses your culpability in relation to the charge of being in unlawful possession of a firearm.

Mitigating factors

[23] As the Crown acknowledges, you are entitled to credit for the fact that you entered guilty pleas to the charges. These did not come at the first opportunity. The case against you was also extremely strong because the entire incident was captured on CCTV. You therefore had very little prospect of defending the charges successfully. However, your pleas meant the State was not put to the expense of a trial and members of Mr Doctor's family were not put through the ordeal of reliving the circumstances in which their loved one died.

[24] The reduction to be applied to a minimum term of imprisonment on a charge of murder is very different to that applied to reflect guilty pleas in other sentencing contexts. By way of example, the discount available on a conventional sentence may be up to 25 per cent of the starting point selected for the sentence. In the present context, the level of discount from a minimum term to reflect a guilty plea is usually between one and two years. I accept your counsel's submission that a reduction of the minimum term of imprisonment by one year is appropriate to reflect your guilty plea.

[25] You were 23 years of age at the time of the offence. This is towards the upper end of the age range for which credit may be given for youth. You also have some previous convictions but these do not require the starting point to be increased. The Crown suggests that the level of discount to reflect your youth should be tempered to reflect that fact.

[26] I consider the starting point should be reduced by a further six months to reflect your relative youth. This also encompasses the remorse you have expressed to the writer of the pre-sentence report and the other mitigating factors identified in the s 27 report.

Sentence

[27] If you would please stand, Mr Tupou.

[28] On the charge of murder, you are sentenced to life imprisonment. I make an order that you are required to serve 11 years of your sentence before being eligible to apply for parole. On the charge of being in unlawful possession of a firearm, you are sentenced to three years imprisonment. Both sentences are to be served concurrently.

[29] I also make a firearms prohibition order under s 39A of the Arms Act 1983.

Lang J