IN THE HIGH COURT OF NEW ZEALAND
PALMERSTON NORTH REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE PAPAIOEA ROHE

CRI-2024-054-283
[2025] NZHC 2290

THE KING

v

MANUKURA MALCOLM McLEOD

Hearing:	13 August 2025
Counsel:	G J C Carter and K S Barber for Crown P H Surridge for Defendant
Sentencing:	13 August 2025

SENTENCING NOTES OF RADICH J

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[1] Manukura McLeod, you appear for sentencing today after a jury found you guilty of the murder of Dayne Rademakers.[1] The jury by its verdict was satisfied that you stabbed Mr Rademakers intentionally and that, when you did so, you were either intending to kill him or you knew that your actions would likely cause his death but you carried on regardless.

Approach to sentencing

[2] The main purpose of sentencing you today, under the Sentencing Act 2002, is to hold you accountable for the harm you have caused by your offending; to promote in you a sense of responsibility for, and acknowledgement of, that harm; to denounce

[1] Crimes Act 1961, ss 167 and 172; maximum penalty of life imprisonment.

your conduct and deter others from acting similarly; and to assist in your rehabilitation and reintegration into society.[2] I must consider the gravity of your offending and the degree of your culpability. Your sentence must be consistent with the sentences imposed in other reasonably similar cases,[3] and I should impose the least restrictive sentence appropriate in the circumstances.[4]

[3] When a person has committed murder, the person must under the Sentencing Act be sentenced to imprisonment for life unless, given the circumstances of the offence and the person, a sentence of imprisonment for life would be manifestly unjust. The strong presumption in favour of life imprisonment reflects the sanctity of human life.[5] It may only be displaced in compelling cases,[6] having regard to the principles and purposes of sentencing.[7] There is no doubt here that there are no circumstances that would make life imprisonment manifestly unjust. As a result, you will be sentenced to imprisonment for life.

[4] The question for this Court in determining your sentence is what your minimum period of imprisonment, or MPI, should be. The MPI is the time that an offender must serve in prison before they can be considered for parole by the Parole Board. What I want to make clear is that the MPI is not the time at which you will be released. And it is not a sentence. The sentence is life imprisonment and the Parole Board will not release you on parole unless it is satisfied that you do not pose a future risk to the community. And, even if you are eventually released on parole after you have served that MPI that I set today, you will remain under supervision by the Department of Corrections and you can later, if necessary, be recalled to prison to continue to serve your life sentence.

[5] The purpose of an MPI is to hold an offender accountable, to denounce their conduct, to deter others and to protect the community.[8] The Court must impose an

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2 Sentencing Act 2002, s 7.
3 Section 8(a) and (e).
4 Section 8(g).
5 New Zealand Bill of Rights Act 1990, s 8.
6 *R v Van Hemert* [2021] NZCA 261 at [36].
7 *R v Rapira* [2003] 3 NZLR 794; *R v Smail* [2007] 1 NZLR 411 (CA) at [14].
8 Sentencing Act, s 103(1) and (2).

MPI of at least 10 years in all charges of murder,[9] and the Court must impose an MPI of at least 17 years if one of the aggravating factors set out in s 104 of the Sentencing Act is engaged – unless it would be manifestly unjust to do so.[10] Counsel for the Crown and your counsel disagree on whether one of those aggravating factors applies.

Victim impact statements

[6] Before I go on to discuss the MPI in more detail, I want to acknowledge the victims. Mr Rademakers was a son, a brother, a father to a young daughter, and a friend to many. He was a young man with a life ahead of him. His potential in this world cannot now be realised. His whānau and his friends have had their lives changed forever. His daughter will grow up without her father.

[7] Mr Rademakers' twin sister, Whitney, has in her victim impact statement explained in poignant terms the loss that she and her whānau and friends are suffering. As she said, she once shared the same heartbeat with Mr Rademakers and her heart, her soul, her wairua will never be the same. And nor will that of her whānau.

[8] The Court has heard also from Mr Rademakers' father, from his uncle and aunt, and from his cousin. Each of them has expressed their sense of profound loss.

[9] And the Court has heard a statement, given on behalf of Mr Rademakers' young daughter. It has heard of how deeply the loss of her father has affected her. She expressed that loss herself through the letter she wrote for her dad, to go into the coffin and to remain with him forever.

Offending

[10] I need now to explain what happened in the early hours of 21 August 2023, when Dayne Rademakers was killed.

[11] Mr Rademakers had recently returned to Palmerston North from the South Island. He had begun a casual relationship with Ms Chapman. On 20 August 2023,

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9 Section 103(2).
10 Section 104.

Ms Chapman and Mr Rademakers were together at Anthony Mitchell's home at 29C Clyde Crescent. They stayed the night at that address, sleeping on a fold-out couch positioned directly in front of the rear glass sliding door. Mr Mitchell was asleep in his bedroom.

[12] You had been in a long-term on-and-off relationship with Selina Chapman. You were still in contact with her, but her attention appears to have been focused at the time on Mr Rademakers. You were texting Mr Mitchell earlier in the day on 20 August 2023 about Ms Chapman and Mr Rademakers. You were texting Ms Chapman also. You and Ms Chapman had agreed by text to meet up in The Square at about 11 pm that day.

[13] You went to The Square on foot. Ms Chapman did not show up. You decided to go to 29C Clyde Crescent, although whether that is because you knew she was still there or whether it was because you went to see Mr Mitchell, who you were also friends with, is unclear. You were captured by several CCTV cameras walking to 29C Clyde Crescent.

[14] You arrived at the property at about 4 am. Your explanation to Police of what happened next is implausible. You said that you were looking for somewhere to sleep that night. You said that you knocked on the front door of the property at 29C and received no answer – but that you heard two male voices arguing. You said that you then knocked on the doors of two neighbouring properties, at which people you knew lived, again to no response, and so went back to 29C because it was the only house in which people were awake. You said that you went towards the back door but, as you reached the gate, you heard a scream and ran away.

[15] You could not describe the scream when asked to do so in your interview with Police. Your story does not fit with Mr Mitchell's or Ms Chapman's evidence. You were not seen by the CCTV camera in front of a neighbour's house walking to other properties or knocking on doors.

[16] The more plausible explanation of what happened – the explanation which the jury by its verdict must have accepted – is that you went to the back of the property

and, whether through the rear glass ranchslider door or once you had stepped inside, saw Ms Chapman asleep with Mr Rademakers. You were overcome with jealousy and armed yourself with a knife. You entered through the unlocked door and stabbed Mr Rademakers at least three times through the blanket under which he was sleeping. Those injuries caused him to die soon after he arrived at the hospital by ambulance. Ms Chapman was awoken by his screams but was not able to identify the killer. She had been blinded by a bright light in her eyes. By the time she or Mr Mitchell were able to turn a light on in the house, you had left.

[17] You ran across town and gained access to a sleepout at a friend's property. When a security guard came to check on things at the sleepout, you did not reveal your presence. Your clothes from that evening were never found. Neither was the murder weapon. Logically, you must have disposed of them intentionally to evade detection.

[18] At trial, your defence was that somebody else could have killed Mr Rademakers. Considerable evidence was given on that defence. You said the killer could have been Steven Hiha, another person in an on-and-off relationship with Ms Chapman, or Kingston Tohu, who had been at 29C Clyde Crescent earlier in the day, or Ms Chapman herself – or someone else. The jury by its verdict did not find these arguments compelling.

Setting the minimum period of imprisonment

[19] I will now consider what the minimum period of imprisonment, or MPI, should be. The law requires that I impose an MPI of at least 17 years if one or more of the aggravating factors set out in s 104 of the Sentencing Act apply to the murder unless that would be manifestly unjust. There are three steps I will follow:[11]

(a) First, I will determine a "notional" MPI.

(b) Secondly, I will determine whether any of the aggravating factors available under s 104 are engaged.

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[11] See *Davis v R* [2019] NZCA 40, [2019] 3 NZLR 43 at [25].

(c) Thirdly, if I have determined that one or more of those factors is engaged, and if the notional MPI I have determined is less than 17 years, I will consider whether an MPI of 17 years would be manifestly unjust.

Notional MPI

[20] The Crown submits that the appropriate notional MPI on the charge of murder is 17 years' imprisonment. It refers to the cases of *Hamidzadeh v R*,[12] *R v Mason*,[13] and *R v Scott*.[14]

[21] Mr Surridge, your counsel, submits that a 17-year MPI period should not be applied. He relies, instead, on the case of *R v Morris-Bamber*, where the MPI reached for the principal offender was 15 years, before an uplift of one year was added to reflect his prior offending.[15]

[22] I see the relevant factors of your offending that go to your culpability for the murder of Mr Rademakers as being these:

(a) First, your unlawful entry into the dwelling place to commit the murder. Your entry into the home was unlawful whether you entered the property having seen the pair through the glass ranchslider door and having already formed the intention to harm Mr Rademakers, or whether you entered the property before you formed the intention to harm Mr Rademakers. Although you had been invited into the house on other occasions, that did not mean you had authority to enter at night when the occupants were asleep. Your entry was unlawful either way.

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12 *Hamidzadeh v R* [2012] NZCA 550, [2013] 1 NZLR 369.
13 *R v Mason* [2012] NZHC 1849.
14 *R v Scott* [2016] NZHC 290.
15 *R v Morris-Bamber* [2022] NZHC 3407. This case was superseded by *Bamber v R* [2024] NZCA 222, where the Court of Appeal upheld a conviction appeal, quashing the convictions of both of the parties involved and ordering a retrial. The Court did not, however, criticise the sentence received by Mr Morris-Bamber — although it was not a subject of appeal.

(b) The second aggravating factor was Mr Rademakers' vulnerability when you attacked him. Because he was asleep, he was entirely unable to defend himself, which you would have realised.

(c) The third factor was the level of violence and your use of a knife as a weapon.

(d) The final factor is the extent of the loss and harm you caused. Your actions caused Mr Rademakers to lose his life.

[23] I do not think the evidence establishes any premeditation on your part.

[24] Your personal circumstances are relevant. I have the benefit of a pre-sentence report that was prepared by Corrections in late May as well as a Hōkai Tapuwae – cultural intervention – report, prepared by WERA Aotearoa Charitable Trust. At the time of your offending, you were rough sleeping and you had relapsed into methamphetamine use. The reports describe your difficult upbringing. You did not have a stable home when you were young. You were exposed to alcohol use and domestic violence, including abuse while you were in State care. Sadly, and perhaps unsurprisingly, you began offending when you were very young. Despite all of that, I cannot find that your difficult upbringing and substance abuse issues could be said to have contributed causatively to this offending.[16]

[25] There are no other mitigating factors to the offending. You maintain your innocence and so have failed to acknowledge the harm you have caused or to express remorse in any way. Although you have no history of violent offending, you cannot be said to have had previous good character with your history of other offending. I cannot agree with suggestions made on your behalf that there was any degree of conduct that could have justified your actions[17] or which might be a mitigating factor under s 9(2) of the Sentencing Act – or a more general mitigating factor under s 9(4). It has been suggested on your behalf that you may have had a sudden loss of self-control. While loss of control can be a factor that is relevant to culpability, it must be

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16 See *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509 at [109].
17 See, generally, *Hamidzadeh v R*, above n 12.

a justified loss of control.[18] That is not the case here. Moreover, there is no evidence about your state of mind at the time that could support that submission.[19]

[26] I have had regard to each of the cases that counsel have referred to me, as well as to some others,[20] and see the appropriate notional MPI for your offending as being 15 years' imprisonment. Compared to the cases cited to me by the Crown that resulted in an MPI of 17 years or higher, your offending tended to be less brutal and less premeditated. At the same time, there were similarities and in some ways your offending was worse: you attacked a vulnerable sleeping man. Further, you have not accepted responsibility for what happened, unlike in each of those cases.

[27] Your offending was similar to the case to which Mr Surridge has referred: *R v Morris-Bamber*.[21] In that case, the defendant killed the victim by inflicting several blows to his head with a weapon while he was asleep in his bed. The defendant had entered the house without authority. After killing the victim, he left the scene and took steps to evade detection, including disposing of several items.

Is s 104 engaged?

[28] The next thing I will do is address whether s 104 of the Act is engaged. If one or more of the aggravating factors listed in that section are present, I must impose an MPI of at least 17 years unless to do so would cause manifest injustice. The purpose of the section is to ensure that defendants who commit murders in circumstances of the type described in the section cannot be released for a lengthy period of time. The Crown says that two aggravating factors are present: that the murder involved the unlawful entry into a dwelling place;[22] and that the victim was "particularly vulnerable" because he was asleep.[23] Mr Surridge has said in his submissions that neither factor is present, referring to the case that I have mentioned, of *R v Morris-*

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18 *Hamidzadeh v R*, above n 12, at [60].

19 An evidential foundation is usually required for such a claim: *Hamidzadeh v R*, above n 12, at [83].

20 *R v Weston* [2024] NZHC 2733 — where a notional MPI of 14 years was imposed on a defendant who stabbed the victim in his sleep after unlawfully entering his place of residence.

21 *R v Morris-Bamber*, above n 15.

22 Sentencing Act, s 104(1A)(c).

23 Section 104(1A)(h).

Bamber, where the Judge found that s 104 was not engaged on either of those grounds in similar circumstances.[24]

[29] I agree that s 104 is engaged because you entered the home at 29C Clyde Crescent unlawfully, as I explained earlier.[25] The position is different from the case of *R v Morris-Bamber*, where the defendant had implicit authority to enter from a second owner of the home.[26] While you would frequently go to Mr Mitchell's home, and perhaps let yourself in to see him during the day, there is no evidence that you had authority to let yourself into the house at night, while the occupants were asleep. I would also, with respect, be cautious of the Judge's conclusion in that case that the implicit authority given there meant that the aggravating factor was not engaged; in that case, the implicit authority was given by the victim's partner, who he had asked to leave and who was therefore not living in that house at the time.

[30] I agree also that Mr Rademakers was asleep and was, therefore, "particularly vulnerable" when you attacked him. Different conclusions on whether being asleep makes a person particularly vulnerable for the purposes of s 104 have been reached in different cases.[27] My view is that, when a person is fatally attacked while they are asleep in their bed, they are completely unable to defend themselves in any way. It is different from a situation in which a person is subject to a surprise attack or a situation where a person is attacked with a gun, and so has limited ability to defend themselves.

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24 *R v Morris-Bamber*, above n 15, at [41] and [48].

25 See *R v Pukepuke* [2023] NZHC 3700 where Lang J concluded that while there was no evidence the door to the victim's home was forced, there was no evidence to suggest the defendant arranged to meet the victim. He found the defendant unlawfully entered the victim's address given that he did so at night with the intention of shooting an occupant of the address. Also see *R v Weston*, above n 20, at [24], where Isac J accepted that the defendant entered a dwelling place unlawfully through an unlocked sliding door, even though she had been welcomed into the home earlier that evening. The Judge did, however, go on to find that the sanctity of the home had already been compromised because the defendant had been invited to the property earlier. This was one of several factors that contributed to his conclusion that a 17-year MPI would be manifestly unjust: at [30].

26 *R v Morris-Bamber*, above n 15.

27 In *R v Weston*, above n 20, Isac J did not accept that being asleep made the victim "particularly vulnerable" when a gun was used because "any person who is confronted by an offender holding a gun is extremely vulnerable, whether they are awake or not" (at [24]). The Crown has pointed to *R v Williamson-Atkinson* [2024] NZHC 611 as an example of a case where being asleep meant the victim was "particularly vulnerable" (see [21(d)]) — however, Cooke J did not see this as engaging one of the factors under s 104(1A); rather, he saw it as a generic aggravating factor under s 9. There are other cases, however, where being asleep has been accepted as something making the victim "particularly vulnerable" under s 104: *Hamidzadeh v R*, above n 12, at n 46; and *R v Tu* [2016] NZHC 1780 at [23].

In those cases, the victim still has some ability to defend themselves or to yell for help. While asleep, a person is as defenceless as someone who is very young, very old, or severely disabled, such that they should be seen as being particularly vulnerable.

[31] In this case, these two aggravating factors overlap to a significant degree.

Would an MPI of 17 years' imprisonment be manifestly unjust?

[32] Because the notional MPI I have reached is less than 17 years, I must now consider whether there is anything about your circumstances that would make an MPI of 17 years manifestly unjust. The threshold for manifest injustice is very high. The 17-year MPI is not to be departed from lightly because the Court is bound to give effect to the legislative policy behind the section. As such, the presence of mitigating factors which might normally justify some reduction to a sentence will rarely displace the presumption. Manifest injustice will tend to be the exception rather than the rule. For manifest injustice to be made out, the case must be one that "falls outside the scope of the legislative policy that murders with specified features are sufficiently serious to justify" a term of at least 17 years.[28]

[33] I cannot see any manifest injustice here. I acknowledge that your upbringing was very difficult and I have sympathy for that. However, that is not the kind of exceptional circumstance that would create manifest injustice. Similarly, while you may have had implicit authority to enter 29C Clyde Crescent generically, that on its own does not change the fact that you entered a home at night while the occupants were sleeping without authority, and likely for the unlawful purpose of killing one of them. The circumstances are not such that they fall outside the scope of the legislative policy behind s 104.

[34] Mr McLeod, the findings I have made are such that I am left with no discretion. Under the Sentencing Act, I must sentence you to life imprisonment with an MPI of 17 years. In preparing for today, I have read letters in support of you from several people who know you well. They describe you as someone who is compassionate, respectful, a great father, and devoted to his family. I hope that you can, with time,

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[28] See *R v Williams* [2005] 2 NZLR 506, (2004) 21 CRNZ 352 (CA) at [66] and [67].

come to acknowledge what you did and embrace change, so that you can live up to those words.

Sentence

[35] Please stand now, Mr McLeod.

[36] I sentence you as follows: for the murder of Dayne Rademakers, I impose a sentence of imprisonment for life with a minimum period of imprisonment of 17 years.

[37] Thank you, you may stand down now.

Radich J

Solicitors:
Crown Solicitor, Palmerston North, for Crown
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