

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

**I TE KŌTI MATUA O AOTEAROA
TE ROTORUA-NUI-A-KAHUMATAMOMOE ROHE**

**CRI-2022-087-000736
[2025] NZHC 3105**

THE KING

v

**TE PATU KINO MOKAI KERERU BIDDLE
CONWAY DANIEL RAPANA
HEREMAIA TAMA GAGE
NGAHERE TAPARA**

Counsel: R W Jenson and M H Tutton-Harris for Crown
M E Goodwin and L J L Hemi for Mr Biddle
N M Dutch and S R Franklin for Mr Rapana
R E Webby for Mr Gage
C A Gentleman and D J McWilliam for Mr Tapara

Sentences: 17 October 2025

SENTENCING REMARKS OF JOHNSTONE J

Solicitors:
Crown Solicitor, Tauranga

[1] Mr Rapana, Mr Biddle, Mr Gage and Mr Tapara, as you know, I will soon be sentencing you for the murder, or for the manslaughter, of Mark Hohua. It will take some time for me to let you and the other people here in Court know the reasons for the sentences I have decided to impose. Towards the end of this hearing, when I am about to impose each sentence, I will ask each of you to stand.

[2] I start by describing what you did.

Offending

[3] In June 2022:

- (a) Mr Hohua and each of you were members of the Aotearoa chapter of the Tribesmen gang, based in the Whakatāne District. Mr Rapana, you had been instrumental in forming the chapter, and you were its president. Mr Gage, you were the chapter's vice president. Mr Biddle, you were its sergeant at arms, and you were responsible for enforcing Mr Rapana's decisions. Mr Tapara, you were a patched member.
- (b) Mr Hohua was attempting to leave the chapter.
- (c) And the chapter was intending to gather, during the morning of Saturday, 18 June 2022, at your home, Mr Rapana, on Hodges Road, Waimana. The purpose was to discuss matters of general interest, before senior members were to travel from Hodges Road, to represent the chapter at a national meeting of the Tribesmen gang.

[4] On 16 June 2022, Mr Rapana, you learned that Mr Hohua had made unauthorised purchases using the chapter's bank account. Immediately, you made a series of phone calls, including to Mr Biddle and to Mr Gage. There is no reasonable explanation for those phone calls, other than that they involved discussions between

you on the topic of what you believed Mr Hohua had done, and how the chapter would respond. I take the view that, by 18 June 2022:

- (a) You had agreed with Mr Biddle and Mr Gage that Mr Hohua would join the gathering that day at Hodges Road, and that there he would be seriously assaulted. The assault was to take the form of what Tribesmen members refer to as a “hotbox”. I will come back to this wrongheaded practice shortly.
- (b) And, Mr Rapana and Mr Biddle, you had agreed that Mr Biddle would go and get Mr Hohua from his home in Whakatāne, and take him to Hodges Road, for that purpose. You expected Mr Hohua would need to be compelled to go to Hodges Road. And Mr Biddle, you needed transport to Mr Hohua’s home, so that from there you could have Mr Hohua drive you to Hodges Road. You would be able to supervise his travel, and then leave Mr Hohua to make his own way home, if he could. I will also come back to those travel arrangements.

[5] Evidence during your trial confirmed that Tribesmen members, as I have said, give other individual members what they call a “hotbox”. The essence of a “hotbox” is that a group of members assault another member, under the instructions of senior leaders. Usually, the members who are to take part in the attack are advised in advance. Their victim may not be aware of what has been planned until a senior leader signals that it should start. The attack is undertaken with significant force. Usually, punches are thrown, including to the head. And victims can be kicked. The beating is supposed to continue until the senior leader calls it off.

[6] I have called the practice of “hotboxing” wrongheaded, and it is. It is unnecessary and dangerous. It is dangerous, obviously enough, for both its intended victims, and also for the other participants and bystanders. The practice is also dangerous because it pretends that in some situations it is alright to solve problems with physical violence. Young people who grow up seeing or hearing about hotboxes might be more likely to think that fighting, as a way to deal with problematic behaviour, is okay. Maybe, in time, you will learn that “hotboxing” is what people

who have no respect for each other, or for themselves, or for their own future generations, do.

[7] Early on 18 June 2022, or shortly before, Mr Hohua was warned that he was going to be “hotboxed”. So, Mr Biddle, when you arrived at Mr Hohua’s home in Whakatāne, and confirmed to Mr Hohua that he was required to travel to Hodges Road, Mr Hohua was reluctant. But he was persuaded to go. And you had Mr Hohua drive you there in his car. Mr Hohua’s son, Matiu Hohua junior, went along on that drive with you. Mr Hohua had already been drinking. He drank more heavily as he drove. At least some part of his heavy drinking was due to his fear of the beating he expected to receive.

[8] When Mr Hohua’s car arrived at the Hodges Road property, Mr Biddle, you went and joined other chapter members in or near an open garage to the right side and slightly to the rear of the home. You were there already, Mr Rapana and Mr Gage. Matiu Hohua junior did not join those at or near the open garage. Instead, he went to an area nearer the front of the home. Mr Hohua stayed by his car, finished a drink, and (when you, Mr Rapana, shouted at him to get over there) he went to the garage.

[9] You, Mr Rapana, confronted Mr Hohua about the money missing from the bank account. A short time later, I find that you must have said or gestured for Mr Hohua’s beating to start. One or more other members of the group in or near the garage, including you, Mr Biddle, started to beat Mr Hohua, landing several heavy blows.

[10] At around this time, you, Mr Tapara arrived in a car driven by another associate of the chapter, Frayley-Toa Pita. Earlier in the morning, Mr Pita had collected you and then Mr Biddle, and together you and Mr Pita had dropped Mr Biddle at Mr Hohua’s home in Whakatāne. I infer that, at the latest by the time you dropped Mr Biddle off at Mr Hohua’s home, Mr Tapara, you knew that the reason for that trip was to allow Mr Biddle to make sure Mr Hohua attended at Hodges Road to receive a “hiding”:

- (a) You had texted Mr Pita the previous afternoon, letting him know that you both had orders to collect Mr Biddle and be at Waimana by 10 am. And when Mr Pita texted to ask if there would be time while on the way to get food from Whakatāne, you responded, advising there would not be time to get food on the way, but that the pair of you would not be hanging around Waimana for long. Mr Pita acknowledged your advice about how long you were planning to be at Waimana, adding that Mr Biddle had instructed him (a mere “agent” or “associate” in the gang), along with two other agents, “to hotbox [another person] too”. I take Mr Pita’s text about hotboxing that other person as a clear indication that he believed it would be in addition to the other hotboxing which he and you, Mr Tapara, had already discussed: the hotboxing of Mr Hohua. And I therefore take this series of text messages as an indication that you knew why you needed to collect Mr Biddle; that is, to provide him with the transport to Mr Hohua’s home which I have spoken about Mr Biddle needing.
- (b) Even if this text messaging of the previous afternoon does not fully establish on its own, Mr Tapara, that you knew about the plan to assault Mr Hohua, it certainly confirms that you were on a deadline to get to Waimana by 10 am, for a gathering which you had previously advised members via Facebook was a compulsory meeting. You used the words “all up means all up ... no excuses”. I cannot accept that, having picked Mr Biddle up in Waiohau, you might have allowed him to direct Mr Pita to drive into Whakatāne, and then might have dropped Mr Biddle off in Whakatāne, without knowing full well that Mr Biddle’s purpose was to ensure Mr Hohua would drive to the scene of his own beating.
- (c) Given these matters, I found Mr Pita’s evidence during the trial, about detouring into Whakatāne without you appearing to know why that was happening, entirely unconvincing.

[11] And so, Mr Tapara, when you arrived at Hodges Road, you went to offer your continuing support to those who were already assaulting Mr Hohua, either indirectly (by taking up a position in the group around Mr Hohua), or directly (by joining in the assault).

[12] Mr Rapana, once Mr Tapara arrived, you came from the vicinity of the garage, to where Matiu Hohua junior was standing near Mr Pita towards the front of the home. You instructed Mr Pita to drive Matiu Hohua junior home, so that Matiu Hohua junior would stop his witnessing of the ongoing beating.

[13] Once Mr Pita drove off with Matiu Hohua junior, Mr Hohua managed to escape from those who had been assaulting him in or near the open garage. Mr Hohua went to the front of the home, and may have been able briefly to go inside the home before being brought back out. On or near the deck of the home, Mr Biddle, you fiercely attacked Mr Hohua. Mr Rapana, you called for Mr Biddle to stop. And you instructed that Mr Hohua should be taken away from the home.

[14] Given the jury's finding that Mr Hohua did not then go down a set of stairs across from the home in an attempt to escape, Mr Tapara, I find that you put Mr Hohua in a headlock, and walked him over to a Toyota RAV4. Mr Hohua was put in the boot of that vehicle, and Mr Biddle and Mr Tapara, you got inside with a Tribesman agent, Dean Collier, who had been present throughout the attack on Mr Hohua. You drove down the driveway to a nearby riverbank. Mr Rapana, you followed on a farm bike.

[15] After a short time at the riverbank, those who had gone there returned to the Hodges Road property. Mr Rapana, Mr Gage and Mr Tapara, each of you may have been surprised by the severity of the assault that Mr Hohua had suffered, but by the time Mr Hohua was back at the Hodges Road homestead, he was badly, and obviously, hurt.

[16] Mr Rapana, you instructed Mr Tapara and Mr Collier to take Mr Hohua to Whakatāne Hospital, and to lie to the medical staff at the hospital about how Mr Hohua received his injuries.

[17] Mr Hohua was put in the back seat of Mr Collier's car. Mr Tapara, you and Mr Collier took Mr Hohua to Whakatāne Hospital, arriving at around 11 am.

[18] By that time, Mr Hohua was deeply unconscious. A CT scan showed severe bleeding inside his skull. He was airlifted to Waikato Hospital, where emergency surgery was performed, in an attempt to ease pressure on Mr Hohua's brain, caused by the bleeding. Further CT scans, undertaken after that surgery, showed Mr Hohua's brain injury had worsened, and was not survivable.

[19] Mr Hohua died the next day, 19 June 2022. He died of a head injury caused by a heavy punch or a kick, or by a fall onto a hard surface which itself was caused directly by being punched or kicked. Mr Hohua had suffered at least eight blows which left visible trauma to his body. Four such blows were to Mr Hohua's head. It is unclear when the blow which caused the bleeding inside Mr Hohua's skull was inflicted. It may have been inflicted in or near the garage, after you arrived, Mr Tapara. It may have been inflicted at the front of the home. Or, conceivably, it may have been inflicted at the riverbank.

[20] Turning to the issue of how you each, individually, participated in offences relating to Mr Hohua's death:

- (a) Mr Rapana, it is possible you may not yourself have inflicted any blows upon Mr Hohua. I will sentence you on the basis you did not yourself inflict any blows. But it was largely your decision, that Mr Hohua would receive a beating, with a number of gang members either taking part directly or supervising the beating and making sure Mr Hohua could not successfully escape. The beating started because you said so. You may have been surprised at the severity of the beating, especially that which occurred in front of the home after Mr Hohua tried to hide in there. But when you started the beating, and while it continued, to the point where Mr Hohua suffered his fatal injury, you were continuing to take a part in the group's unlawful purpose, and you knew of the prospect of Mr Hohua being killed. On this basis, the jury found you guilty of murdering Mr Hohua.

- (b) Mr Biddle, although it cannot be known exactly who struck the blow that caused Mr Hohua's fatal head injury, you took part in the beating in or near the shed, and the further assault at the front of the home, and you assisted the group down at the riverbank. You may have struck the fatal blow yourself, but, if not, you shared with that person an intention to cause Mr Hohua serious harm, and to carry on with the beating despite knowing it might well cause Mr Hohua's death. The jury therefore also found you guilty of murdering Mr Hohua.
- (c) Mr Gage, I will sentence you on the basis you did not yourself inflict any blows upon Mr Hohua. There was a suggestion of it in the evidence, but I am not sure. As I have said, however, you agreed with Mr Rapana's plan that Mr Hohua would be seriously assaulted. And you were there at the property, offering your support and approval, while the plan was put into effect, and Mr Hohua's death was caused. However, the jury were not sure you knew of the prospect of Mr Hohua being killed, and on that basis they found you guilty of his manslaughter, rather than his murder.
- (d) Mr Tapara, I am satisfied, on the basis of Mr Pita's account to the police, given just a week after Mr Hohua's death, that you "landed a few hits" on Mr Hohua, either while you were in or near the garage, or at the front of the home. But, in my view, you did so without using the severe force that Mr Biddle did. In your case also, the jury were not sure you knew of the prospect of Mr Hohua being killed, and found you guilty of his manslaughter.

[21] Now that I have described your offending, I will turn to the issue of the appropriate sentences for Mr Rapana and Mr Biddle, for their offences of murder. And then I will turn to the manslaughter sentences for Mr Gage and Mr Tapara.

Effect on victim's family and friends

[22] But first I will try to describe the effect of these offences on Mr Hohua's whānau and friends.

[23] This morning, we have heard, read out to us, a heartfelt statement written and read by Mr Hohua's partner. And before this morning, I read similar statements written by Mr Hohua's brother and one of his sisters. Mr Hohua's sister also spoke to her statement and, in the spirit of her faith, offered her forgiveness. The statements confirm how deeply each writer feels Mr Hohua's loss, and they give a sense of how badly Mr Hohua will be missed: not only by the writers of those statements but by his sons and his moko, and also by his wider family and his real mates.

[24] The whānau's hurt carries on. They are struggling to make sense of what, in the end, was just senseless violence.

Sentencing for murder

[25] The usual sentence for murder is one of life imprisonment. The Sentencing Act 2002 contains a presumption that life imprisonment should be imposed.¹ Given the offending in this case, and the circumstances of each of you, Mr Rapana and Mr Biddle, your lawyers quite rightly accept that the presumption will apply, rather than be displaced.

[26] When it sentences an offender convicted of murder to imprisonment for life, the Court must address the question of what minimum period of imprisonment is needed to satisfy various sentencing purposes.² The minimum period of imprisonment is often referred to as an MPI. The sentencing purposes that are relevant in your case are those of holding you accountable for the harm done to Mr Hohua, his family and the community, denouncing your conduct, and deterring other persons from committing similar offences.

Aggravating or mitigating features of offending

[27] At this point, I will refer to what I regard as important features of your offending, Mr Rapana and Mr Biddle, relevant to that question of the MPI that is needed.

¹ Sentencing Act 2002, s 102(1).

² Section 103(2).

[28] First, I agree with the Crown that your offending involved premeditation and planning, in the sense that, although you did not plan for Mr Hohua to die, you planned for him to be beaten, in that way risking his death. And you made an arrangement to bring him from his home in Whakatāne to Hodges Road where the beating could be inflicted, essentially in private. This increases the seriousness of your offending.

[29] Second, I also agree with the Crown that the number of offenders who were present, landing blows, or issuing instructions, or providing general support to those who were landing blows, also increases the offending's seriousness. And, although Mr Hohua was not particularly vulnerable as a man day to day, he had been drinking that morning and you brought him away from the safety of his home, making him more vulnerable to being overwhelmed by the force of numbers I have just mentioned.

[30] On the other hand, the length of time over which Mr Hohua was beaten is not entirely clear. The only evidence on the possibility of the assault on Mr Hohua continuing down at the riverbank came as part of your lengthy interview, Mr Tapara, made to the police. You said that Mr Biddle tried to keep punching Mr Hohua down at the river, but that you stopped him. I do not accept that your account of what happened is at all reliable. None of the other evidence, admissible against any of the four offenders who are for sentence, is that Mr Hohua was beaten at the riverbank. Therefore, I will not assume that the assault continued for any more than a few minutes in or near the garage, and then, briefly, at the front of the home.

[31] Also, although the Crown suggests that your membership of the Tribesmen's Aotearoa chapter means that your offending is aggravated by participation in an "organised criminal group", it offered no evidence during the trial that the chapter or indeed the gang in general fitted the definition of that term as set out in the Sentencing Act.³ Instead, the evidence did focus on the fact of you establishing the chapter and acting as its president, Mr Rapana. It described your disciplinary role as the chapter's sergeant at arms, Mr Biddle. And it indicated that you or your members had adopted some kind of code, a set of rules, or similar, which somehow you

³ Section 9(1)(hb), incorporating s 98A of the Crimes Act 1961.

interpreted as providing a kind of authority, to beat members up whenever you decided that they needed it.

[32] Again, let me be clear about that. The fact of gang membership, regardless whether the gang is or is not an “organised criminal group”, must not be seen to allow people to step outside of what the law requires of them, or outside of the way in which the law is designed to protect them. Gang presidents and senior leaders have no entitlement to decide whether their members should be beaten up. That Mr Hohua’s killing occurred in a context where a group of grown adults were trying to assert physical authority over another adult, pretending that they had an entitlement to beat him up, rather than to take any legitimate complaint they might have to the police, was inherently dangerous and needs to be condemned. The lawless, self-help nature of the offending in this case, in my view, makes it significantly more serious.

[33] Against these features, there is little that might be described as decreasing the seriousness of the offending. Mr Rapana, you did call for Mr Biddle to stop the attack as it continued at the front of the home. But by then, since I am prepared to assume Mr Hohua was not assaulted down at the river, it follows that by the time you called for the attack to stop Mr Hohua had already suffered his fatal head injury. If it were possible Mr Hohua was assaulted down at the river, then, Mr Rapana, you would have been down there supervising the ongoing assault, and the implication would have to be that you only called for a pause so that the assault would continue some distance away from the people you were living with in the home.

[34] I acknowledge, Mr Rapana, that you did have Mr Hohua taken to Whakatāne Hospital. The evidence establishes that by then Mr Hohua had no realistic chance of survival. My perspective is that, had you instead dumped Mr Hohua’s body somewhere where it might have taken time to find, your offending would have been more serious. Taking the fatally injured Mr Hohua to the hospital, and having your members lie about how Mr Hohua had been injured, does not make your offending less serious.

Authorities — murder

[35] I need to think about the general advantage of imposing sentences that are consistent with sentences imposed in similar cases which have been before the courts.⁴

[36] The Crown and your counsel have helped by offering me a number of comparison cases. Of those, the closest is one where two patched members of a Tribesmen chapter with a pad in Ōtara attacked and killed a Tribesmen associate, who suffered multiple blunt force injuries to his head and neck.⁵ In that case, the Judge imposed sentences of life imprisonment with a 10-year MPI. Your case is more serious because, in the Ōtara case, there were only two offenders and they had not planned their attack, or taken steps to make sure their victim would be outnumbered and alone. They simply got back to the pad after a party, and started a fight.

[37] Another case, which compares to yours, involved a Nomads gang member called Matthew Webber, who killed another Nomads member, called Shayne Heappey.⁶ In that case, the Nomads president thought that Mr Heappey owed a debt to his step-daughter, but Mr Heappey refused to meet to discuss it. The president arranged with Mr Webber, who was the Nomads enforcer, to inflict a punishment. Mr Webber took a knife, and went with an associate to a house where they called Mr Heappey outside. There was a struggle and Mr Heappey died. Although Mr Heappey was stabbed multiple times, the Judge accepted that Mr Webber did not intend to kill Mr Heappey. Instead, the Judge said Mr Webber went ahead with the assault despite knowing Mr Heappey might well die. And the Judge said that the appropriate MPI for the offending itself (putting aside factors relating to Mr Webber as an individual) would have been one of 15 years.

[38] Your case is similar in the sense it also involves a gang-authorised response to an internal money-related issue, and both cases indicate planning. But that said, Mr Webber's case featured him carrying a lethal weapon to the scene. Mr Webber's case is more serious than yours.

⁴ Section 8(1)(e).

⁵ *R v Solomon* [2017] NZHC 3057.

⁶ *R v Webber* [2020] NZHC 2328.

Starting point for MPI

[39] Overall, although I will need to apply a reduction for any deserving individual circumstances, an appropriate starting point for calculating your sentences, based on the offending itself, Mr Rapana and Mr Biddle, is one of life imprisonment with a 13-year MPI.

[40] I see no reason to distinguish between these starting points for each of you. Mr Biddle, you took a full part in the actual beating of Mr Hohua to death. And Mr Rapana, although the severity of the assault may have surprised you, you devised it, you arranged it, and you authorised it. Your decision-making lead directly to Mr Hohua's death, which was an outcome you knew could well happen. Less senior members doing your bidding, albeit perhaps with more violence than you envisaged, offers you no excuse.

Features of offenders — Rapana and Biddle

[41] Having identified that starting point of life imprisonment with a 13-year MPI, I turn to your individual circumstances.

[42] Starting with you, Mr Biddle, the report provided on your behalf describes your severely deprived childhood. Your father, the president of the local Tribesmen chapter, was, and I am sorry to say this, a bad role model. After his death, which you witnessed, your mother started a new relationship and left you and two siblings to fend for yourselves. An older sister, and her partner, Mr Rapana, took you in, entrenching your lifestyle as one involving substance abuse and violence. This emotional neglect, and your consequent defensiveness, your impulsiveness (you might have ADHD) and your need for belonging, mean that in your case the demand for the sentence to denounce your conduct and hold you accountable is not quite as strong as it would be in other people.

[43] Mr Rapana, the report provided on your behalf indicates that you too experienced an abusive childhood. You become involved with the Tribesmen when your grandmother passed away in your late teens. From a young age, you met diagnostic criteria for substance abuse disorders, until aged around 26 you established

your relationship with your new partner. However, the report advises you have now been substance-free for nearly 20 years. But you have maintained your close connection with the Tribesmen throughout that period, achieving a position of responsibility within the gang. In your case, your circumstances as an individual do not mitigate the blameworthiness of your offending in any substantial way. The sentencing purposes of holding you accountable, denouncing your conduct and deterring others in similar leadership positions would not be served by reducing the starting point that reflects your offending.

Imposition of sentences — Rapana and Biddle

[44] Mr Rapana and Mr Biddle, would you please stand up.

[45] Mr Rapana, for your crime of murdering Mark Hohua, I sentence you to life imprisonment. You must serve a minimum period of imprisonment of 13 years.

[46] Mr Biddle, for your crime of murdering Mr Hohua, I sentence you to life imprisonment. You must serve a minimum period of imprisonment of 12 years.

[47] Please stand down both.

Sentencing for manslaughter

[48] Mr Gage and Mr Tapara, the law on sentencing for manslaughter, rather than murder, allows the sentencing Judge much more discretion. The maximum penalty is one of life imprisonment, but cases like yours, where the offenders took part in an assault which caused a person's death, without knowing that death could be the outcome, usually result in a prison sentence to be served only for a handful of years.

[49] The Court needs to assess a starting point based on the offending — what the offender did and what they knew and intended at the time — and then the Court needs to make adjustments to that starting point to reflect the individual's circumstances. The starting point based on the offending needs to be assessed by referring to other sentencings for similar manslaughter cases. And then the Court should cross-check

where it gets to against the guidelines for sentencing in cases where there has been a serious assault but the victim did not die.⁷

Aggravating or mitigating features of offending

[50] The important features of your offending, Mr Gage and Mr Tapara, include the premeditation and planning which I mentioned earlier. And the number of offenders who were present, landing blows, or issuing instructions, or providing general support to those who were landing blows. And the gang context that you were happy to go along with, where one or two senior leaders seem to be allowed to make decisions about who gets involved in serious violence, both dishing it out and taking it, if they can. All of these features increased the seriousness of your offending.

[51] Against that, I acknowledge that, in your case, Mr Gage, you must be sentenced on the basis that you did not physically aim, let alone land, any blows upon Mr Hohua. And in your case, Mr Tapara, your few “hits” are unlikely to have caused the fatal injury from which Mr Hohua died. And also, Mr Tapara, you took Mr Hohua to hospital, because Mr Rapana told you to.

Authorities — manslaughter

[52] Again, the Crown and this time your counsel, Mr Gage and Mr Tapara, have helped by offering me a number of comparison cases.

[53] Of those, the closest in my view, is the case of the Nomads associate, Justin Burke, who went along with Matthew Webber, the enforcer who I spoke about before, who stabbed Shane Heappey to death over that unpaid debt. In that case, the sentencing Judge proceeded on the basis that Mr Burke shared in the common purpose of giving Mr Heappey a hiding, but did not know about the knife that Mr Webber went on to use for that purpose. On the other hand, there was premeditation, two attackers, the gang context, victim vulnerability, multiple fatal injuries, and Mr Burke was present and involved throughout, stepping in to punch and choke Mr Heappey at the point he was about to “take off”. The Judge in that case adopted a starting point for

⁷ *R v Tai* [2010] NZCA 598 at [12], referring to the sentencing guidelines set out in *R v Taueki* [2005] 3 NZLR 372 (CA).

Mr Burke's manslaughter offending, of six and a half years' imprisonment.⁸ The Court of Appeal found that starting point to be within the range available to the sentencing Judge.⁹

[54] Mr Tapara, I consider your offending to be very similar to the offending by Mr Burke in that Nomads case. You yourself physically took part in a very similar, modest way. And although in your case there were more offenders present, the violence in your case was not quite as extreme. The six and a half-year starting point adopted in the Nomads case cross-checked fairly well against the guideline case for a serious assault where the victim did not die and was not thought to be at risk of dying: sitting towards the lower end of a band that applies to concerted street attacks, where there is premeditation and blows to the head, but no use of weapons, and the offender's role was not as a full principal offender.¹⁰ And it does so here also. I adopt a six and a half-year starting point in your case.

[55] Mr Gage, your offending was less serious, in that you did not yourself land a blow on Mr Hohua. But you intended by your presence to lend support to the assault, and no doubt your presence, as the chapter's vice-president, did lend support. Regardless of whether Mr Hohua's previous Tribesmen membership had signed him up to the practice of "hotboxing", you knew he had tried to resign his membership. It must have been clear to you that, in his world, Mr Hohua had no realistic option but to accept the beating that you and Mr Rapana, as senior members, had decided he would get. Your offending requires clear denunciation. The appropriate starting point is one of five and a half years' imprisonment.

Features of offenders — Gage and Tapara

[56] Turning to your individual circumstances, Mr Gage, you also lost your father at an early age. After that there was an element of neglect in your upbringing, and you witnessed both family and gang violence. You became a heavy drinker and cannabis user, from around the age of 10.

⁸ *R v Burke* [2021] NZHC 136.

⁹ *Burke v R* [2022] NZCA 279, (2022) 30 CRNZ 387 at [148].

¹⁰ *R v Burke*, above n 8, at [28]; and *R v Taueki*, above n 7, at [39](a).

[57] But that said, you were not fully disconnected from adult members of your family, and at times you found support. You were able to establish a family of your own, although you could not house everyone together. Having lived a few unsettled years, you proved your abilities by establishing a business of your own in around the year 2000. You have done well to improve on your education while in custody.

[58] I received, and read, a heartfelt letter from your wife, and from other family members and supporters. You will be able to walk towards your family, if you turn your back on the gang.

[59] I have also read of how you regret Mr Hohua's death, and feel something of his loss. But on the other hand, you continue to deny knowing that Mr Hohua was being brought to Hodges Road for a beating. Your remorse is limited by that denial.

[60] Overall, I consider it right to reduce your sentence by six months, partially to recognise your unsatisfactory upbringing, which put you on the path to gang loyalty and leadership, but also as a means of encouraging a positive response to being sentenced: there is still time to try to understand your responsibility for what happened, and to learn (with support from your real friends) how to make sure you are never again responsible for something like it.

[61] Mr Tapara, you were only 20 years old at the time of your offending. And, unlike the others being sentenced today, you had no previous convictions. Ten per cent and five per cent reductions, for those matters (respectively), should be applied.

[62] Like your co-offenders, you appear to have had a substance abuse problem, stemming from your family background of neglect and social deprivation. There was no causal connection between your substance abuse issue and your offending. But, as I am doing with Mr Gage, I intend to reduce your sentence by 10 per cent to recognise your deprived background more generally, and in particular, because you need to be offered a single opportunity of encouragement:

- (a) to try to overcome that background; and
- (b) to recognise that with hard work and better choices you can get yourself on to a better pathway, not committing more offences.

[63] Mr Tapara, I also accept your lawyers' argument that I should reduce your prison sentence because, unlike the others, you have not been serving that sentence throughout the time that you were waiting for trial. Instead, you spent 30 months on fairly restrictive conditions of electronically monitored (EM) bail. Although you had three breaches during that period, none of them were serious enough for your EM bail to be revoked for any length of time. I accept that I should apply a full-time reduction of six months, to recognise the degree of restriction that applied to you for 30 months.

Imposition of sentences – Gage and Tapara

[64] Mr Gage and Mr Tapara, would you please stand up.

[65] Mr Gage, for your crime of the manslaughter of Mark Hohua, I sentence you to five years' imprisonment.

[66] Mr Tapara, for your crime of Mr Hohua's manslaughter, I sentence you to four years and six months' imprisonment.

[67] Please stand down.

Johnstone J