

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

**I TE KŌTI MATUA O AOTEAROA  
TE WHANGANUI-A-TARA ROHE**

**CRI-2025-096-270  
[2025] NZHC 3764**

**THE KING**

v

**LOGAN JAMES KARENA MARU-MOHI**

Hearing: 24 November and 4 December 2025

Appearances: N L Jamieson and B Wilkins for Crown  
S I Robinson for Defendant

Judgment: 4 December 2025

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**SENTENCING REMARKS OF McQUEEN J**

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[1] I start by acknowledging everyone who is here today and particularly you, Mrs Tobin, and any other family members that you have with you.

[2] Mr Maru-Mohi, you have pleaded guilty to a charge of manslaughter, following a sentence indication that I gave on 12 September 2025. You have been in custody since December 2024, initially in a mental health ward and subsequently in prison.

[3] At the sentence indication hearing, based on your circumstances, I said that a final sentence of intensive supervision with special conditions could be an available sentence—should a plan be able to be put in place to ensure that was a viable option.

[4] Matters have evolved since that sentence indication. Further information has been provided to the Court. Your counsel, Mr Robinson, and the Crown agree that an order under s 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003, or the CPMIP Act, which is what I will call it from now on, is more appropriate than a sentence of intensive supervision, for reasons I will explain shortly.

[5] Before I do so, given the public nature of sentencing, I need to set out the offending that you have pleaded guilty to. This is taken from the agreed summary of facts.

### **The offending**

[6] You and Mr Tobin, the victim, resided at the Te Whare Ahuru Mental Health Ward in Lower Hutt.

[7] On 26 December 2024, you were on leave from the ward and returned that evening under the influence of cannabis. On 27 December 2024, you were acting aggressively, including smashing a ward phone and headphone set. The staff provided you with medication but that did not calm down your behaviour.

[8] At about 2.00 pm, you came out of your room and saw Mr Tobin standing in the common area which was adjacent to the doorway. Mr Tobin was playing with his jumper. You stared intently at Mr Tobin. A staff member asked you to step back from Mr Tobin, concerned about the escalating situation, but you did not do so. You stepped forward and pushed Mr Tobin in the chest using both arms. The push caused Mr Tobin to be thrown into the air instantly. Mr Tobin did not appear to see you coming and took no action to defend himself. He fell backwards heavily on the ground and hit the back of his head.

[9] While Mr Tobin was given immediate medical attention and underwent surgery, he did not survive the injury. He died on 19 January 2025 from complications of blunt force trauma to the head with skull fracture and brain injury.

## **Victim impact statements**

[10] I acknowledge the victim impact statements from Mr Tobin's wife, Mrs Tobin who is here today, and eldest daughter, as provided to the Court. They express their distress that Mr Tobin was not safe in hospital. They also highlight the impact on them and the wider family of the loss of Mr Tobin and the grief his family now carries. No sentence that I can impose today can make up for that loss.

## **Approach to sentencing at the sentence indication**

[11] Sentencing is generally approached in two steps under the Sentencing Act 2002.<sup>1</sup> First, I would set the starting point that offending of this nature attracts. This involves identifying any aggravating or mitigating features of your offending and comparing your offending to other similar cases. The second step is to consider any relevant circumstances personal to you which may be of an aggravating or mitigating effect to arrive at an appropriate sentence.

[12] At your sentence indication, I adopted the starting point of two and a half years' imprisonment for your offending. I explained there is no guideline case for manslaughter due to the wide variety of circumstances in which manslaughter can arise. After considering the caselaw counsel referred me to, I concluded that your offending falls between that in two cases called *Mouat v R* and *R v Singh*, and that the starting point must recognise Mr Tobin's vulnerability by virtue of his age and the violence that you used.<sup>2</sup> I also indicated you would receive a reduction of 25 per cent if you were to enter a guilty plea.

[13] For the second step, counsel were agreed that there may be further reductions available to you for your youth and mental health. I left open the possibility that you would receive credits for other personal mitigating factors, if satisfactory supporting material was presented to the Court at sentencing.

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<sup>1</sup> *R v Taueki* [2005] 3 NZLR 372 (CA) at [8] and [44]; and *Moses v R* [2020] NZCA 296, [2020] 3 NZLR 583 at [6] and [46].

<sup>2</sup> *Mouat v R* [2017] NZCA 603; and *R v Singh* [2021] NZHC 3555.

[14] Nonetheless, it was clear at that point that your end sentence would be a sentence of 24 months' imprisonment or less. This meant a non-custodial sentence would be available to you. Counsel agreed that a sentence of intensive supervision may be appropriate for you, and it was accepted that non-custodial sentences have been imposed in manslaughter cases previously.<sup>3</sup>

[15] Since the offending, your mental state improved to the point you are no longer detained in a mental health unit and instead are remanded in custody. You have a diagnosis of schizophrenia. As the reports prepared by Dr James Knight under s 38(1) of the CPMIP Act record, in relation to the treatment of that condition: "schizophrenia is in most cases a chronic disorder and complete recovery from schizophrenia is rarely observed. The underlying philosophy for the treatment of schizophrenia is oriented towards the patient living well despite the continuing manifestations of the disorder."

[16] In the sentence indication, I concluded that, in your case, intensive supervision would meet the purposes and principles of sentencing. I said that it is apparent from the s 38 reports then available to the Court and the summary of facts that the focus should be on your rehabilitation, which will assist in meeting the sentencing principle of protection of the community. I considered that such a focus will prevent reoffending and assist your reintegration within your local community. I said that while the principle of deterrence was not irrelevant, the prevention of reoffending should be given greater weight than deterrence.

[17] In the sentence indication, I also explained that while a sentence of intensive supervision with the special conditions proposed by the Crown (and consented to by you) may well be appropriate I was not able to confirm this without full information as to how such a sentence would be implemented. I said there must be a concrete plan before the Court. I therefore ordered a report under s 38(1)(c) of the CPMIP Act to further assist in sentencing, alongside a pre-sentence report and an alcohol and other drug (or AOD) report.

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<sup>3</sup> See, for example, *R v Tarawa* [2018] NZHC 3205; *Mouat v R*, above n 2; and *R v Singh*, above n 2.

### **Further developments following the sentence indication**

[18] Those materials were subsequently provided to the Court.

#### *The s 38(1)(c) CPMIP report*

[19] Psychiatrist Dr James Knight provided a report dated 2 November 2025 under s 38(1)(c) of the CPMIP Act, for the purpose of your sentencing.

[20] Dr Knight reiterated that you have schizophrenia. His opinion is that you are mentally disordered. Mental disorder is defined in s 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (which from now on I shorten to the Mental Health Act), which says:

Mental disorder, in relation to any person, means an abnormal state of mind (whether of a continuous or an intermittent nature), characterised by delusions, or by disorders of mood or perception or volition or cognition of such a degree that it—

- (a) poses a serious danger to the health or safety of that person or of others;  
or
- (b) seriously diminishes the capacity of that person to take care of himself or herself.

[21] In Dr Knight's opinion, you suffer from an intermittently abnormal state of mind characterised by delusions, hallucinations and a disorder of mood. You also suffer from a continuous disorder of cognition (impaired executive functioning contributable to psychosis). Dr Knight says that your intermittently abnormal state of mind poses a danger to others, due to your history of aggressive behaviour when mentally unwell, as evidenced by your actions which resulted in you being convicted of manslaughter.

[22] Dr Knight's opinion is that, having regard to all the circumstances of your case, it is necessary to make a compulsory treatment order in relation to you.<sup>4</sup> Dr Knight says that if you are subject to a compulsory treatment order, you will be required to remain engaged in treatment for your mental health problems and that without such an order in place, you will almost certainly disengage from such mental health assessment

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<sup>4</sup> Mental Health (Compulsory Assessment and Treatment) Act 1992, s 27(3).

and treatment. Dr Knight notes that making you subject to a compulsory treatment order obliges Health New Zealand |Te Whatu Ora to deliver mental health care to you and mandates the assignment of a responsible clinician to you.<sup>5</sup>

[23] Dr Knight considers that providing you with compulsory treatment will be in your best interests.<sup>6</sup> Dr Knight also said that a compulsory (community) treatment order would improve the safety of the public.<sup>7</sup>

[24] Dr Knight considers that imposing a custodial sentence will not reduce your risk of re-offending as it will increase your sense of estrangement from your community. Dr Knight expressed his support for intensive supervision and monitoring in the community, perhaps including a residential substance abuse programme as one component.

[25] Dr Knight also considers that you would be less likely to offend if certain matters were addressed. These matters include abstaining from all use of substances, increasing your connection to prosocial groups in the community and participation in education or work.

#### *The pre-sentence and AOD reports*

[26] The pre-sentence and AOD reports record that you are a 23-year-old Māori man. Most of your family resides in Australia. You have struggled with drug addiction and mental health issues.

[27] You acknowledge that your mental health has been affected by substance use and in particular that your schizophrenia symptoms are triggered whenever you smoke cannabis. You report, however, that you have been abstinent during the time you have been in custody, and you have been able to work through mental health issues, some of which have related to your substance use. You say you intend to abstain from all substance use in the future. You regret your actions which resulted in the death of Mr Tobin and say you do not really know why you reacted in the way you did. And as

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<sup>5</sup> Mental Health (Compulsory Assessment and Treatment) Act, s 7.

<sup>6</sup> Criminal Procedure (Mentally Impaired Persons) Act 2003, s 34(2).

<sup>7</sup> Section 34(2).

we heard earlier from Mr Robinson, you have asked him to reiterate that today and your remorse at what happened.

[28] The pre-sentence report recommended a sentence of imprisonment with no release on conditions. It is said that due to your complex mental health needs, Community Probation is unlikely to be able to oversee any rehabilitative aspects of your sentence as programme providers often will not work with people who have complex mental health needs combined with addiction issues, due to the safety risk to other participants. The report also says that Community Probation has limited ability to support your complex mental health needs and do not have legal jurisdiction over mental health or medication needs. The report acknowledges that if the Court is considering a compulsory treatment order and you maintain your medication and work with community mental health, your risk of reoffending would be mitigated. It is said that a community-based sentence would provide minimal oversight and would not be able to provide the support you require.

[29] Mr Maru-Mohi, you say you want to work towards becoming responsible for making good choices going ahead, especially around anything that would affect your mental health and manage your schizophrenia. You have indicated your medication works well for you and you found the counselling helped you to take ownership for your actions and for making positive changes in the future.

*Teleconference and hearing on 24 November 2025*

[30] Having considered those reports and conferred with counsel by teleconference, I formed a preliminary view that it was unlikely your sentencing could be completed as originally scheduled on 24 November 2025.<sup>8</sup> Further information was required as to the appropriate sentence in the circumstances.

[31] I directed the pre-sentence report writer, Mr Brink, and the Court Liaison Forensic Nurse, Mr Price, to attend the hearing on 24 November to explain to the Court why a sentence of intensive supervision is said not to be available for you, and to

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<sup>8</sup> See, *R v Maru-Mohi* HC Wellington CRI-2025-096-270, 20 November 2025 (Minute of McQueen J).

provide further information about sentencing options that meet your needs and those of the community.

[32] Mr Brink confirmed that the effect of the recommendation of a sentence of imprisonment—immediate release with no conditions effectively means that you would be released from prison with no support to find accommodation or otherwise access support for your ongoing complex mental health needs. Essentially, the door of the prison would be opened, and you would walk out. Mr Brink reiterates that Community Probation does not consider intensive supervision is available because the programme providers will not be likely to accept a person with complex mental health needs. He says Community Probation is also unlikely to be able to find you accommodation, for the same reasons. Mr Brink acknowledges this is a gap in the system for a person in your position, Mr Maru-Mohi, being a person for whom a sentence of intensive supervision is likely appropriate, but for the seeming inability for such a sentence to operate in a way that also manages your complex mental health needs.

[33] Mr Price confirmed that without satisfactory accommodation, a community treatment order is not available to you. This is because the adult mental health community treatment team and responsible clinician need to know where to find you. Mr Price says that if sentencing was adjourned for a longer period, this would allow a needs assessment to take place that might include supported accommodation. However, he said that such an assessment would take three weeks and there is no guarantee that accommodation will be available for you after the assessment is completed.

[34] Mr Price identified that another option would be to adjourn the sentencing with a view to obtaining additional information to enable the Court to make a compulsory treatment order in relation to you as an inpatient.<sup>9</sup> Mr Price confirms that the advantage of an inpatient order is that the process requires that when you are released from the hospital there must be a handover to suitable accommodation supported by an appropriately located adult community mental health team. This would address the

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<sup>9</sup> As contemplated under ss 34(1)(b)(i) and 36 of the Criminal Procedure (Mentally Impaired Persons) Act.



issue of where you would live, Mr Maru-Mohi, and your ongoing mental health support. Mr Price offered to liaise with Dr Knight to update his report dated 2 November 2025 to comment on the need for an inpatient order in the circumstances.

[35] Having taken instructions from you, during an adjournment for that purpose, Mr Robinson advised the Court that you were prepared to consent to an inpatient order being made, given your acceptance that you need structure and support in your life and that this is likely the only way in which you will then be transferred to appropriate accommodation with ongoing care. You were also willing to accept that this requires you to remain in custody until the resumed sentencing hearing.

[36] I agree with Mr Robinson that it is unfortunate, to say the least, that a community-based outcome is not available to you at this time and instead can only be obtained through a compulsory treatment order as an inpatient.

[37] However, given the shared view of counsel that this was the best way forward, at least in a practical sense, I adjourned your sentencing to today.

*Further report from Dr Knight*

[38] As directed by the Court, a further report from Dr Knight is now available, dated 2 December 2025. Dr Knight reiterates much of his previous report, including his opinion that you are mentally disordered and that you should be subject to a compulsory treatment order.

[39] Dr Knight records that he has been informed by Mr Price that your social circumstances are such that it would not be possible to adequately deliver care to you in the community at the current time. He says a compulsory treatment order would be in your best interests and that a compulsory (inpatient) treatment order will improve the safety of the public.

[40] Thank you for your patience while I have set out how we have got to this point. I consider it important context for undertaking the sentencing of you, Mr Maru-Mohi, today.

### **Disposition in this case**

[41] I now turn to consider the appropriate outcome in your case, Mr Maru-Mohi, bearing in mind the matters I have just outlined.

[42] I first reiterate that you have been in custody for almost 12 months now. Given the accepted sentence indication of a starting point of two and a half years' imprisonment (equivalent to 30 months) and a guilty plea allowance of 25 per cent (equivalent to seven and half months), if I was to impose a sentence of imprisonment, you would receive an end sentence (before accounting for any other personal mitigating factors) of 22 and a half months. This would be a short term of imprisonment, and you would accordingly be released when half your sentence was served. The practical effect is that if I were to sentence you to imprisonment, you would be subject to immediate release. As already noted, the pre-sentence report proposes no release conditions and Community Probation says it cannot provide you with the support you need on such release, nor on a sentence of intensive supervision.

[43] In these circumstances, Mr Maru-Mohi, you and the Crown agree that an order under s 34 of the CPMIP Act is appropriate.

### *Relevant legal framework under the CPMIP Act and Mental Health Act*

[44] In relation to certain offenders, the Court has the power under s 34 of the CPMIP Act to:

- (a) sentence an offender to a term of imprisonment and detain them in a hospital as a special patient under the Mental Health Act (under s 34(1)(a)(i)); or
- (b) instead of passing sentence, order that an offender be treated as a patient under the Mental Health Act (under s 34(1)(b)(i)).

[45] The Court, in disposing of a matter under s 34, is thus limited to a sentence of imprisonment along with a special patient order, or a compulsory treatment order

alone. These options do not allow for the imposition of any other sentence, such as intensive supervision.

[46] As I have just mentioned, you would be eligible for immediate release from prison. Therefore, I do not consider that an order under s 34(1)(a)(i), which requires a sentence of imprisonment, is appropriate. Rather, in the circumstances, I focus on whether an order under s 34(1)(b)(i) can be made.

[47] Before making an order under s 34(1)(b)(i), the Court must be satisfied that:<sup>10</sup>

- (a) on the evidence of one or more health assessors, the offender's mental impairment requires the compulsory treatment in either the interest of the offender or for the safety of the public or any person or class of person; and
- (b) on the evidence of one or more health assessors (at least one of whom is a psychiatrist) that the defendant is mentally disordered.

[48] An order under s 34(1)(b)(i) is to be regarded as a compulsory treatment order for the purposes of the Mental Health Act.<sup>11</sup> In making such an order, the court must specify whether, for the purposes of that Act, the order takes effect as a community treatment order or as an inpatient order.<sup>12</sup> The court may only make an inpatient order if the court considers that the patient cannot be adequately treated as an outpatient.<sup>13</sup> Before making a community treatment order, the court must be satisfied that:<sup>14</sup>

- (a) the service provides care and treatment on an outpatient basis that is appropriate to the needs of the patient. (The service means the service that the applicant for the order asks the court to specify in the order); and
- (b) the social circumstances of the patient are adequate for his or her care within the community.

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<sup>10</sup> Section 27(1) of the Mental Health (Compulsory Assessment and Treatment) Act similarly requires that on an application for compulsory treatment order, the court must determine whether or not the patient is mentally disordered.

<sup>11</sup> Mental Health (Compulsory Assessment and Treatment) Act, s 36.

<sup>12</sup> Criminal Procedure (Mentally Impaired Persons) Act, s 36; and Mental Health (Compulsory Assessment and Treatment) Act, s 28(1).

<sup>13</sup> Mental Health (Compulsory Assessment and Treatment) Act, s 28(2).

<sup>14</sup> Section 28(4).

[49] An inpatient order requires the continued detention of the patient in the hospital specified in the order, or (where the patient is being detained at some other hospital) the admission of the patient and their detention in the hospital so specified, for the purposes of treatment, and must require the patient to accept that treatment.<sup>15</sup>

[50] Once the responsible clinician considers that the patient can continue to be treated adequately as an outpatient and there is accommodation for the patient, they can direct that the patient be discharged from the hospital and attend at that place of residence for the purposes of treatment.<sup>16</sup>

*Application of the legal framework to Mr Maru-Mohi*

[51] Based on the health assessors' reports I have discussed already, including the recent update from Dr Knight, I am satisfied, Mr Maru-Mohi, that you are mentally disordered, and, in the circumstances of this case, your mental impairment requires the compulsory treatment of you in both your interests and for the safety of the public.

[52] I am satisfied that your social circumstances are not adequate for your care within the community, and you cannot be treated adequately as an outpatient. This is because at present you have no accommodation (let alone supported accommodation) available to you and you are therefore not able to be allocated to and treated by an adult community mental health team.

[53] It is significant that you have consented to the Court making a compulsory treatment order as an inpatient. If you did not consent, I consider that other issues would arise as to the appropriateness of making you an inpatient, given the need for the least intrusive intervention under the Mental Health Act and the relevance of rights under the New Zealand Bill of Rights Act 1990. You recognise the unusual circumstances that are present here including the need for your release from prison given the time served by you and that you presently have no available accommodation in the community that would provide support for your complex needs.

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<sup>15</sup> Mental Health (Compulsory Assessment and Treatment) Act, s 30(1).

<sup>16</sup> Section 30(2).

[54] I consider that making an order under s 34(1)(b)(i), in effect a compulsory treatment order for you as an inpatient, is consistent with the purpose and principles of the Sentencing Act.<sup>17</sup> It will protect the community from you while assisting your rehabilitation and reintegration, given your mental impairment. It is the least restrictive outcome appropriate in the circumstances.

### **Outcome**

[55] Mr Maru-Mohi, please stand.

[56] In the circumstances of this case, instead of passing sentence on you for the charge of manslaughter, I make an order as follows:

Pursuant to s 34(1)(b)(i) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 you are to be treated as a patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992 with the order taking effect as a compulsory treatment order as an inpatient at Te Whare o Matairangi at Wellington Regional Hospital.

[57] Please stand down Mr Maru-Mohi.

McQueen J

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<sup>17</sup> Sections 7–8 of the Sentencing Act apply to sentencing “or otherwise dealing with” an offender.