

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

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

**CRI-2025-019-001550
[2025] NZHC 3870**

THE KING

v

NORTON CHARLES KITCHENER SOWERBY

Hearing: 10 December 2025
Counsel: JN Hamilton for Crown
NC Baier and MG Dixon for Defendant
Judgment: 10 December 2025

SENTENCING REMARKS OF DOWNS J

Solicitors:
Crown Solicitor, Hamilton.
Public Defence Service, Hamilton.

Introduction

[1] Norton Sowerby, you are for sentence for three crimes of manslaughter;¹ an offence of reckless driving causing injury;² and another of driving while disqualified.³ Manslaughter carries a maximum penalty of life imprisonment.

Facts

[2] In the early hours of 13 November 2024, you were driving a car in Hamilton. Your four victims were passengers.

[3] At 4.29 am, you reached the railway crossing on Peachgrove Road. The warning lights were flashing. The barrier arms were down. A car was stopped in front of you. Its driver was waiting for the train to pass, as required by law.

[4] You did not stop. You overtook the car in front by driving onto the wrong side of the road. You then drove diagonally through the barrier arms. You then crossed the train tracks. The train could not stop. It hit your car because you were on the tracks.

[5] Police, who must have been nearby, came to the scene in less than a minute. Even though you were in the driver's seat, you said to an officer "I'm not the driver".

[6] One of the victims was thrown from the car by the force of the collision and found dead on Peachgrove Road. Two other victims were found dead inside the car. The fourth survived. He suffered serious injury: abrasions to the neck, a fractured cheek bone, two fractures to his spine, a haematoma to his scalp, and what are called contusions to his chest.

[7] You were seen to take pills from a bag and swallow them. A methamphetamine pipe was found around your waist.

¹ Crimes Act 1961, s 171.

² Land Transport Act 1998, s 36(1)(a); maximum penalty, five years' imprisonment, 12 months' disqualification, or a fine of \$20,000.

³ Land Transport Act, s 32(1)(a) and (4); maximum penalty, two years' imprisonment, 12 months' disqualification, or a fine of \$6,000.

[8] You were taken to the hospital. There, you reiterated to police that you were not the driver.

[9] A blood sample was taken. It revealed you were under the influence of methamphetamine. Your reading was 300 nanograms of methamphetamine per millilitre of blood.⁴

[10] You were charged 18 March 2025. You pleaded guilty 5 August 2025.

Starting point

[11] Sentencing decisions in cases like yours — by which I mean motor manslaughter — typically involve a substantial term of imprisonment. That said, sentences in this area do vary greatly. The cases emphasise that everything turns on the facts.⁵

[12] The Crown contends your starting point lies between 10 and a half years' imprisonment and 11 years' imprisonment. On your behalf, Ms Baier advances a starting point of nine years' imprisonment. The Crown characterises your offending as deliberate. Ms Baier characterises it as impulsive. I do not regard these characterisations as particularly informative, as you did drive deliberately onto the tracks, having failed to stop, and you did weave your way between the barriers. But your actions were impulsive, in that you had not planned to do what you did.

[13] Against that background, I make the following points. Please continue to listen carefully.⁶

[14] First, you should not have been driving at all. That is because you had been disqualified from doing so.

⁴ Plus, or minus, 70 nanograms.

⁵ See, for example, *R v Hēpi* HC Hamilton CRI-2005-019-2278, 14 July 2005; *Gebhardt v R* [2024] NZCA 332; *R v Grey* (1992) 8 CRNZ 523; and *R v Reihana* [2013] NZHC 1273.

⁶ What follows reflects the aggravating features anticipated by *R v Skerrett* CA236/86, 9 December 1986 and *Gacitua v R* [2013] NZCA 234.

[15] Second, you have a history of driving offending. You have six earlier convictions for driving while disqualified and three for driving with excess breath alcohol. These convictions stretch back to 2018 and approach a pattern of conduct.

[16] Third, you were serving a sentence of intensive supervision when you committed these offences. Somewhat ironically, that sentence was imposed for driving while disqualified.

[17] Fourth, you were under the influence of methamphetamine when you committed these offences. As I said earlier, your reading was 300 nanograms of methamphetamine per millilitre of blood.⁷ In lay terms, that is a very high reading indeed.

[18] Fifth, your offending was profoundly reckless. I repeat the key features. You failed to stop behind the car in front of you despite the warning lights and barrier arms. You overtook the car on the wrong side of the road. You then drove diagonally between the barrier arms. You crossed the tracks as the train was upon you. Ms Baier contends you did not realise the train was right there. That may be correct, but this does not make your offending any less serious, given you could, and should, have appreciated that what you were doing was profoundly dangerous, and likely to result in death. In short, you should have appreciated your driving comprised a death trap.

[19] Sixth, the victims were telling you to stop. But you ignored them. You chose to keep driving. This aspect touches on the proposition your actions were impulsive. Again, they were. But you did choose to keep driving despite being told to stop.

[20] Seventh, and most sadly, your actions resulted in the deaths of William Brown (aged 46); Shylin Huirama-Osborne (aged 26); and Sione Nusipepa (aged 23). The remaining passenger, Te Orahinga Tumai, was badly hurt. This explains why you are for sentence on three crimes of manslaughter and one offence of reckless driving causing injury.

⁷ Plus, or minus, 70 nanograms.

[21] I pause to comment on victim impact. Nothing I can say can capture the enormity of the harm you have done. There are three grieving families, and many affected people. The ripples of your offending shall continue to spread for years to come. I capture, in what follows some of the observations, and some only, from the victim impact statements:

[22] In relation to William Brown this is said:

Losing William is a huge loss for our family. It is so hard putting this to words. I've been thinking and thinking about what to say. I just don't have the words. There is nothing I can say to truly describe how losing William has impacted me and my family.

[23] In relation to Shylin Huirama-Osborne this is said:

I've heard it being said that time heals, but I don't think that's right. I don't believe the pain goes away or gets smaller. You just have to carry it with you and move on because there are others that need you in life, others that depend on you. However the pain is ever present. It doesn't go away.

[24] In relation to Sione Nusipepa this is said:

His kids will now only ever see their Dad through a screen or a printed photo. Their kids need him, and now he's gone.

[25] And this from Te Orahinga Tumai, who survived:

Since the crash my life has changed completely. I suffered a head injury, broken vertebrae and ongoing issues with my arm. I experience constant headaches and have difficulty breathing. These injuries have affected my ability to move and do everyday tasks. Even simple things like going out in a public place are hard because of the pain and limitations.

I note Mr Tumai goes on to add he has sympathy for you Mr Sowerby.

[26] I return to aggravating features, which leaves the last. You denied being the driver. Ms Baier says your initial denial may reflect shock. That could explain it, given it was immediately after the impact that you made that remark. But shock does not readily explain your later hospital denial.

[27] Because of all these features, the things I have been talking about, I consider your offending to be especially serious. Ms Baier is correct there was no earlier poor

driving as there is in some of the cases. Some cases involve people who have been driving terribly for quite some time and that feature is not present in yours. But you took three lives through profoundly reckless driving, you were driving under the influence of methamphetamine — meaning you were intoxicated by the drug — and when you should not have been driving at all.

[28] Your offending is somewhat like that in a case called *R v Hepi*, which was decided 20 years ago.⁸ The Judge in Mr Hepi's case adopted a starting point of 10 years' imprisonment, noting, and this is 20 years ago, he could refer to "a long list of cases in which driving under the influence of drink or drugs or both has ended in tragedy".⁹ Sadly, this is yet another case. I consider your offending somewhat more serious than Mr Hepi's, in part because he was young, in turn diminishing his culpability.¹⁰

[29] I adopt a starting point of 10 years and eight months' imprisonment.

Personal circumstances and potential mitigating features

[30] There is a difference of opinion in relation to the level of discount for your guilty pleas. The Crown contends between 15 and 20 percent. Ms Baier, 25 percent.

[31] Your guilty pleas were reasonably prompt: you first appeared 20 March 2025. You pleaded guilty 5 August 2025. The Crown case was overwhelming because your driving was captured by closed-circuit television footage. This factor could be seen to reduce the value of your pleas, but they did spare the victims' families the ordeal of a trial. I, therefore, deduct 25 percent, the maximum available.

[32] However, I decline to afford you an additional discount of five percent for remorse. I am not persuaded you have done sufficient to warrant a discrete discount under that heading. In saying this, I confirm I have read your short letter to me as sentencing Judge and I thank you for it.

⁸ *R v Hepi*, above n 4.

⁹ At [34].

¹⁰ An age-based discount is conventionally made at the second stage of the sentencing process, but Hansen J appears to have factored this aspect into selection of the starting point.

[33] You are 37 years old. You have been in a stable relationship for a long time. You have three children. You were raised by your grandparents. Your grandmother played the leading role. You described your upbringing to the Department of Corrections as “good”, but also “hard”. Its report about you suggests you have a methamphetamine habit.

[34] Ms Baier invites me to discount your sentence by five percent in recognition of that habit and your more general history, on the basis the combination somewhat diminishes your culpability. Ms Baier’s written submissions acknowledge these features “had a minimal causative contribution” to your offending.

[35] Before going further, I make it clear that the fact you were under the influence of methamphetamine at the time is aggravating, not mitigating. So what we are talking here is whether a methamphetamine habit, in combination with your personal circumstances, warrants a modest discount based ultimately on diminished responsibility.

[36] The information in support of this discount is rather sparse, which should not be interpreted as a criticism of anyone. The pre-sentence report says you offered no explanation for the offending, other than you just wanted to do it, saying the victims told you to “hit it”. This I cannot accept; they were telling you to stop, not encouraging you, and there is no independent evidence whatsoever of any encouragement to do what you did. There is also the difficult question of what to do about methamphetamine use when that use manifests in dangerous behaviour, as yours plainly was. For these reasons, I am not persuaded the proposed deduction, however modest, has a sufficiently clear and principled foundation and I decline it for those reasons.

[37] This produces a sentence of eight years’ imprisonment.

Minimum period of imprisonment

[38] The Crown seeks a minimum period. The Court may impose such a period if satisfied parole eligibility after the usual one-third would be insufficient to hold you

accountable, denounce your offending, deter you and others from like offending, and protect the community.¹¹

[39] Ms Baier responsibly acknowledges that minimum periods are often imposed in this context but argues against one. She emphasises the impulsivity of your offending and notes you have not yet received a substantial term of imprisonment. Ms Baier argues the issue should be left to the Parole Board in the usual way and urges me not to impose a crushing sentence.

[40] You took three lives and seriously injured another through profound, criminal risk-taking. You have a record of non-compliance with the rules of the road. You were intoxicated by methamphetamine at the time, and you were not supposed to be driving at all. The mitigating circumstances in your case are not especially powerful, and ultimately, they reduce to your guilty pleas.

[41] Given all of this, I am satisfied a minimum period is required. I, therefore, impose a minimum period of four years' imprisonment, which is one-half of your sentence.

Disqualification

[42] The Crown says you should be disqualified from driving for seven years once you are released from prison. Ms Baier suggests this period should be four years. I disqualify you for four and a half years once you are released, noting the Judge in *Hepi* adopted a four-year period.

[43] Mr Sowerby, please stand:

- (a) In relation to each of your crimes of manslaughter, you are sentenced to a term of eight years' imprisonment, with a minimum period of half.
- (b) For reckless driving causing injury, you are sentenced to a term of four years' imprisonment.

¹¹ Sentencing Act 2002, s 86.

(c) For driving while disqualified, you are sentenced to a term of two years' imprisonment.

[44] All these terms run at the same time, so your effective sentence is eight years' imprisonment with a minimum period of four. Once you are released from prison, you will be disqualified for four and a half years from driving.

[45] Stand down.

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Downs J