IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
KIRIKIRIROA ROHE

CRI-2024-019-3036
[2026] NZHC 1441

THE KING

v

MUKZAMEEL MUKHZAR ALI

Hearing:	26 May 2026
Appearances:	J N Hamilton and S McCabe for Crown R L Brown and E P Priest for Defendant
Sentence:	26 May 2026

SENTENCING NOTES OF HARVEY J

Solicitors:
Hamilton Legal, Office of the Crown Solicitor, Hamilton

Counsel:
Rosalind Brown, Barrister, Hamilton
Emma Priest, Barrister, Auckland

Introduction

[1] Mukzameel Ali, you appear for sentencing today having pleaded guilty to the charges of manslaughter, assault with intent to injure and assault on a person in a family relationship.[1] Before continuing, I acknowledge the little boy who died. Nothing I can say today will change what happened to Mustafa. His loss in such tragic circumstances continues to be felt by his family. I also acknowledge Tauvalea Law, the abuse she has suffered, and the unimaginable loss of Mustafa. I appreciate the presence of the family to be part of what will be a challenging and emotional process.

The offending

[2] Mr Ali, as Ms Hamilton for the Crown confirmed, a summary of facts was prepared before your arraignment which you have agreed for sentencing purposes.

[3] Mustafa Ali was born on 27 August 2023 at Waikato Hospital. You were 21 years old at the time of his birth. Mustafa's mother, Tauvalea Law was 22 years old. You are Fijian Indian by ancestry and moved to New Zealand in July 2022. Ms Law is Samoan and moved here from Samoa in November 2019. You met at your workplace in Te Kuiti around September 2022. Soon after you commenced a relationship and Ms Law became pregnant in January 2023.

[4] You expressed concern at the prospect of having a child before you were properly settled in New Zealand and so you encouraged Ms Law to terminate the pregnancy. She did not agree and initially misled you to believe she had miscarried. The relationship continued and you became aware that Ms Law was still pregnant months later. This caused an argument. You were angry and you slapped Ms Law about the face repeatedly. She was lying on her back on the bed and you were sitting on her thighs. She tried to get you off and scratched your face. You pushed her down placing your hands on her upper chest and around her neck before jumping on top of her with your knees on her abdomen. Ms Law did not require medical attention after the assault and there was no harm to her pregnancy. You married in mid-July 2023 shortly before Mustafa's birth.

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[1] Crimes Act 1961, ss 171 and 177, maximum sentence: life imprisonment; s 193, maximum sentence: three years' imprisonment; and s 194A, maximum sentence: two years' imprisonment.

[5] Your relationship with Ms Law was volatile. On several occasions you pushed or punched her when you were angry. After Mustafa's birth you all lived together at an address in Te Kuiti. Two extended family members related to you also lived there.

[6] On 8 June 2024, Ms Law woke to Mustafa crying at 6.00 am. She settled him in bed between you and her and returned to sleep. She then got up at approximately 8.00 am leaving you and Mustafa sleeping. She left the home at around 10.50 am and asked you to give Mustafa a bath and to feed him in advance of a family event to be held later that afternoon. There was no-one else left at the address apart from you and Mustafa. He had been unwell with a high temperature the night before and was displaying signs of being unsettled in the days prior. After Ms Law left the house, you fed Mustafa a bottle and some Weetbix. He vomited and was unsettled. You tried unsuccessfully to feed him again. Out of frustration, you attempted to force feed Mustafa with the bottle causing prominent bruises to his chin. Unable to feed or settle him you became stressed and angry. During this time, you caused a fatal injury to Mustafa through a violent blow directed to his abdomen.

[7] At around 2.16 pm, Ms Law arrived home and was met at the front door by you holding Mustafa. She observed Mustafa was floppy and cold to the touch. The seriousness of Mustafa's condition was obvious to Ms Law who ran outside in search of assistance. You then all drove to Te Kuiti Hospital. Mustafa was pronounced dead shortly after arrival at the hospital.

[8] Mustafa was nine-and-a-half months' old at the time of his death. He died because of blunt force trauma resulting in a crushing injury to the abdomen. The impact of the injury lacerated his liver and a wall of the large bowel in two locations. There was also bruising to the diaphragm, small bowel mesentery and to the back of the abdominal wall. The lacerations caused bleeding into the abdominal cavity, and ultimately death.

[9] The close location of all the internal injuries supports a suggestion the trauma was due to one impact of significant force. Possible causes could include a punch, kick or stomp. The injury to Mustafa's liver was so severe the bleeding into the abdomen commenced immediately once the injury was inflicted and continued

uninterrupted until he died. The nature of the injury is such it can be expected Mustafa was crying and in obvious discomfort until a decrease in blood pressure would have led him to becoming increasingly drowsy and losing consciousness. The extent of the internal injury was such that Mustafa would not have survived longer than 30 to 60 minutes after the blow was inflicted. It is also possible death occurred more quickly.

[10] When spoken to by Police, you said Mustafa had begun to choke while feeding and the injury was likely caused by your attempt to perform cardiopulmonary resuscitation (CPR). You described carrying out chest compressions which included using two hands on Mustafa's chest and effectively punching him in the stomach. The postmortem examination confirmed that Mustafa had abscesses caused by an ulceration around either side of his larynx. The pathologist thought this is likely to have caused Mustafa serious discomfort especially when ingesting food like Weetbix.

[11] There was bruising behind each of Mustafa's ears and a large bruise on the top of his head. They were subcutaneous and not visible externally. The pathologist considered this could have been caused up to 18 hours before Mustafa's death. The behind the ears bruising may be consistent with an attempt to force feed Mustafa while you were holding his head. However, you did not provide an explanation that could account for the bruise on the top of his head. The pathologist could not comment on the force used to inflict the bruise other than to say it was not sufficient to cause any kind of skull fracture or brain bleed. The pathologist observed fractures to Mustafa's left ribs but noted these may have been the result of resuscitation attempts. The pathologist also believed that the force required to cause Mustafa's internal injury was not consistent with CPR.

Victim impact statements

[12] I have received victim impact statements from Ms Law, Mustafa's mother, and Serafi and Gerard Law, Mustafa's grandparents. Tauvalea Law expressed that she will carry the loss of her son for the rest of her life. She continues to suffer an overwhelming grief, deep sadness and ongoing anxiety. Mustafa was deeply loved, representing hope and a future that has now been taken from her. The loss continues to impact her daily life and relationships. Ms Law described the immense betrayal she

feels from you harming your son. Despite this, guided by her faith, she has chosen to forgive you. Ms Law, I thank you for your courage in coming to the Court today and sharing your statement with us.

[13] Ms Law's parents, Serafi and Gerard, describe Mustafa as a beautiful, bright and happy boy. They describe the hurt that your actions caused, and the pain that they have watched their daughter go through. I thank them for providing a statement to the Court.

Pre-sentence reports

[14] I now turn to the pre-sentence reports. Mr Ali, the report prepared by Department of Corrections staff to assist with your sentencing records that you expressed remorse and regret about your offending, and that you would have engaged in the restorative justice process if you had the opportunity. The report writer identified a propensity to engage in violence, and poor parenting skills as the main factors contributing to your offending. The report also notes that Immigration New Zealand confirmed you will be subject to deportation when your prison sentence ends.

[15] Your counsel has also provided the Court with a report prepared by Dr Jon Nuth, a registered clinical psychologist. Dr Nuth recorded that during your meetings with him, while you disputed some of the details in the agreed summary of facts to which you pleaded guilty, you took accountability for causing your son's death. As to your background, you described being subject to corporal punishment as a child, which normalised violence in the household. You also described experiencing sexual abuse as a child by an extended family member. This continues to affect you.

Approach to sentencing

[16] Mr Ali, the approach to sentencing involves two steps. First, I must set the correct starting point for your offending. This will depend on the aggravating and mitigating features of your offending — the matters that make it more or less serious. I will also look at the starting points adopted in similar cases. Second, I will increase or decrease your starting point to take account of any factors personal to you, such as your guilty plea.

[17] I must consider the purposes of sentencing.[2] They include holding you accountable for the harm you have caused, promoting in you a sense of responsibility, denouncing your conduct, deterring you and others from committing similar offending, protecting the community, and assisting with your rehabilitation and reintegration. I will have regard to the principles of sentencing.[3] I must take account of the gravity of your offending, your degree of culpability, the seriousness of the offending in comparison with other types of offending, and the general desirability of consistency with sentencing levels. I will also consider your personal, family and cultural background.

Starting point

[18] The maximum penalty for manslaughter is life imprisonment.[4] Ms Hamilton for the Crown submitted that there is no tariff case for manslaughter. However, the guideline judgment for sentences for serious violent offending is a case called *Taueki v R* that is relevant here, given the nature of the violence and the injuries caused.[5] Counsel contended that the circumstances of the offending in a case called *R v Hapuku* is also applicable and so a nine-year starting point is appropriate here.[6]

[19] Ms Hamilton argued, applying *Taueki*, that there are four aggravating features of your offending: extreme violence, serious injury, vulnerability and breach of trust.[7] She submitted that the violence was unprovoked and gratuitous given the age of the infant. The bruising on Mustafa's chin illustrated the force used at the approximate time to his death and was not limited to a single fatal blow. As to serious injury, the death of the victim confirms the violence inflicted must be viewed as the most serious of injuries. Regarding vulnerability, as Mustafa was only a baby, counsel contended his vulnerability is of the highest order. Section 9A of the Sentencing Act recognises this seriousness.[8] Counsel cited *R v Shailer* where Katz J confirmed s 9A reflects the

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2 Sentencing Act 2002, s 7.
3 Section 8.
4 Crimes Act, s 177.
5 *Taueki v R* [2005] NZCA 174, [2005] 3 NZLR 372. Counsel referred to *R v Tai* [2010] NZCA 598 at [23], where the Court compared its *Taueki*-based analysis against comparable manslaughter decisions.
6 *R v Hapuku* [2012] NZHC 1314.
7 *Taueki v R*, above n 5, at [31(a)], (c) and (i).
8 Sentencing Act, s 9A.

community's deep concern about child abuse and how violent offending against children must be treated with the utmost seriousness.[9]

[20] Turning to breach of trust, Ms Hamilton submitted that the breach against Mustafa was significant. As the Court of Appeal recognised in *Taueki*, domestic violence often involves violence by a man against a woman or child where the vulnerability of the victim is a significant factor.[10] This view was reinforced by the Court of Appeal in another case called *Solicitor-General v Hutchison*.[11] According to Ms Hamilton, your offending falls in upper band two justifying a starting point of between five and 10 years' imprisonment.[12] The bands in *Taueki* involve offending where death did not result. Given that in this case the violence used did result in death, then applying *Taueki*, counsel argued that a starting point of eight and a half to nine years imprisonment is appropriate.

[21] Ms Hamilton then referred to several other cases relevant to your offending.[13] Counsel noted that factors including a failure to seek medical attention and concealment of offending have been recognised as significant aggravating factors.[14] Overall, counsel argued that these cases supported her submission for a starting point of nine years imprisonment.

[22] Your counsel, Ms Brown, accepted that aggravating factors of serious violence, breach of trust and vulnerability of the victim were all present in your case. While counsel accepted that there were no mitigating factors to your offending, Ms Brown contended that you were acting with proper motives by attempting (incorrectly) to resuscitate Mustafa when you thought he was choking. Counsel argued that you did not attempt to prevent access to medical care and noted that the injuries were inflicted in a single blow, rather than through a prolonged and gratuitous attack. Ms Brown

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9 *R v Shailer* [2016] NZHC 1414 at [47].
10 *R v Taueki*, above n 5, at [33].
11 *Solicitor-General v Hutchison* [2018] NZCA 162, [2018] 3 NZLR 420 at [27].
12 *R v Taueki*, above n 5, at [34] and [38]–[39].
13 Counsel referred to the following manslaughter cases: *R v Hapuku*, above n 6; *R v Broadhurst* [2008] NZCA 454; *R v McClutchie* [2024] NZHC 901; *Ikamanu v R* [2013] NZCA 510; *Robinson v R* [2011] NZCA 479; *Mulford v R* [2025] NZCA 444, [2025] 3 NZLR 641; *R v Huata* [2017] NZHC 704; and *R v Kereopa* [2016] NZHC 1664. Counsel also referred to *Woodcock v R* [2010] NZCA 489, [2010] BCL 889; and *R v Pene* [2010] NZCA 387 where the Court of Appeal reviewed a number of manslaughter cases involving the deaths of young children.
14 *R v Roberts* [2021] NZHC 146 at [20].

submitted that you carry the weight of responsibility for your son's death, and that therefore many of the purposes and principles of sentencing are already met.

[23] Your counsel also referred me to several cases which she says are similar to your offending.[15] With reference to those cases, Ms Brown argued that a starting point in the vicinity of between five and six years should be adopted.

Discussion

[24] I accept Ms Hamilton's argument that the aggravating factors of your offending, which are generally agreed between counsel, place your offending within band two of *Taueki*. Offending in band two warrants a starting point of between five and 10 years' where death does not result.[16] Comparing your offending then to the various cases referred to me by counsel,[17] I consider a starting point near the top of that band to be appropriate. Ms Hamilton referred me to cases where starting points between eight and 10 years' imprisonment have been accepted.[18]

[25] I consider that the case of *R v Hapuku* is most factually similar to your offending.[19] The offender was the 23-year-old boyfriend of the victim's mother. He was sentenced on the basis that he struck the victim, who was five months old, with a single heavy blow from the front, in a moment of anger.[20] The Judge in that case applied a starting point of nine years' imprisonment.[21]

[26] The case of *Mulford v R* mentioned by both counsel, is also relevant.[22] The 17-year-old offender killed the victim by applying such force to the child's abdomen

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15 *R v Pene*, above n 13; *Mulford v R*, above n 13; *R v Frater* [2019] NZHC 3326; *R v Sami* [2017] NZHC 3159; *Sami v R* [2019] NZCA 340; *R v Mitchell* [2017] NZHC 1391; and *R v Wichman* [2016] NZHC 1663.

16 *R v Taueki*, above n 5, at [34].

17 *R v Tai*, above n 5.

18 The following starting points were adopted: *R v Broadhurst*, above n 13, eight and a half years'; *R v McClutchie*, above n 13, eight years'; *Ikamanu v R*, above n 13, eight years', with the Court of Appeal observing that this was lenient; *R v Kereopa*, above n 13, 10 years' imprisonment.

19 *R v Hapuku*, above n 6.

20 At [5]. While the postmortem examination showed the victim had fractured ribs from an earlier injury, the offender was not sentenced on the basis that he inflicted those, see [3]. The victim's mother returned to the sleepout where the offender and victim were, and together she and the offender drove the victim to the hospital where he was pronounced dead.

21 At [19].

22 *Mulford v R*, above n 13.

that it ruptured her internal organs.[23] The Judge applied a starting point of seven years', which was approved by the Court of Appeal.[24] However, the sentence imposed in that case is under appeal.[25] Your counsel accepted that your offending involved more serious violence, although she argued the seriousness of the injuries inflicted in *Mulford* were more severe. Ms Brown also argued there was a history of previous intentional violence in *Mulford* that was absent in the present case.

[27] In some of the cases Ms Brown mentioned, starting points of between six, and six and a half years' imprisonment were applied.[26] Those cases involved similar aggravating factors including the offender being a father figure, single incidents, serious violence, breach of trust, and a vulnerable victim. Your lawyer argued that the cases of *R v Pene* and *R v Wichman* were the most similar.[27] However, those cases are of more limited assistance. *Pene* was a Solicitor-General appeal, so the Court adopted a starting point at the lowest point in the range of five to seven years' identified.[28] The Court also noted that the offending in another case, *R v Broadhurst*, where a starting point of eight and a half years was adopted was "more serious … but not by much."[29]

[28] I accept that the *Wichman* case has factual similarities of a father becoming frustrated after being unable to settle a child.[30] In that case a starting point of five and a half years was applied. However, the wider context of the offending included being a very young parent with twins born prematurely, the children requiring frequent medical treatment and a lack of support.[31] While I acknowledge you were a young father, many of those factors are absent from your offending.

[29] Overall, when considering your offending, the dominant sentencing principle is to denounce and deter caregivers, in a position of trust and responsibility, from

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23 At [9].
24 At [31].
25 *Mulford v R* [2025] NZSC 194.
26 In *R v Mitchell*, above n 15, at [40] a starting point of six years' imprisonment was adopted. In *R v Frater*, above n 15, at [24] a starting point of six years and six months' imprisonment was adopted.
27 In *R v Pene*, above n 13, at [15] a starting point of five years' imprisonment was adopted. There, the offender admitted to hitting the victim on earlier occasions, see [2]. In *R v Wichman,* above n 15, at [11] a starting point of five and a half years was adopted.
28 *R v Pene*, above n 13, at [15].
29 At [11] citing *R v Broadhurst* [2008] NZCA 454.
30 *R v Wichman,* above n 15, at [9].
31 At [5]–[8].

carrying out gratuitous violence against vulnerable children.[32] Mustafa's injuries meant he would have been in considerable pain and distress before dying. You pleaded guilty to the summary of facts which concludes that although the pathologist could not confirm the precise mechanism of injury, these could have included a punch, kick or stomp. The short point is that Mustafa's injuries could not have been caused through incorrectly administering CPR. Given that, you may have been fortunate to have escaped a conviction for murder. Having regard to the factors aggravating your offending,[33] and the comparable cases, I adopt a starting point of nine years' imprisonment for the manslaughter charge.

Uplift

[30] Regarding an uplift for the assault with intent to injure and assault on a person in a family relationship charges, Ms Hamilton submitted that while there is no guideline judgment for a charge of assault with intent to injure, a Court of Appeal case called *Tamihana v R* confirmed that the principles discussed in *Nuku v R* apply here.[34]

[31] Counsel also referred to *Goodman v R* as being relevant to your case.[35] The offending in that case was an episode of family harm.[36] As to a charge of assault with intent to injure, the appellant grabbed the complainant around the throat and threw her across the room and pushed her multiple times.[37] He then head-butted the victim and pushed her outside.[38] The appellant was also charged with male assaults female. He kicked the victim in the shoulder with such force she fell to the ground and he continued to verbally abuse her.[39] She sustained injuries including a cut to her forehead and redness and soreness around the neck.[40] The Judge applied a starting point of 24 months, increased to 28 months for the second assault.[41] The Court of Appeal agreed that this was a serious assault involving attacks to the head and neck.[42]

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32 *Woodcock v R*, above n 13, at [42].
33 Sentencing Act, s 9A.
34 *Tamihana v R* [2015] NZCA 169; and *Nuku v R* [2012] NZCA 584, [2013] NZLR 39.
35 *Goodman v R* [2016] NZCA 64.
36 At [8] citing *R v Goodman* [2015] NZDC 15752 at [3].
37 *R v Goodman*, above n 36, at [4].
38 At [4].
39 At [5].
40 At [6].
41 *Goodman v R*, above n 35, at [10].
42 At [12].

That Court observed that generally sentences of between two to three years imprisonment for domestic violence offending is not uncommon and the ultimate end sentence of two years, four months' imprisonment was not manifestly excessive.[43]

[32] Ms Hamilton submitted that the assault on Ms Law took place in circumstances of domestic violence and involved attacks to the head and neck when she was pregnant and particularly vulnerable. She also said that the assault on Ms Law falls at the upper end of band two and on a standalone basis would require a starting point of two years' imprisonment. Overall, Ms Hamilton argued that an uplift of 12 months' imprisonment is appropriate on both charges.

[33] Ms Brown referred to two other cases, *Gardner v Police*[44] and *Wilson v Police*.[45] In *Gardner v Police* a 14-month starting point was adopted for an offence of assault on a person in a family relationship.[46] In *Wilson v Police* a starting point of 12 months' imprisonment was imposed on a charge of male assaults female.[47] Ms Brown argued that, having reference to those cases and the principle of totality, an uplift of six to seven months would be appropriate on the assault with intent to injure and assault on a person in a family relationship charges.

Discussion

[34] I accept Ms Hamilton's submission that your offending against Ms Law was serious. It happened while she was pregnant and especially vulnerable, including targeting her abdomen. Your culpability is compounded by your related offending, justifying a significant increase in the base starting point. Ms Law has suffered terribly because of your offending against Mustafa. Your culpability regarding your offending against her adds to this. The principle of totality requires that the sentence imposed should not be out of all proportion to the gravity of the overall offending.[48] However, the sentence imposed in the circumstances is a matter of juridical discretion and assessment.[49] I consider an uplift of 10 months' is appropriate.

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43 At [12] and [25].
44 *Gardner v Police* [2020] NZHC 2169.
45 *Wilson v Police* [2012] NZHC 2503.
46 *Gardner v Police*, above n 44, at [27].
47 *Wilson v Police*, above n 45, at [13].
48 *Haywood v R* [2015] NZCA 551.
49 *Turner v R* [2025] NZCA 687 at [35].

Mitigating features

Youth

[35] You were 22 years of age at the time of the offending. Ms Hamilton and Ms Brown agree a 10 percent discount would be appropriate. Your counsel submitted that your youth impacts your decision-making abilities and, in turn, your culpability.[50] I agree with Ms Hamilton's submission that your offending falls within the top-end range of where credit can be given. Even so, a 5 per cent discount is justified.

Background

[36] According to Ms Hamilton, there are limits on how far personal matters can be considered in a case like this, citing *R v Leuta* in support.[51] The Court of Appeal observed in that case that while complex relational and domestic situations that form the background of offending are to be considered at sentencing:[52]

> … they should not cloud the essential fact that the violent, cruel and brutal treatment of a defenceless and vulnerable child, to whom there are duties of trust and responsibility, constitutes conduct of grave criminality and, where death ensues, the sentencing task is in respect of a very serious crime.

[37] Ms Brown submitted a discount of up to 10 per cent should be allowed to reflect your background circumstances, which she said lead to your offending.[53] Counsel highlighted several features of your background discussed in the psychological report provided by Dr Jon Nuth. This included how you experienced corporal punishment from your parents and aunt, who would hit you with household items including a frying pan, a broom, or her hand. You said that you experienced sexual abuse as a child, which you say had lasting effects on you and the way you deal with your emotions. Dr Nuth identifies a causal link between the normalisation of violence, and your difficulties regulating your emotions which culminated in your offending. Ms Brown also argued that you were not equipped to become a parent, and that you carried deep religious shame for the pregnancy occurring outside of marriage. Counsel argued you have to now live with the reality of causing your son's death.

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50 *Churchward v R* [2011] NZCA 531, [2011] BCL 791.
51 *R v Leuta* [2002] 1 NZLR 215 (CA).
52 At [80].
53 Sentencing Act, s 8(1)(i).

[38] Ms Brown argued that s 27 of the Sentencing Act requires the Court to consider the personal circumstances of an offender including their background and community where this is causative to the offending. This assessment is not limited to cultural factors. Section 8 requires the Court to take account of any particular circumstances of an offender and their personal, family, whānau, community and cultural background. An offender's personal background of trauma or deprivation can justify a discount where there is a causal nexus or link with the offending.[54] Counsel referred to the Court of Appeal's decision in a case called *Carr v R*, where the Court observed that a causative contribution to offending or a causal linkage, is required, but the court need not be satisfied that the matters are a proximate or closely linked cause of the offending.[55] The courts should assess this evidence holistically.[56]

[39] Ms Brown also addressed the Crown's argument that there is a limit to how far personal matters can be considered in this type of offending. She argued that the case of *R v Leuta* should be distinguished because it involved more serious offending that was not a brief loss of control, but deliberate, prolonged and brutal.[57] Counsel also referred to the case of *JB v R*, where a 10 per cent discount was allowed to recognise the offender's background, including in the foster care system, which resulted in her being unprepared for parenthood.[58]

[40] Taking account of counsels' submission on this point, and considering the circumstances of your offending overall, I accept that a discount of five per cent is appropriate.

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54 *Deslaurier v Police* [2022] NZHC 1078 at [19] citing *Carr v R* [2020] NZCA 357 at [64]. Counsel also referred to *Keil v R* [2017] NZCA 563 at [59] where a discount of 20 per cent was given for background factors; and *Solicitor-General v Heta* [2018] NZHC 2453, [2019] 2 NZLR 241 at [67], where a 30 per cent discount was allowed for matters detailed in the s 27 report, together with a further 10 per cent for participation in the restorative justice process.

55 *Carr v R* [2020] NZCA 357 at [64]–[65]. Counsel also referred to *Laipoto v R* [2021] NZCA 562 at [17].

56 *Waikato-Tuhenga* [2021] NZCA 503 at [51].

57 *R v Leuta*, above n 51, at [85].

58 *JB v R* [2024] NZCA 669 at [64].

Previous good character

[41] Ms Brown submitted that a discount of five per cent is justified to recognise your previous good character and lack of convictions.[59] Counsel argued that while there are three incidents in issue at sentencing, the Court might allow a discount for this factor. I consider that this factor is effectively offset by your youth, and prior to the lead charge, there had been accepted instances of domestic abuse. In summary, taking account of the circumstances of your offending and background in this context, I decline to allow a further discount.

Guilty plea

[42] Counsel pointed out that the offending occurred on 8 June 2024. You first appeared on 15 June 2024 and pleaded not guilty. On 23 February 2026, just before the start of the trial, you entered guilty pleas. Ms Hamilton confirmed that the Crown's approach regarding manslaughter was decided in October 2025. According to counsel, you preferred to pursue your pre-trial objections to evidence before thinking about any plea. While the guilty pleas were entered late, the avoidance of a trial for the victim and the deceased's family was of significant value. Ms Hamilton argued that a discount in the realm of 10 per cent would be appropriate.

[43] In her written submissions, Ms Brown argued that a full discount of 25 per cent is appropriate. While you entered a guilty plea on the morning trial was due to start, a full discount is justified when taking into account the circumstances under which the plea was entered.[60] Counsel contended that timing of a plea, strength of the prosecution case, justification for any delay, benefit to victims of not having to give evidence and any expression of atonement following a defendant's acceptance of responsibility are relevant to assessing the guilty plea credit.[61] Ms Brown submitted that you offered to plead guilty to manslaughter in December 2025, months before trial. Counsel submitted that delay was caused because discussions with the Crown regarding a manslaughter plea relied on a defence expert, and because the additional family violence charges were laid five months prior to the plea offer. You entered a

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59 Sentencing Act, s 9(2)(g).
60 *Hessell v R* [2010] NZSC 135, [2011] 1 NZLR 607 at [74].
61 *Karipa v R* [2025] NZCA 274 at [30].

guilty plea to those charges at the earliest opportunity. Ms Brown argued that the Court was also updated in advance that the trial was likely to resolve. She also made the point in her oral submissions that your pleas actually saved having to hold two trials. Ms Brown when pressed submitted that a discount of at least 20 percent was justified for your guilty plea discount.

[44] While taking into careful consideration Ms Brown's submissions, including the point that your plea meant that the trial did not have to proceed, I am not persuaded that the full guilty plea discount is justified here or one of 20 percent. Overall, I consider a discount of 15 per cent is appropriate.

Efforts at rehabilitation

[45] Ms Brown submitted that a discount of five per cent should be allowed to reflect your efforts towards rehabilitation to date. During your time at the Grace Foundation, you completed a number of courses including Phase 1 Mindshop (Solutions Framework), Safe Man Safe Family, Alcohol and other Drug, and Father's Fono. Counsel argued that this engagement demonstrates your commitment to change and addressing the underlying criminogenic factors of your offending. Ms Brown contended that you have engaged in all opportunities to ensure you will not end up before the Court again. Counsel referred to *Berkland*, where the Supreme Court observed that offenders should be encouraged through the sentencing process to engage in rehabilitative opportunities available to them.[62]

[46] There is also the very positive reporting letter dated 25 May 2026 that David Letele from the Grace Foundation has provided in support which I have read this morning. He describes you as a young man who showed developing insight into the factors that contributed to your offending, including negative influences and limited coping mechanisms earlier in his life. Mr Letele commented that you had not been equipped with the maturity, support, or life skills required to manage the significant responsibilities you faced, including those associated with parenthood at a young age.

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62 *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509.

[47] Ms Hamilton submitted that a discount for time spent on EM bail and your efforts at rehabilitation should be combined. Ms Brown disagreed and argued that there should be separate discounts for either factor.

[48] I agree with Ms Brown. The steps you have taken to date are commendable and should be encouraged. Where further programs and support towards your rehabilitation are available then you should take advantage of them. In short, I accept counsel's submission that a five percent discount is justified.

Remorse

[49] Ms Hamilton submitted that it would be inappropriate to allow a discount for remorse. While counsel acknowledged that you feel a sense of loss following the death of Mustafa, you still claim that the injuries you inflicted were initially at least accidental and the result of you trying to administer CPR. As I have already mentioned, the pathologist's report ruled that out. You say that you entered a guilty plea for tactical reasons. Ms Hamilton argued that you have little insight into your own actions.

[50] Ms Brown submitted that a discrete discount between five and 15 per cent should be allowed to reflect your remorse. Counsel contended that a discount for this factor is commonly applied, and that remorse need not be extraordinary to warrant a discount, although it must be genuine. [63] Ms Brown referred to the letter you provided to the Court, which she submitted demonstrates insight into your offending and genuine remorse for your son's death. Counsel also referred to the report prepared by Department of Corrections staff, which states that you have expressed remorse and regret for the offending and were willing to participate in Restorative Justice, even though the victims did not wish to do so.

[51] Having reviewed your letter, and discussed the report earlier, I agree with Ms Brown and consider that a discount of five per cent is justified in your circumstances.

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63 *Kohu v R* [2023] NZCA 343 at [40].

Time spent on restrictive bail

[52] You were granted EM bail on a 24-hour curfew to the Grace Foundation on 9 December 2024.[64] On 5 May 2025, your bail conditions were varied to allow you to attend rehabilitation programmes and activities off-site. Overall, you were on EM bail for 14 months, with nine of those on less restrictive conditions. Ms Hamilton submitted that a credit in the range of four months would be appropriate to acknowledge your time spent on EM bail.

[53] Ms Brown argued that a discount of seven months would be appropriate to reflect this factor.[65] The Court is required under s 9(3A) to consider the offender's compliance, the level of restriction on freedom, and any other relevant matters.[66] Counsel highlighted that there is no strict arithmetical formula for the allowance that should be made for this factor, but that the courts have in some cases allowed generous discounts.[67] Ms Brown also referred to the case of *Glassie v R*, which confirmed that it is wrong to decline allowance for time on EM bail on the basis that it allowed the defendant to access rehabilitation, so earning a separate discount.[68]

[54] After taking account of counsels' submissions and your particular circumstances, I consider that a five month discount for time spent on EM bail is appropriate in your case.[69]

End sentence

[55] Having arrived at a starting point of nine years and 10 months' imprisonment, considering the total discounts of 35 per cent, and a further five-month discount for time spent on EM bail, this results in an end sentence of six years imprisonment.

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64 *R v Ali* [2025] NZHC 1069.

65 Sentencing Act, s 9(2)(h); and *Paora v R* [2021] NZCA 559 at [45].

66 *R v Nepe* [2008] NZCA 98 at [33]; *R v Faisandier* CA185/00, 12 October 2000; *Hohipa v R* [2015] NZCA 485; *Parata v R* [2017] NZCA 48; *Paora v R*, above n 65.

67 Counsel referred to *Hohipa v R*, above n 66, where the Court allowed a 12-month discount for 14 months spent on EM bail with restrictive conditions. See also *White v R* [2017] NZCA 322.

68 *Glassie v R* [2022] NZCA 556 at [73].

69 This is in line with the approach in *White v R*, above n 67, where a discount of five months was allowed for the offender who spent 15 months on EM bail conditions, not all of which was on the most restrictive conditions. The Court of Appeal found that while it was open to the Judge to allow a greater discount, not doing so did not make the end sentence manifestly excessive.

Decision

[56] Mr Ali, please stand.

[57] On the charge of manslaughter, I sentence you to six years imprisonment.

Recalled at 12.25 pm

[58] On the charge of assault with intent to injure and assault on a person in a family relationship, I sentence you to seven months imprisonment.

[59] On the charge of assault on a person in a family relationship, I sentence you to three months imprisonment.

[60] To avoid doubt, these last two sentences are to be served concurrently with the manslaughter sentence.

Please stand down.

Harvey J