

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

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CRI-2024-004-007259  
[2026] NZHC 173**

**THE KING**

v

**KAYDEN STANAWAY**

Hearing: 11 February 2026  
Appearances: F M T Culliney and V Sudhakar for Crown  
J J Rhodes and D Rawson for Defendant  
Sentence: 11 February 2026

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**SENTENCING REMARKS OF LANG J**

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*This judgment was delivered by me on 11 February 2026 at 10.00 am  
pursuant to s 341 of the Criminal Procedure Act 2011.*

*Registrar/Deputy Registrar*

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Solicitors/counsel:  
Meredith Connell, Office of the Crown Solicitor, Auckland  
J J Rhodes, Auckland

[1] Mr Stanaway, you appear for sentence today having pleaded guilty to one charge of murder<sup>1</sup> and three charges of wounding with intent to cause grievous bodily harm<sup>2</sup>.

[2] The maximum penalty for the charge of murder is life imprisonment. The maximum penalty for the remaining charges is 14 years imprisonment.

### **Background**

[3] I take the factual background on which you are to be sentenced from a summary of facts that you have accepted. This records that at the time of the offending you had just turned 19 years of age. The offending occurred following a sustained period of animosity between yourself and members of a group of whom your victims were members. This appears to have begun early in 2024 as a result of a relationship that you entered into with the former partner of a person associated with the victims' group.

[4] The animosity between you and the other group had resulted in several incidents that involved violence and threats of violence by members of the other group. On 17 March 2024 members of the victims' group, including the deceased, Mr Max Repia, went to your home and threatened your 13-year-old sister. This led her to tell you and her father about what had happened. When her father went outside, Mr Repia held up what appeared to be a firearm and attempted to discharge it. The firearm failed to discharge, either because of a mechanical malfunction or because it was not loaded. The summary of facts states that the gun made a clicking sound but no bullets were released. Mr Repia then punched and knocked your cousin to the ground. By this stage, having been told of the threats to your sister, you had armed yourself with a hammer and crowbar.

[5] You also described another incident that occurred during the following two weeks. During this period your father located what appeared to be a bullet hole in the front door of the family home. Then, in the early hours of 29 March 2024, members of the victims' group went to your home and smashed a window of your vehicle, which

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<sup>1</sup> Crimes Act 1961, s 172.

<sup>2</sup> Section 188(1).

was parked outside the property. They also tagged the vehicle with spray paint and smashed a window at your address. During this incident, you armed yourself with a cricket bat to defend yourself.

[6] Members of the group then endeavoured to force their way into your house. However, you and other members of your family were able to hold the door closed and prevent them from entering. On this occasion, and apparently for the first time, the police were called to deal with the incident. Shortly after this incident, it appears that some form of truce was reached between the two groups.

[7] This ended on the evening of 16 August 2024, when members of the victims' group went to your home. They broke down the door and entered the address without invitation. You were not home at this time but those who entered the address demanded the keys to your new motorcycle. They also stole a bottle from the table inside the living room area. The intruders were holding bottles in a manner that gave the occupants of the address the impression that they were going to use them as weapons. The police were again called as a result of this incident.

[8] When you learned what had happened, you returned to your address and saw Mr Repia and his associates out on the street. You saw one of Mr Repia's associates assault one of your friends with a bottle whilst he was lying on the ground. You responded by driving your vehicle towards members of the opposing group, striking at least one of them with it. You then endeavoured to protect your friend from further attacks. These were still in progress when the police arrived at the scene.

[9] Twelve days later, on 28 August 2024, you sent messages on your Instagram account to members of the victims' group. You told one of them, Mr Lucas, to "pull up wiv you little shotty fag". You also told Mr Lucas to tell his associate Max to pull up because you had "a clip with his name on it". You and Mr Lucas then engaged in further communications in which you goaded each other further. These included Mr Lucas sending a photograph of himself holding a shotgun. You say that these events led to an increase in your anxiety and that you experienced PTSD symptoms and were hypervigilant.

[10] The events that led to the charges began a week later, on the afternoon of 5 September 2024. On that date Mr Repia and several associates encountered you whilst you were driving your vehicle. They gave chase in their own vehicle, filming themselves as they did so. They then travelled to your home address, where they threw rocks through the windows, again filming themselves as they did so. This resulted in one of the occupants contacting the police to report the rocks being thrown at the house.

[11] You then returned to your home address and, as the evening progressed, you stood outside on the driveway and grass berm. Over time, others arrived at the address to attend your younger brother's 14<sup>th</sup> birthday party.

[12] During the course of the evening, you were involved in several communications with Mr Repia in which Mr Repia made threats were made to kidnap your father. At approximately 6.18 pm, you sent a message to Mr Repia telling him to "pull up".

[13] At approximately 6.43 pm, a vehicle stopped at the end of your street. Two of the passengers in the vehicle, Mr Kalekale and Mr Salt, got out of the vehicle. The vehicle then drove past your address and parked further down the road. Messrs Kalekale and Salt walked down the hill and stopped on the footpath opposite your home. Minutes later, they were joined by three others, including Mr Repia and Lucas. They had come from the vehicle parked further down the road. The five men gathered as a group directly across the road from your address. At this time, you and several associates were standing outside your address on the other side of the road.

[14] A heated exchanged then ensued. You subsequently said that two of Mr Repia's associates threatened to shoot a dog belonging to one of your associates. Whilst this was taking place you were standing next to the open door of a white Mazda motor vehicle. The vehicle was positioned between yourself and the group across the street. You recognised Mr Lucas as having been the person who had recently sent a photograph of himself holding a shotgun. You also saw Mr Kalekale holding a cylindrical object. Mr Repia then stepped forward in the middle of the road with his hands up, thereby indicating his intention to engage in a fist fight. A short time later,

however, he retreated to the area of the footpath where his associates were still standing.

[15] Mr Lucas then began to move up the footpath towards your group. He was holding an item, most likely a bag that he had been carrying, in his right hand. The summary records that Mr Kalekale, while still positioned on the footpath and leaning against a fence, then held up a cylindrical object and pointed it towards you before dropping his arms back down to his side.

[16] At the same time, Mr Salt also raised his arm and held it up towards you. Mr Salt proceeded to step forward off the footpath and onto the road, before lowering his arm, and then walking towards the centre of the road. He then returned back onto the footpath.

[17] The summary states that in the belief that at least one of the opposing group was holding a firearm, you reached into the Mazda vehicle and armed yourself with a long-barrelled .22 calibre rifle. You then adopted a standing firing stance by resting your elbows on the roof of the Mazda vehicle and taking aim with the firearm at the group across the road. You then rapidly fired four shots at that group. The summary records that you fired these shots in self-defence but that your response was unreasonable given the threat that you and your associates actually faced.

[18] You then got into the front passenger seat of a vehicle driven by one of your associates. The firearm was also placed in this vehicle and driven away from the scene. One of your associates subsequently buried the firearm at another address. Emergency services arrived a short time later and cordoned the area off.

[19] They found that Mr Repia had sustained a single gunshot wound near the centre of his chest. Mr Lucas and Mr Salt each sustained a single gunshot wound to the face, with the bullets lodging in their neck. Mr Kalekale sustained a gunshot wound to the side of his chest. After they were wounded, all four men had managed to run away despite their respective wounds. However, after running a short distance down the road, Mr Repia collapsed in the street and subsequently died. Mr Lucas, Mr Salt and another associate went to Auckland Hospital where they received medical treatment for their wounds.

[20] Mr Kalekale was taken by the Police to the Auckland Central Police Station. At that stage he was not aware he had been shot. At the Police Station, it became apparent that Mr Kalekale had been wounded and an ambulance transported him to Auckland Hospital.

[21] Mr Repia died from a single gunshot wound to his chest. A post mortem examination established that the bullet had punctured his heart and other vital organs, thereby causing fatal internal injuries. Mr Lucas was found to have sustained a single gunshot wound to the face. The bullet had punctured his nose and travelled into his neck in close proximity to his spine and vital arteries. He required multiple surgeries to repair the damage caused by this gunshot wound.

[22] Mr Salt also sustained a single gunshot wound to his face. The bullet punctured his chin where it fractured. Parts of the projectile then lodged in close proximity to his spine. Mr Salt required ongoing medical treatment for this wound.

[23] Mr Kalekale sustained a single wound to the side of his chest. The projectile lodged in his right pectoral muscle. He was required to undergo surgery to have the bullet removed.

### **Would it be manifestly unjust to impose a sentence of life imprisonment?**

[24] Section 102 of the Sentencing Act 2002 (the Act) creates a presumption that any person who commits the offence of murder must be sentenced to life imprisonment. This sentence must be imposed unless, given the circumstances personal to the offender and to the offence, such a sentence would be manifestly unjust.<sup>3</sup> The term “manifest injustice” in this context requires the case to be exceptional in the sense that it justifies departure from the legislative policy embodied in the Act.<sup>4</sup> In the present case, both the Crown and your counsel submit that it would be manifestly unjust to impose a sentence of life imprisonment because of your young age and a variety of other circumstances. The first issue I am required to determine is whether I should accept that submission.

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<sup>3</sup> Sentencing Act 2002, s 102(1).

<sup>4</sup> *Dickey v R* [2023] NZCA 2, [2023] 2 NZLR 405 at [167].

[25] Not surprisingly, the seriousness and culpability of the offending are central to any assessment of whether it would be manifestly unjust to impose a sentence of life imprisonment. However, the Court of Appeal has held that youth is also an important consideration in the assessment of manifest injustice.<sup>5</sup> This is because clinical experience has identified neurological differences between young people and adults. Young people have less self-control than adults and are more impulsive in their actions.<sup>6</sup> They are also more likely to engage in risky behaviour and they are more vulnerable to the influence of their peers.<sup>7</sup> In addition, they are likely to have greater prospects of rehabilitation.<sup>8</sup>

[26] Youth alone will not generally be sufficient to displace the presumption that a sentence of life imprisonment should be imposed.<sup>9</sup> However, as the Court of Appeal pointed out in *Dickey v R*, young persons may present with a combination of mitigating circumstances relevant to the offending which, when coupled with personal mitigating factors, may be capable of establishing manifest injustice.<sup>10</sup> It is also necessary to bear in mind the fact that a sentence of life imprisonment is an indeterminate sentence and one that requires the offender to be subject to parole conditions for the whole of his or her lifetime. It will also generally be accompanied by a 10-year minimum term of imprisonment. These factors are all likely to be more problematic in the medium to long term for youthful offenders than for adults.

[27] On the other hand, the sentence must mark the fact that a life has been lost without lawful justification or excuse.<sup>11</sup> In your case, the sentence must recognise the fact that Mr Repia lost his life at the young age of 18 years. Not surprisingly, this has had catastrophic consequences for his whanau and friends. You have heard measured yet harrowing victim impact statements detailing these read out in Court today. Three other young persons also received serious or significant gunshot wounds as a result of your offending.

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<sup>5</sup> *Dickey v R*, above n 4, at [171].

<sup>6</sup> At [77].

<sup>7</sup> At [77].

<sup>8</sup> At [80], [85], and [86(d)].

<sup>9</sup> At [177]. See also *Kriel v R* [2024] NZCA 45 at [102].

<sup>10</sup> At [177].

<sup>11</sup> At [179].

[28] In the present case, as the summary of facts records, your offending occurred as a result of unreasonable efforts made by you to defend yourself against what you believed to be an impending attack by members of the victims' group. The Crown also accepts that you had taken the firearm to the scene solely for the purpose of defending yourself should that become necessary. Having done so, however, the risk was always going to be that you would resort to it in circumstances where use of the firearm was not warranted. As it transpires, this is exactly what happened. You resorted to the firearm believing that you were in danger of being shot yourself, when in fact there is no evidence that that was ever the case.

[29] The offending also occurred against a backdrop of ongoing animosity between you and members of Mr Repia's group. This had involved threatened and actual violence by that group, including the use of firearms. This no doubt contributed to your perception that you were in mortal danger at the time you discharged your firearm at Mr Repia's group.

[30] Importantly, your counsel has tendered a helpful report by Dr Sarah Cluley, a clinical and forensic psychologist. This sets out in considerable detail the turmoil you endured in your childhood and adolescence and the long-lasting and indeed ongoing effects this has had for you. The report concludes:

[62] In summary, Mr Stanaway's offending appears to have arisen from the interaction of early exposure to violence, chronic insecurity, and trauma-related psychological vulnerabilities that distorted his perception of threat and impaired his emotional regulation. His longstanding mistrust of others, impulsivity, and protective loyalty toward his family combined with acute PTSD symptoms (particularly hyperarousal and heightened fear responses) likely created a state in which he perceived imminent danger and reacted instinctively. The evidence suggested that his behaviour was driven less by calculated aggression than by an emotionally overwhelmed, fear-based response rooted in trauma, developmental instability, and impaired judgment.

[31] When these factors are taken into consideration along with your youth and guilty pleas, I am satisfied that both counsel are correct in their submission that it would be manifestly unjust to impose a sentence of life imprisonment. Instead, it is necessary to impose a finite sentence.

## What finite sentence should be imposed?

### *Approach*

[32] The imposition of a finite sentence rather than a sentence of life imprisonment in cases of murder committed by youthful offenders is a relatively recent phenomenon. Two schools of thought have now developed regarding the approach the courts should take when fixing a finite sentence in this context.

[33] The leading authority is the case to which I have already referred, *Dickey v R*.<sup>12</sup> In that case, the Court of Appeal identified an approach that involve fixing a nominal starting point for the sentence and then increasing or decreasing this to reflect aggravating and mitigating factors personal to the offender. This is orthodox sentencing methodology. However, at the end of this process the Court is required to stand back and determine whether the end sentence is proportionate to the fact that a life has been taken in circumstances amounting to murder. In *Dickey*, and in other cases that followed it, the courts have increased the end sentence, sometimes significantly, to arrive at what they considered to be an appropriate end finite sentence. By way of example, the provisional end sentence for one of the appellants in *Dickey* was eight years imprisonment. The Court of Appeal increased this to 15 years imprisonment to achieve a proportionate sentence that reflected the offending.<sup>13</sup>

[34] The appropriateness of such an approach has been doubted in three recent sentencing decisions of this Court.<sup>14</sup> As identified in these cases, the problem with the *Dickey* approach is that the transparency of the sentencing process is compromised when the final assessment as to the appropriateness of the end sentence is undertaken. There is arguably little utility in undertaking the earlier part of the exercise only to effectively disregard it in setting the final sentence. When the end sentence is significantly increased at the very end of the exercise, the concern must be that the original starting point was too low or the discounts given for mitigating factors were too great.

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<sup>12</sup> *Dickey v R*, above n 4.

<sup>13</sup> At [211].

<sup>14</sup> *R v McCarthy* [2025] NZHC 4039 at [42]; *R v Jetson* [2025] NZHC 1022 at [50]; and *R v D and P* [2024] NZHC 2118 at [41].

[35] For myself, I prefer the approach suggested in the recent High Court decisions. This involves setting a starting point having regard to those selected in other comparable cases. This is then increased or reduced to reflect aggravating and mitigating factors personal to the offender. This produces the appropriate end sentence and no further assessment or adjustment is required.

[36] I consider this process to be appropriate because it accords with orthodox sentencing methodology and is transparent throughout. It would also lead to greater consistency and transparency in this area of sentencing jurisprudence. It also accords with the principle taken in manslaughter cases, where there is no guideline sentencing authority from the senior appellate courts. Instead, starting points are fixed having regard to those selected in comparable cases. The main drawback with this approach at present is that there are, at this stage, relatively few sentencing authorities available against which to compare index offending. However, this is likely to change over time.

[37] In its written submissions, the Crown urged me to adopt the approach advocated in the recent High Court decisions. It said I should select a starting point of 30 years imprisonment on the murder charge and add an uplift of five years to reflect the remaining charges. It said that an end sentence of around 21 years imprisonment was appropriate after taking into account mitigating factors personal to you.

[38] However, the Crown's submissions overlook the fact that, as recently as December 2025, the Court of Appeal confirmed in *Taylor v R* that, until the approach taken in *Dickey* is reviewed by the Permanent Court, that approach remains binding on this Court.<sup>15</sup>

*Starting point: murder*

[39] As the Court of Appeal noted in *Taylor*, starting points using the *Dickey* approach have generally ranged from between 16 and 22 years imprisonment.<sup>16</sup> Once mitigating factors are taken into account, end sentences have ranged between 12 and 18 years imprisonment.

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<sup>15</sup> *Taylor v R* [2025] NZCA 693 at [42].

<sup>16</sup> At [43].

[40] Adopting the *Dickey* approach, your counsel suggests a starting point of 17 years imprisonment on the murder charge with an uplift of two years to reflect the remaining charges. However, I consider your offending falls in the middle of the available range given the aggravating and mitigating factors inherent in it. First, it involved the use of a deadly weapon to fire four shots at several persons who were grouped together a close distance away. This involved recklessness at the very highest level. Indeed, it comes very close to an intentional killing. You and the surviving victims are extremely fortunate that your actions did not result in even greater harm to those in the vicinity. These factors would ordinarily place your offending towards the top of the available range.

[41] However, the culpability of your offending is ameliorated by the fact that it occurred in circumstances where you believed you were in grave danger yourself, and that you had grounds for this given the circumstances then prevailing and your earlier encounters with the victims' group. Given the existence of these factors I propose to select a starting point of 19 years imprisonment on the charge of murder.

*Uplift for remaining charges*

[42] On a stand-alone basis, the remaining three charges would obviously attract a significant sentence of imprisonment given the seriousness of that offending. However, having regard to totality principles, I propose to increase the starting point by four years to reflect those charges. This produces a sentence of 23 years imprisonment before taking into account aggravating and mitigating factors personal to you.

*Aggravating factors*

[43] As the Crown points out, you have three previous convictions for offending involving weapons. These relate to the carriage of an imitation firearm, being in possession of an offensive weapon and unlawfully being in possession of a firearm. You received sentences of community work and intensive supervision on those charges, which indicates that they fell towards the lower end of the scale. Nevertheless, you were sentenced on those charges on 12 April and 30 July 2024. This was a very short time before you committed the present offences. Your continued

involvement with weapons despite the sentences you had very recently received for offending involving weapons is a relevant factor that I consider needs to be taken into account in the present context. I would add an uplift of 12 months to reflect your previous convictions. This produces a sentence of 24 years imprisonment before taking into account mitigating factors.

*Mitigating factors*

[44] The discounts to be applied for mitigating factors relate only to the 23-year sentence I have selected for the charges. They do not apply to the one-year uplift to reflect your previous convictions.

[45] You are obviously entitled to a substantial discount to reflect your relative youth at the time of the offending. I agree with your counsel that a discount of approximately 20 per cent, or four years six months, is appropriate to reflect this factor. This also takes account of the remorse you have expressed and your rehabilitative prospects. You have a good employment record and appear to have encountered no issues in serving the community-based sentences previously imposed by the courts. However, the fact that you now have a record of being involved with weapons means that any discount to reflect your rehabilitative prospects must be tempered.

[46] I would also apply a discount of 15 per cent, or three years six months, to reflect your guilty pleas. They were not entered at an early stage but they reflect acceptance by you of responsibility for your offending. I am also told that there was considerable discussion with the Crown before it accepted that you acted in excessive self-defence. Importantly, also your guilty pleas saved your victims and their families the added ordeal of a lengthy criminal trial that would have traversed in detail the events giving rise to the charges.

[47] Finally, I would apply a discount of around 10 per cent, or two years, to reflect the factors in your family background identified in Dr Cluley's report.

[48] These discounts reduce the sentence by ten years, resulting in an end sentence of 14 years imprisonment.

[49] Your counsel submits that this is an appropriate end sentence and that a minimum term of imprisonment of seven years should also be imposed. Having regard to the overall culpability of your offending, however, I do not consider that this would be a proportionate sentencing outcome. Rather, adopting the *Dickey* approach, I consider an appropriate and proportionate end sentence to be one of 16 years imprisonment.

### **Minimum term of imprisonment**

[50] In the ordinary course of events you would be eligible to apply for parole after serving just over five years of your sentence. I consider this would be manifestly inadequate to reflect the need for the sentence to reflect the principles of deterrence, denunciation and the need to hold you accountable for the offending. Your youth and rehabilitative prospects do not remove the justification for a minimum term of imprisonment to reflect these principles. I therefore propose to direct that you be required to serve one-half of your sentence before being eligible to apply for parole.

### **Sentence**

[51] Mr Stanaway, on the charge of murder, you are sentenced to 16 years imprisonment and ordered to serve a minimum term of eight years before being eligible to apply for parole.

[52] On each of the remaining charges, you are sentenced to four years imprisonment. Those sentences are to be served concurrently with each other and also with the sentence imposed on the charge of murder.

[53] Stand down.