IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
KIRIKIRIROA ROHE

CRI-2004-019-000241
[2026] NZHC 1970

THE KING

v

MARK DEAN HOGGART

Hearing: 9 July 2026

Counsel: ASC Alcock for Crown
HG de Groot for Defendant

Judgment: 9 July 2026

SENTENCING REMARKS OF DOWNS J

Solicitors:
Crown Solicitor, Hamilton.

Introduction

[1] Mark Hoggart, you are for sentence on three charges: wounding with intent to cause grievous bodily harm; injuring with intent to injure; and threatening to kill. You committed the offending in 2003. I begin by explaining why you are (again) for sentence now.

[2] In February 2004, you were sentenced for the offending to preventive detention.[1] As you know, preventive detention is an indefinite sentence. In 2025, you applied to the Court of Appeal for permission to bring an appeal out of time. That Court granted permission, and it quashed your sentence of preventive detention.[2] It directed you be sentenced again. That is why you are being sentenced again, now. You have spent most of the intervening time in prison, serving preventive detention.

[3] Given these unusual circumstances, I have a great deal of information about you. Despite that, assessing the risk you now pose continues to be difficult. I shall say more about this shortly.

[4] In what follows, I shall keep my remarks as short and simple as possible.

[5] I begin with your offending for sentence.

The offending

[6] You committed it on the evening of 25 January 2003. The offending involved your girlfriend, and your mother's partner. You had been drinking, as had your girlfriend. You called her a "slapper". You accused her of sleeping with your mother's partner. She asked you why you were alleging that. You became enraged. You pushed your girlfriend onto the bed, grabbed her by the shirt, and threw her against the wall. You then grabbed her and threw her onto a chair. You grabbed your girlfriend again and placed both of your hands around her throat. You began choking her so she could not breathe properly. You choked her for approximately five to 10 seconds. Fortunately, she was able to place her feet on your chest and push you away. She ran

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1 *R v Hoggart* HC Hamilton T030376, 19 February 2004.
2 *Hoggart v R* [2025] NZCA 573.

to the door, calling for help. You grabbed her again and threw her onto the bed. You took hold of her hair and banged her head into the bedroom wall four or five times. You then choked her again. She could not breathe. You told the victim to confess to sleeping with your mother's partner or she would die. Unsurprisingly, the victim believed she would.

[7] She asked you to kill her some other way if you were going to do so. You said, "no I want to do it this way", before re-applying your grip. She began to see black spots and thought she was going to die. She said or indicated she had slept with your mother's partner. You relaxed your grip and asked her where she had done so. She said in the spare room.

[8] You then got a pair of scissors, kicked your mother's partner in the side of the ribs, and began punching him about the head and body. You then used the scissors to repeatedly stab at him about the head, neck, and upper torso. He attempted to block your blows. He also ran outside. You continued to stab at him as he did so. You stabbed him in the back of the head twice.

[9] Others present tried to restrain you. You ultimately let your mother's partner go and walked outside. You were caught by police a short distance thereafter.

[10] Your girlfriend suffered bruising around her throat, a lump on the back of her head, a sore face, a sore and bruised left ear and a bruised and sore back.

[11] Your mother's partner received approximately five stab wounds to the head, neck and shoulders which were up to two centimetres deep. He also suffered bruises where you had punched and kicked him.

[12] You later pleaded guilty to the three offences I mentioned: wounding with intent to cause grievous bodily harm; injuring with intent to injure; and threatening to kill.

The original sentence

[13] You were originally sentenced in this Court on 19 February 2004.

[14] The Judge, Potter J, noted your girlfriend was terrified and suffered "extremely negative consequences" because of your offending.

[15] The Judge said if she were going to impose a finite sentence, she would have imposed a term of seven and a half years' imprisonment. But as I mentioned earlier, the Judge imposed preventive detention. She imposed a minimum period of five years.

[16] One of the reasons the Judge imposed preventive detention was because of your overall criminal record. You were imprisoned as a teenager for aggravated robbery, and later, while still a teenager, for twice assaulting with intent to injure and once injuring with intent. I will say more about that offending shortly.

Parole

[17] The Parole Board granted you parole on 3 February 2014. You were released 17 February 2014.

[18] In or about July 2014, a woman with whom you had entered a relationship contacted your probation officer to say she was worried for her safety. She said you had become obsessive and paranoid about her fidelity, and whether you were the father of the child she was carrying. She said she had left home because of her fears. You were recalled to prison because of this sequence.

[19] You were again granted parole on 21 August 2018. You were released from prison 26 September 2018.

[20] In January 2019, you tested positive for cannabis. More significantly, you entered a relationship with another woman; and several family harm incidents came to police attention. In August 2020, you were convicted of a representative charge of male assaults female in relation to the same female. That conviction reflected two incidents in 2019.

[21] I now briefly describe both.

[22] In September 2019, you punched the victim in the face and took her mobile phone when she would not delete some messaging.

[23] In October 2019, you pushed the victim, then followed her when she attempted to leave. You pulled her hair and dragged her from a roadway down a bank. A member of the public saw what you were doing and flagged down police.

[24] A non-association order was in place throughout.

[25] You received a sentence of nine months' imprisonment from the District Court for this offending. You were also recalled to prison. You have remained in prison since then. All of this you know.

The competing cases

[26] The Crown argues preventive detention should be re-imposed on you. It says you remain dangerous to women with whom you are in a relationship. It says there is a high risk you will commit a qualifying offence against such a victim unless you remain incarcerated.

[27] You say you are not the person you once were and that you have learned your lesson. You emphasise the offending occurred 2003, when you were 19. You are now 42. In any event, you say there is an inadequate basis to conclude you pose a high risk of committing specified offences against women with whom you are in a relationship. You say I should impose a finite sentence; with the consequence you would serve no further penalty given the 20-plus years you have been in prison.

The reports

[28] I have five reports about you, all ultimately directed at risk. I attempt to capture the gist of each.

[29] I begin with that of Dr Jeremy Whiting, a psychiatrist. His report is dated 21 June 2026. Dr Whiting considers you pose a risk of further violent offending, but says it is difficult to assess the likelihood you would commit a qualifying offence on

release. Dr Whiting sees your risk as "substantially influenced" by circumstance rather than a pervasive pattern of violence.

[30] The next report is from Dr Gordon Lehany, a psychiatrist. It is dated 22 March 2026. Dr Lehany says it is not possible to offer a reliable conclusion about the likelihood of you committing further qualifying offences given (a) so much time has passed since the last qualifying offences and (b) your change in circumstances, including of course your age. Dr Lehany says there is *not* a basis to conclude you pose a high risk of further qualifying offending. That reference is to the report of Ninad Patel, dated 11 March 2026, to which I now turn.

[31] Ninad Patel is a psychologist with the Department of Corrections. Mr Patel considers you pose at least a high risk of further qualifying offending. Mr Patel acknowledges you have made efforts to address the causes of your offending but says these have not translated into consistent behavioural change outside of prison. Mr Patel believes your risk is exacerbated from a traumatic brain injury that you suffered.

[32] This leaves two reports from Dr Peter Dean, a psychiatrist. He made both in February 2026. Dr Dean does not directly address risk, at least in the way the other experts have. Dr Dean considers you now have what he describes as "considerable insight" into your "risk factors". He says you appear better able to manage stress. Dr Dean says stable accommodation and employment are likely to reduce the risk you pose.

[33] Before leaving the reports, I note two things. First, there is no evidence you suffer any mental illness. Second, Dr Dean considers you met the criteria for conduct disorder as a youth, and as an adult, you meet the criteria for antisocial personality disorder.

[34] This brings me to preventive detention as a sentence.

Preventive detention

[35] Preventive detention may be imposed if a defendant is convicted of a qualifying violent offence and was 18 years of age or over at the time of committing the offence. You meet both criteria, but there is a third.[3]

[36] The Court must be satisfied the defendant is likely to commit another qualifying violent offence if the person is released on their sentence expiry date. For you, that date would begin from today. If this criterion is also met, the Court must take several things into account in considering whether to impose preventive detention:

(a) Any pattern of serious offending disclosed by the defendant's history.

(b) The seriousness of harm caused by the offending to the community.

(c) Information indicating a tendency to commit serious offences in future — in short, risk.

(d) The absence of, or failure of, efforts by the defendant to address the cause or causes of the offending.

(e) The principle a lengthy determinate sentence is preferable if it would provide adequate protection for society.

[37] When assessing an apparent pattern of serious offending, the entirety of the defendant's criminal history is considered. I mentioned earlier your convictions for assault with intent to injure and injuring with intent to injure.

[38] In June 2001, you accused the victim, another girlfriend, of having a relationship with a boarder. You said you would give her a hiding if she did not admit to that relationship. You punched her four times in the head. Later that day you reignited the dispute and punched the victim twice to the head before twice

[3] Sentencing Act 2002, s 87(2)(c).

headbutting her as well. Later again that day, you attacked the victim a third time. That attack included slamming her head into a china cabinet, throwing her across the lounge, kicking her repeatedly to the stomach, punching her to the body and head, and pushing her onto a concrete driveway before kicking and punching her yet again. You then strangled the victim for a total of seven minutes, easing your grip every 30 seconds or so to allow her to take a breath of air. All this occurred 5 June 2001.

[39] On 6 July 2001, you prevented the victim from leaving your home by placing knives in the doorframe. You accused her of having a relationship with someone. You repeatedly threw the victim and strangled her three times.

[40] On 12 July 2001, you assaulted the victim yet again. You punched her to the head, a blow that knocked her to the ground. You kicked her in the head while she was on the ground. You were wearing heavy shoes at the time. If all this were not bad enough, you also punched her in the head, threw her through a fence, and repeatedly strangled and punched her.

[41] Now, all of that was a long time ago, but I must also consider your offending in September and October 2019, and of course, your original offending — that for sentence today.

[42] I accept the submission on behalf of the Crown a pattern of serious offending *is* disclosed by your history. Relatedly, I accept you have caused serious harm to the community by your offending. However, I add you have been in prison for a long time. You have served a real penalty for what you have done.

[43] It is common ground you have engaged in extensive treatment. That is to your credit. The Crown argues that treatment has been unsuccessful. It cites your offending in 2019 as evidence of that. As against that, the preponderance, meaning the balance, of expert evidence is that you have made progress in your rehabilitation, albeit your rehabilitation remains to be tested outside of prison.

[44] This brings me to the principle a lengthy determinate sentence is preferable if it provides adequate protection for society. The Crown argues your offending on

parole demonstrates preventive detention remains justified despite the fact you have spent more than 20 years in prison. That you have spent such a period in prison does tell against preventive detention, though I would not regard this consideration as decisive if you continued to pose an undue risk to women with whom you have a relationship.

[45] All of this brings me to the issue at the heart of today's exercise: risk. As I have explained, preventive detention requires satisfaction the defendant would *likely* commit a qualifying offence once released. If "likely" means there is a real risk of the commission of such an offence, I am satisfied the threshold is met in your case, because there is a real risk your violent response to intimate relationships will again surface. But if "likely" means more likely than not, I am not persuaded the threshold is satisfied, because the expert evidence does not permit that conclusion, when considered overall.

[46] Nothing turns on this, however, for reasons that I shall explain. You have been in prison for a long time, indeed, most of your adult life. Given this, I consider the evidence would need to clearly demonstrate undue risk for preventive detention to be imposed again. This is not to qualify the statute or principle in relation to it. Rather, it is to acknowledge you have already served a long prison sentence for the offending. The evidence does not clearly demonstrate undue risk. I do not overlook the evidence of Mr Patel, but as I have tried to explain, I must consider all the evidence, not just his report. In short, the preponderance — meaning balance — of expert evidence does not support the proposition you pose undue risk.

[47] Mr Hoggart, I hope you and the community understand what I am saying. I am not saying you pose no risk. You *do* pose risk — to women with whom you have a relationship. That you have strangled two women is alarming. Strangulation is inherently dangerous for reasons that are obvious. But, it also has a psychological element: strangling a person unequivocally conveys the offender could kill their victim. Therein lies the other reason courts treat the behaviour seriously.

[48] As against these aspects, you have been in prison a long time. It appears you have tried to rehabilitate. The preponderance of expert evidence is that you have made genuine progress, albeit untested progress.

[49] All this being so, preventive detention is no longer a commensurate response to your offending. Instead, I impose the term Potter J said she would have imposed but for preventive detention: seven and a half years' imprisonment. That means no further penalty will be imposed on you, given the time you have already served.

[50] It is not open to me to impose any conditions on your release, nor is it open to me to make an extended supervision order. This is unfortunate, but it reflects the unusual history of your case.

[51] Mr Hoggart, please stand. For the offence of wounding with intent to cause grievous bodily harm, I impose a term of seven and a half years' imprisonment. On each of the remaining charges I impose terms of three years' imprisonment. All terms are concurrent, meaning they run at the same time. I apprehend this means your incarceration is at an end.

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Downs J