

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

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

**CRI-2024-019-003671
[2026] NZHC 2334**

THE KING

v

D

Hearing: 13 August 2026
Counsel: JN Hamilton for Crown
RAB Barnsdale for Defendant
Judgment: 13 August 2026

SENTENCING REMARKS OF DOWNS J

Solicitors:
Crown Solicitor, Hamilton.

Introduction

[1] Ms D, you are for sentence on one charge of attempted murder.¹ The victim is your then three-year-old son, whom I call X. X's name is automatically suppressed by law.²

Facts

[2] Your offending occurred 16 July 2024. You then lived with your husband — who is X's father — X himself, and three boarders.

[3] That morning, your husband arranged to take X to kindergarten. You asked him not to. Your husband said you needed to rest, and it would be better if X went to kindergarten, as he usually did. But you were adamant X should stay home with you. The other adults left, as did your husband, at approximately 9 am.

[4] After everyone had gone, you took a large meat cleaver out of a knife block in the kitchen. You put the cleaver in the master bedroom. You chose it because it was the sharpest knife in your home.

[5] You then sent text messages to your husband, which implied you were going to take X's life and your own.

[6] You led X to a yoga mat on the floor of the master bedroom. You held him down on the mat. You then used the meat cleaver to repeatedly cut his neck. You attacked both sides of his neck with the weapon. X screamed but then became quiet and unresponsive.

[7] You then inflicted superficial injuries to your own throat and wrists; drank some toilet cleaner; and wrapped a dressing gown cord around your neck, pulling it tight. You rang your husband, saying "save me if you can".

¹ Crimes Act 1961, s 173; maximum penalty, 14 years' imprisonment.

² Criminal Procedure Act 2011, s 204(1)(a).

[8] Your husband arrived home at approximately 10.25 that morning. He yelled “what did you do”. You replied, “I’m not a good wife, I’m not a good mother”. You told him you wanted to take the victim with you because you loved him so much.

[9] Your husband drove you and X to hospital.

[10] X required surgery. He suffered what the summary of facts records as “severe inflicted injury”.

[11] X’s injuries included a large, seven-centimetre-long laceration to the righthand side of his neck extending into deep tissue; seven open wounds to the same side of his neck; and nine superficial lacerations along the curve of the righthand side of his neck. Injuries to the victim’s lefthand side of the neck included two open wounds, which began under the chin and extended to the back of the neck, and superficial lacerations along the curve of his neck.

[12] Other injuries to him included an open wound to the left wrist; superficial lacerations to that wrist and right arm; and pinpoint bleeding under the skin, all over the face. The last injury and what is described as “subconjunctival haemorrhage” could have been caused by several different mechanisms, including strangulation, suffocation, or sustained neck pressure.

[13] It is possible X suffered injury to his brain, which can have lasting impacts on learning and behaviour. Unsurprisingly, he suffered significant scarring to his neck.

[14] You told police you did intend to kill your son by repeatedly cutting him with the meat cleaver.

[15] You were admitted to the Henry Bennett Centre the day of the offending. The clinicians considered you had an adjustment disorder³ with depressed mood.⁴ You were given medication for depression. You were released 19 July 2024, that is,

³ An adjustment disorder is characterised by the development of emotional or behavioural symptoms in response to proximate stress.

⁴ The offending appears to have been considered a possible, acute stress reaction.

only three days after the offending. No formal psychiatric diagnosis accompanied your discharge.

[16] You were charged promptly with the offending. A trial was fixed to begin 1 December 2025. On 17 July 2025, you pleaded guilty to attempted murder while recording several factual challenges, namely: (a) the extent and gravity of the injuries you had inflicted; (b) the nature of the weapon you had used; (c) the extent of your own injuries; and (d) other matters.

[17] A disputed facts hearing was scheduled for April this year, but adjourned shortly beforehand, as you changed lawyers. On 5 May 2026, you formally abandoned your factual challenges. However, as I shall explain, some arguably remain.

Starting point

[18] There is no guideline judgment for attempted murder. That for the intentional infliction of grievous bodily harm is a useful, albeit imperfect, proxy.⁵

[19] The Crown argues your offending lies in the top bracket, which attracts starting points of between nine and 14 years' imprisonment. It says this follows because of the extensive suite of aggravating factors in relation to your offending, which on the Crown's analysis are: premeditation; use of a weapon; serious injury; an attack to the head; extreme violence; a breach of X's trust; his vulnerability as a three-year old child; and the lifelong psychological trauma that you might have caused him. The Crown argues for a starting point of 11 and a half or 12 years' imprisonment.

[20] On your behalf, Mr Barnsdale says some of these factors overlap. He says any premeditation was modest: you felt unwell the night before the offending so it does not follow when you told your employer you would not be at work the next day, that you had already planned it. However, Mr Barnsdale does not contest your offending would ordinarily fall into the top bracket. He says your psychological condition at that time removes the offending from that bracket and indeed, warrants a sentence other than imprisonment, because it greatly diminishes your culpability.

⁵ *R v Taueki* [2005] 3 NZLR 372 (CA). Unlike grievous bodily harm, attempted murder requires an intention to kill.

[21] Mr Barnsdale and the Crown cited various sentencings for attempted murder. I shall capture these in a footnote to my written remarks with those of my own research.⁶

[22] I accept some of the aggravating factors identified by the Crown do overlap. I also accept your premeditation is confined to the morning of the offending for the reason Mr Barnsdale identifies. That aggravating factor is, therefore, modest. But these are points at the margins. You used a weapon; inflicted serious injury; attacked the neck, which in this context must be synonymous with the head in terms of risk to life; and you breached your son's trust. He was vulnerable as a three-year-old child. You also intended to kill, a more serious intent than that for the offence in relation to grievous bodily harm.

[23] In short, that you attempted to kill X by repeatedly attacking his neck with a meat cleaver speaks for itself. Ordinarily, offending of this nature would attract a starting point in double figures; 10 and a half years' imprisonment would be easily reached as a notional starting point. The question is what effect, if any, attaches to your mental health at the time? Put another way, what reduction, if any, should be made to the notional starting point of 10 and a half years' imprisonment?

[24] On this question, I have many reports, including from Dr Peter Dean, whom you consulted, and Dr Jeremy Skipworth, whom the Crown retained. Both are experienced forensic psychiatrists.

[25] Dr Dean notes you were diagnosed with adjustment disorder with depressed mood in the immediate aftermath of the offending, and with an acute stress reaction because of the offending. He considers:

Mrs [D] presents as having experienced an acute psychological crisis on [16 July 2024]. This crisis appears to have been driven by a low mood and negative cognitions about her self-worth. She has a series of stressors, including pressure related to her repeated failures of a professional English

⁶ *R v Knoll* HC Hamilton CRI-2008-019-3966, 26 February 2009; *R v Ali* [2017] NZHC 2973; *Ali v R* [2019] NZCA 35; *R v Kumar* [2024] NZHC 3253; *R v MHC* Dunedin CRI-2007-012-211, 11 December 2007; *R v Tamihana* [2020] NZHC 1365; *R v Prasad* HC Auckland CRI-2009-004-23295, 5 April 2011; *R v X* [2016] NZHC 840; *R v Gray* [2022] NZCA 659; *R v K* CA97/06, 19 September 2006; *R v Hughes* [2014] NZHC 3208; and *R v Hemopo* [2026] NZHC 2950.

test, poorly performing business, associated financial worries, high personal expectations, relative social isolation, concern for her mother's health, and stopping her regular exercise routine. She developed cognitive distortions associated with acute suicidal ideation, developing a belief she was a burden and her son would not be cared for in her absence or be a further burden on her family, leading to a plan of filicide and suicide. Her contact with her husband at the time, giving him advanced warning of her actions, may have reflected a psychological ambivalence to her actions.

[26] You have undertaken counselling since the offending with Ms Ginni Gulati, a psychologist. Ms Gulati offers an opinion akin to that of Dr Dean, albeit on the broader basis your husband was abusive of you, including sexually. You have made two unsworn statements on this topic, which you have asked Mr Barnsdale to advance. He has done so, as you have heard him do. Both are dated August this year.

[27] Dr Skipworth has commented on Dr Dean's report, essentially in the manner of peer review. Dr Skipworth notes the phrase "acute psychological crisis" is not a diagnostic term. Nor does the phrase reference a serious mental illness. Rather, it references low mood, anxiety, and distress.

[28] The Crown does not dispute you were suffering a low mood, anxiety, and distress at the time of the offending. However, it argues that mix and any related diagnoses do not significantly diminish your culpability because:

- (a) You had no mental illness, as such, at the time.
- (b) You have no history of mental illness. At most, you report having a low mood after your son was born in 2021.
- (c) You were quickly discharged from the Henry Bennett Centre.
- (d) You knew what you were doing throughout.
- (e) Your psychological state did not compel the offending. Rather, the Crown says, you chose to try to kill X. Relatedly, the Crown observes your own injuries were superficial, unlike those you inflicted on your son. The Crown, therefore, questions whether you really intended to take your own life.

(f) Your claim of an abusive relationship is unreliable.

(g) The Crown also highlights the brutal nature of your offending. It contends any reduction for mental health should be 15 per cent, perhaps 20 percent, but that is from its proposed starting point of 11 and a half or 12 years' imprisonment.

[29] Mr Barnsdale argues your culpability is greatly diminished, essentially because of the opinions of Dr Dean and Ms Gulati. Mr Barnsdale says it is clear you intended to kill yourself and this throws light on your mindset at the time. Again, he says your psychological condition warrants a sentence other than imprisonment, because it greatly diminishes the gravity of what you did.

[30] I pause here to record there are cases in which serious charges, including attempted murder, have resulted in sentences other than imprisonment. Again, I shall capture some in a footnote to my written remarks.⁷ The key feature of these cases is that the defendant's culpability is greatly diminished, typically because of ill mental health falling short of insanity. But there are also many cases in which ill mental health does not greatly affect the sentence.⁸ Unsurprisingly, everything turns on the facts and on the associated dictates of sentencing purposes, which include rehabilitation, denunciation, deterrence, and community protection.⁹

[31] I consider the correct position in relation to your culpability lies somewhat between the competing contentions.

[32] I accept the situation described by Dr Dean that I quoted earlier likely influenced your offending, particularly as you appear to have been an otherwise devoted and caring mother. That you are now 36 years of age without any other criminal convictions provides some support for this conclusion, as do the many letters of support that you have tendered in your support this morning. Relatedly, I consider you were at least ambivalent about the value of your own life when you committed

⁷ *R v Johnson* [2020] NZHC 169; *R v M*, above n 6; *R v X* above n 6.

⁸ For example, see *Shailer v R* [2017] NZCA 38; [2017] 2 NZLR 629; *R v Bax* [2018] NZHC 411; *French v R* [2014] NZCA 411.

⁹ Sentencing Act 2002, s 7.

the offending, and when you self-harmed. But as against those things, you made a sustained attempt on your son's life, in an extraordinarily brutal manner. He could well have died. You intended he would. And unlike his injuries, yours were not serious. Furthermore, I am not persuaded on the material before me that your claim of an abusive relationship is established for sentencing purposes.

[33] Consequently, I adopt an adjusted starting point of eight years' imprisonment. This 24 percent reduction from the notional starting point (of 10 and a half years' imprisonment) recognises the diminution of your culpability by what Dr Dean describes as your psychological crisis, while balancing that consideration against the gravity of your offending, including, as I have said, its extraordinary brutality.

[34] Because you have placed a great deal of weight on the contention that your culpability is diminished by an allegedly abusive relationship, I wish to explain to you why I do not accept that contention. I begin by recognising that someone may remain loyal to an abusive partner, and delay reporting abuse. These phenomena are all too common. But even allowing for them, I note the following:

- (a) Your claims are recent, and unsworn.
- (b) When you disputed various facts between July 2025 and May 2026, in connection with your mental health, you did not mention your husband's alleged abuse of you, even though Ms Gulati says you began describing that to her from November 2025.
- (c) In November 2024, you filed an affirmation in support of interim suppression of your name. You described your husband in glowing terms in that affirmation. You said he was the "backbone" of the family and had offered you "immense emotional and financial support despite overwhelming challenges". You said he "never gave up on you" and even "after the incident [he] remained loyal and loving" towards you, including by arranging a significant sum of money to fund, what you described, as your rehabilitation journey. You said your husband

regularly visited you in prison “to provide moral support”, and he was “grief-stricken since [your] arrest and has suffered immensely”.

- (d) In July 2025, you relied upon a letter from your husband in support of your application for electronically monitored bail.¹⁰
- (e) In October 2025, you filed an affidavit from your husband in support of permanent name suppression.
- (f) On 11 October 2025, you wrote a letter intended for the sentencing Judge in which you said your husband had supported you with “unconditional love and patience”.
- (g) Throughout 2024 and most of 2025, you spoke in positive terms about your husband to various experts. His alleged abuse of you was potentially relevant to those discussions. Presumably, you knew that.

[35] So, for all of those reasons, I am not persuaded of his abuse of you for sentencing purposes.

[36] But what I want to be especially clear with you about is this. Neither Ms Gulati’s broader abuse thesis nor the alleged abuse would provide additional mitigation in any event. This is because Dr Dean’s opinion does not depend on abuse. What matters for sentencing purposes is that you were subject to the stressors that Dr Dean identified, *whatever* the cause or origin of those stressors.

Other mitigation

[37] I allow 15 percent for your guilty plea.¹¹ You pleaded guilty after approximately one year, and you then contested the factual bases for sentencing. You ultimately abandoned those contests. The evidence against you was strong.

¹⁰ Minute of Tahana J dated 15 July 2025.

¹¹ Under *Hessell v R* [2010] NZSC 135; [2011] 1 NZLR 607, guilty plea discount requires an assessment of all relevant circumstances, including timing and strength of the evidence.

[38] I make no additional allowance for remorse. While expressions of remorse appear in the reports, you also continue to minimise aspects of what you did. For example:

- (a) In the second of your recent unsworn statements, you say you “used whatever knife I found at that moment. I did not obtain or prepare a weapon in advance.” However, the ultimately agreed summary of facts says you chose the meat cleaver because it was the sharpest knife in the home, and that you took it to the master bedroom before the offending occurred.
- (b) In the same statement, you say you “acted impulsively” when committing the offending. But as I outlined earlier, the agreed summary of facts says your husband arranged for X to go to kindergarten that morning, and he wanted X to go, as he usually did. You, however, insisted X remain home. The premeditation here was modest only, but it was premeditation, nonetheless.

[39] As I said earlier, you are now 36 years of age, without other convictions. I deduct 10 percent in recognition of your otherwise good character. Offence seriousness constrains greater discount.

[40] You seek an allowance for your background. You described your upbringing in positive terms to the probation officer who wrote your pre-sentence report, to Dr Dean, and to Dr Surendhraj Naidu, another psychiatrist. On these accounts, you appear to have had a loving and supportive family as a child, and a largely unremarkable background, by which I mean one accompanied by the usual vicissitudes of life but nothing of true relevance for sentencing purposes. The possible exception concerns your relinquishment of your daughter to your first husband in the face of apparent pressure to do so. I am inclined to accept that probably connects to your aberrant thinking at the time of the offending, but no further discount is warranted as that afforded acknowledges the aberration in thought, whatever its causes or sources.

[41] Mr Barnsdale argues your extensive cultural report affords a basis for discount. I respectfully disagree because its ballast is the abuse contention, and I have explained to you why that matter does not, and would not, attract further discount.

[42] I also decline a rehabilitative allowance based on your sessions with Ms Gulati. I am not persuaded you have truly accepted the enormity of what you have done, particularly given your minimisation of aspects of the offending. I gave you two examples earlier.

[43] You were granted electronically monitored bail on 6 November 2024. On 9 April 2025, the conditions of that bail were appreciably relaxed, including, for example, to permit daily walks, worship every Sunday, counselling every Friday, and weekly grocery shopping. It follows you have been on electronically monitored bail for a long time, but much of the period has been on less restrictive conditions.¹² You have also caused delays in the sentencing process by formally contesting facts, abandoning those contests, and by your late instruction of Dr Dean, well after the provided timetable. Looking at everything in the round, I deduct 11 months.

[44] This produces a sentence of five years and one month's imprisonment.

[45] This outcome is obviously quite different to that you urge on me, which is a sentence other than imprisonment. But it is also somewhat different from the very long sentence of imprisonment advocated by the Crown. The sentence acknowledges the diminution of your culpability identified by Dr Dean. But it also acknowledges the gravity and brutality of what you did, and the need for denunciation and general deterrence. Given these considerations, no sentence other than a significant term of imprisonment would be adequate.

Name suppression?

[46] You seek permanent suppression of your name on the basis publication may cause you extreme hardship,¹³ and X undue hardship.¹⁴ You also seek suppression on

¹² Bail was incident-free, apart from one deviation from an approved allowance.

¹³ Criminal Procedure Act 2011, s 200.

¹⁴ Section 202.

the basis a cousin may suffer undue hardship. Mr Barnsdale described the application as being on instructions.

[47] Today he sought to adjourn the application, noting that you had filed an affidavit from your husband in support of it, but you had since separated, I gather in December of last year. Mr Barnsdale sought time to recalibrate the application. I am not persuaded the interests of justice are commensurate with an adjournment. The reality is that the application could not be made any stronger, to which I speak now.

[48] I intend no one any discourtesy in relation to the application, but the identified hardships fall well short of the required standards in circumstances in which X's name is suppressed by law anyway. The application fails the first hurdle. But even if it did not, I would decline permanent name suppression given the public interest in open reporting, particularly in relation to serious offending.

Result

[49] The application for name suppression is declined.

[50] Ms D, please stand. For the attempted murder of your son, I impose a sentence of five years and one month's imprisonment.

[51] Stand down.

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Downs J