

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

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

**CRI-2023-009-4003
[2026] NZHC 2414**

THE KING

v

MICHAEL SCOTT RODGER

Hearing: 14 August 2026

Appearances: B Hawes, S J Mallett and S A Teki-Clark for Crown
P B H Hall KC, E Huda and S Y Kim for Defendant

Sentencing Notes: 14 August 2026

SENTENCING NOTES OF EATON J

Introduction

[1] Michael Scott Rodger, you appear for sentence having been found guilty by a jury of your peers of murdering Richard Leman in Rangiora on 11 April 2023.

[2] I acknowledge the presence both personally here in Court and remotely of so many of Richard Leman's family. As I acknowledged at the outset of this sentencing, the trial itself and the sentencing process must have been harrowing for each and every one of you. I acknowledge the dignity with which each of you have managed this challenging process.

[3] The starting point in sentencing an offender convicted of murder is that a sentence of life imprisonment must be imposed unless that sentence would be

manifestly unjust having regard to the circumstances of the offence and of the offender.¹ Mr Rodger, Mr Huda, on your behalf, acknowledges that there are no circumstances that might justify, in your case, a departure from that presumption. Therefore, you will be sentenced to life imprisonment. The only question I must determine today is the appropriate minimum period of imprisonment (MPI) that you must serve before you become eligible for parole.

[4] It is important to understand the MPI that I impose is not the sentence. It is the amount of time that you, Mr Rodger, must spend in custody before you can apply to the Parole Board to be released on parole. There is no guarantee that the Parole Board would release you at that point. It will be for you to satisfy the Parole Board that you do not present an undue risk to the safety of the community. Even if you can persuade the Parole Board that you do not present that level of risk and you are released, you would, nevertheless, remain subject to parole conditions for the remainder of your natural life. You will always be subject to a life sentence. You will be subject to recall to prison should you go on to commit any further offending while on parole.

The facts

[5] I will summarise the facts of your offending. I acknowledge those facts are well known to you, Mr Rodger, and to all those who are participating in today's sentencing. But sentencing is a public process, and it is an important part of the process that the relevant facts are reviewed.

[6] The facts as I summarise them reflect the jury's guilty verdict. They will otherwise reflect my own views of that evidence. Through your counsel, in his written submissions filed earlier this week, Mr Rodger, Mr Huda told me you dispute the particular factual basis on which you should be sentenced. There was written argument presented in relation to that issue and I heard argument on that issue this morning. I will determine that factual issue after my initial summary of the relevant facts.

¹ Sentencing Act 2002, s 102.

[7] As of April 2023, you were a player in the North Canterbury methamphetamine scene. You were a user and a low-level dealer. Through that scene, you were an associate of Molly Grant. You had also met Richard Leman. He too was a methamphetamine user and low-level dealer.

[8] On the evening of 11 April 2023, Mr Leman was with a friend of his, Sara Plimmer. He decided to visit Molly Grant at her address in Rangiora. He had purchased takeaways to share with her at her address. Unaware that Mr Leman was about to visit her, Ms Grant had made contact with you, asking for you to come to her address. You had asked her who was going to be there. She initially responded, “just me” but within a minute or so, she messaged you telling you that contrary to that message, Richard Leman had arrived at her address. Mr Leman arrived at Ms Grant’s shortly after 9.26 pm. CCTV footage recorded you travelling in your blue VW through an intersection, very close to and heading in the direction of Ms Grant’s address within seven minutes that Mr Leman went through that same intersection.

[9] In your evidence at trial, you denied that you had gone straight to Ms Grant’s house following your initial exchange with her. You said that you went to your partner’s address at Good Street, which is just around the corner from Ms Grant’s. It was your evidence that you were at your partner’s address for about 15 to 20 minutes, and that it was while you were at that address that you read the message that Mr Leman was now at Ms Grant’s.

[10] On any view prior to 10 pm that evening, you entered Ms Grant’s address. The jury’s guilty verdict tells me that you entered the property carrying a loaded .22 firearm. It was your evidence that that evening you were driving back from Christchurch having purchased half an ounce of methamphetamine. You said you did not have a firearm in your vehicle. If that is true, the only possible explanation is that having learnt Mr Leman was at Ms Grant’s, you went to your partner’s address to uplift the firearm.

[11] On entering Ms Grant’s address, you encountered Mr Leman in the lounge of the property. Ms Grant was with Ms Plimmer in the bedroom. They were barely known to each other. They each described hearing male voices arguing. Ms Plimmer

particularly recalled a comment that she attributed to you, “you’ve been talking shit about Tamara”. Following your arrest, Mr Rodger, and your custodial remand, you made a phone call to an associate. That phone call was recorded. In it you spoke about a Tamara. When you gave evidence at trial, you acknowledged the Tamara you were referring to, was [redacted]. She was someone you acknowledged was known to Mr Leman, having moved in the same circles as yourself and Mr Leman.

[12] That was not insignificant because Ms Plimmer did not know you at all. She did not know Tamara at all. I consider it was no coincidence that she overheard you accusing Mr Leman of talking, “shit about Tamara”. I find that exchange provides some indication as to why you and Mr Leman were arguing.

[13] You fired two shots at Mr Leman from close range. The first hit his thigh, fracturing his femur no doubt causing pain but not a life-threatening injury. From that point Mr Leman was incapacitated. Although he was a much bigger man than you, he posed no physical threat to you. But you fired a second shot within a short time, again from close range. The second shot struck Mr Leman in the chest, had ruptured his aorta, which caused his chest cavity to fill with blood and it resulted in his swift death.

[14] Both Ms Grant and Ms Plimmer heard the shots. Both witnessed you holding a firearm pointed at Mr Leman. Other than the four of you, there was no one else present in the house.

[15] You immediately took control of the scene. You threatened both women. You dragged Mr Leman’s body into a spare bedroom. You drove his car up the driveway inside the gate of the property. You stole his money. You stole his methamphetamine. You smashed his phones. You then embarked on a “meth sesh” with the women.

[16] After 1 am, you drove Ms Plimmer home. As you dropped her off, you threatened to kill her if she spoke to anybody about what had happened. You then returned to Ms Grant’s. She had asked a male friend to come over. At 2.11 am, Ms Grant messaged you, in a text, which in effect seeks your permission to take that friend to the nearby petrol station. In evidence, you could not explain why Ms Grant might have sent a message of that nature to you. I am satisfied that while Ms Grant

and that male were away from the address, you dragged Mr Leman's body outside and concealed it within the boot of his Nissan Fuga.

[17] You drove the Fuga to an associate's house on Percival Street arriving at 5.30 am on the morning of 12 April. It was your evidence you had spent a couple of hours in the driveway of your partner's address at Good Street before deciding to leave the Fuga, to leave the body at Percival Street. You then stole number plates from another vehicle and fixed those plates to the Fuga. The Fuga, with Mr Leman's body still in the boot, remained at the Percival Street address until very early on 16 April, when you drove it to the garage of an abandoned property on Tyler Street. In the early hours of 16 April, you built a barricade at the entrance to that address, apparently to deter intruders. At some stage, and I am satisfied most likely overnight on 16 until 17 April, Mr Leman's body was dismembered. His right arm was severed at the elbow, his left hand was severed at the wrist. Both his legs were severed at the knee. He was decapitated. His limbs and his head have never been found.

[18] Two teenage boys entered the Tyler Street garage in the afternoon of 17 April. They noticed the false number plates. Fortunately, they were unable to open the boot. The police were then alerted, and Mr Leman's remains discovered.

[19] What happened to Mr Leman's body post-mortem is a highly disturbing aspect of this offending. I will refer to the acts of dismembering his limbs and decapitation as desecration. You dispute that you personally desecrated Mr Leman's body and disposed of his body parts. Mr Huda, in his written submissions, invited this Court to engage in a disputed fact hearing. I am now going to deal with that issue before I turn to the victim impact statements and your personal circumstances. I think it is important to be clear as to the factual basis upon which I am going to impose sentence before we move on to deal with the other matters that must be considered in the sentencing.

Disputed fact

[20] The Crown advances the acts of desecration and the disposal of body parts as a highly aggravating factor of this offending, a factor that is considered alongside other acts of callousness in the immediate aftermath of the murder to justify an MPI of at

least 17 years under s 104 of the Sentencing Act 2002. It is the Crown case that you, and you alone were responsible for those acts. Whilst you admitted at trial and it is confirmed by Mr Huda this morning, that you maintain your admission that you were part of a plan and took steps to assist in the desecration and disposal. You maintain that you were not physically involved.

[21] Section 24(2) of the Sentencing Act provides that if a fact that is relevant to the determination of a sentence is asserted by one party and disputed by the other, the Court must indicate the weight it would likely attach to the disputed fact they found to exist and its significance to sentence. The prosecutor must prove beyond a reasonable doubt the existence of a disputed aggravating fact. Even on your case, Mr Rodger, you were an essential critical party to the desecration. As I say, it was your evidence you knew of the plan to desecrate the body. You said it was your responsibility to deliver the body to the Tyler Street garage for that purpose. You admit secondary party liability. Mr Huda submits on your behalf that a finding you were a secondary party rather than a principal party would be relevant when I come to consider s 104 and whether it would be manifestly unjust to impose an MPI of 17 years or more. I am not so sure about that.

[22] Nevertheless, I propose reviewing the relevant evidence and submissions briefly and I will make a finding as to whether I am satisfied you were personally involved in the physical acts of desecration and disposal.

[23] In his written submissions, Mr Huda identified six factors that he considered the Crown rely upon to prove that you were physically involved. In his submissions, he submits, “the evidential basis for attributing the post-offence desecration to you includes scraps of weak circumstantial evidence; nothing more.” I agree with Mr Huda that those six factors do generally reflect the Crown’s arguments in relation to this issue. But before I address each of them, I am going to discuss what possible alternatives there are, having regard to the jury’s verdict that you and you alone killed Mr Leman.

[24] It was your evidence that you had innocently stumbled across Mr Leman’s deceased body when you arrived at Ms Grant’s address. You claimed that you had

then acted as a good Samaritan helping your friend, Ms Grant, and that you generously drove Ms Plimmer home before returning to Ms Grant's home to offer her further support.

[25] You claimed that on returning to Ms Grant's you were confronted by a person referred to at your trial as "Mr X", and that it was Mr X who instructed you to get rid of Mr Leman's car, you having assumed that Mr Leman's body was in the boot. You refused at trial to provide any detail about this mystery person or indeed any others who you implied might have been present at Ms Grant's, claiming that you feared for your safety.

[26] As I have recognised, it was your evidence you knew of the plan to desecrate the body, but you claimed other unidentified persons, associated with Mr X you assumed, had dealt with Mr Leman's body within the Tyler Street garage. Your evidence was that during the small hours of the night of 16 April into 17 April, you were at an adjoining property where your friend, Ms Jolley, lived, and that twice during the night you jumped over the fence to check on progress within the garage, that is the progress of the desecration. Your evidence was you denied entering or speaking to anybody inside the garage. Rather, you said you carried out your role by simply observing whether the garage light was on to determine if those inside had completed the desecration.

[27] Mr Rodger, I am sure you do understand that the jury's verdict is a clear rejection of your evidence that you did not shoot and kill Mr Leman. The verdict is, I am satisfied, a rejection of your evidence that there was any other person involved in the killing. Put bluntly, there was no "Mr X", there was no associates of Mr X. That is the factual basis upon which I come to assess the dispute as to your role in the desecration and disposal of the body parts.

(i) *The hatchet cover.*

[28] The first factor is the scabbard, that is the hatchet cover. Mr Huda describes this evidence as providing "moderate support" for the assertion you personally desecrated the body. I am satisfied the hatchet that was found in the boot of Mr Leman's car alongside his body had been used to desecrate his body. No other

weapon has been identified. The scabbard of that weapon was found in a bin at your partner's address, that is the address that you say you visited three times over the night and in the hours shortly after you murdered Mr Leman. Examination and analysis of the scabbard confirmed the presence of Mr Leman's DNA and blood.

[29] You could not offer an explanation as to how the scabbard might have ended up at an address so closely connected to you. The only other possible innocent explanation I can conceive of is that others that you personally must have engaged to help conceal your murder by carrying out the desecration had then planted the scabbard to implicate you. Of course, that is fanciful.

[30] I am satisfied that the finding of the scabbard, an item that I am quite satisfied was used during the course of the desecration, provides very strong support for the proposition that you personally used the hatchet on Mr Leman's body.

(ii) Credibility of Ms Grant

[31] The second factor Mr Huda critiques is the Crown's reliance on evidence given by Ms Grant. In her evidence she relayed a conversation she had with you when you said, "you don't know what I've had to do today" before making a slicing action across your throat and arms.

[32] Mr Huda appropriately points the Court to the various and acknowledged credibility and reliability issues associated with the evidence of Ms Grant. He submits the Court ought not attribute probative weight to Ms Grant's evidence that you had indeed made the comment or demonstrated as she said.

[33] I agree, as I did at trial, that Ms Grant's evidence is properly approached with caution, but the jury's guilty verdict tells me they accepted her evidence there was no "Mr X". Her evidence that you, in effect, admitted desecrating the body, is consistent with her evidence that you and you alone were involved in Mr Leman's death and the subsequent dealings with his body. Her evidence is corroborated, including by the discovery of the scabbard at your partner's address. I consider Ms Grant's evidence strongly supports the Crown case on the disputed facts.

(iii) The car footwell mat

[34] The third factor is the footwell mat found in the boot of the Fuga under Mr Leman's body. That rubber mat was analysed and compared to a rubber mat found in your VW. The mat evidence assumed some significance at trial because a footwell mat was missing from your VW. Mr Huda highlights the evidence of the Crown PHF Science witness, Mr Newton, who said there was "a possibility that these car mats would have been, would have come from the same source ... but I have no understanding of how common this type of car mat is...". In my view, Mr Huda places undue emphasis on the concession made by the witness. Significantly, Mr Newton's analysis led him to conclude there was extremely strong support to the suggestion that two mats were produced in the same mould as opposed to having been made in different moulds.

[35] The fact the two mats very likely came from the same mould, and that one of the mats from your VW was missing is, in my view, a strong circumstantial factor supporting the Crown theory that contrary to your denials, you had accessed the boot of the Fuga, you personally desecrated Mr Leman's body.

(iv) Ms Jolley

[36] The fourth factor relates to the evidence of Ms Jolley. Mr Huda suggests the Crown are advancing Ms Jolley's statement that was read to the jury as an admission that you dismembered Mr Leman's body. I agree her evidence does not permit that interpretation. She lived next door to the Tyler Street property. Her evidence was read to the jury, as I say. With reference to 17 April she said, "Mike smelled bad that morning. He had a shower at my place that morning, he smelled of chemicals and something burning. He smelled yuck". A friend of hers, Mr Riley, gave evidence that you had asked Ms Jolley to get rid of a bag of your clothes. Mr Riley was given the clothes by Ms Jolley to burn. He ultimately returned to her that bag. It was never recovered.

[37] The significance, in my view, of Ms Jolley's evidence is that around the time you say other people were involved in desecrating Mr Leman's body, you arrived at an adjoining home, smelling of chemicals and asking the occupant to get rid of a bag

of your clothes. I consider that to be entirely consistent with you having been personally involved in the desecration of Mr Leman's body. Another supporting circumstantial factor.

(v) *Motive*

[38] The fifth factor relates to Mr Mallett's question, well who other than the murderer would be motivated to desecrate Mr Leman's body? Mr Huda disputes that you had that motive. He submits that in relying on motive, the Crown are over-egging the pudding.

[39] Again, in my view, the fact that the jury's verdict tells me you and you alone killed Mr Leman provides strong support for the proposition that was you and you alone who dealt with his body. I agree with Mr Mallett that you are the one who had the motive to conceal your murder.

(vi) *Length of jury deliberation*

[40] The final factor raised by Mr Huda relates to the fact your jury deliberated into a third day before finding you guilty. In his submission that distinguishes your case from that of *R v Yates*² where the trial Judge concluded that an accused's testimony was "fiction" supported by the fact that following a three-week trial and more than 1,000 pages of evidence, the jury had found the defendant guilty in less than four hours.³

[41] I consider the length of time the jury deliberated simply reflects the care and attention they gave to this trial. The verdict tells me the jury rejected your evidence as fiction.

Disputed fact—conclusion

[42] So, by way of conclusion, I am satisfied there were only ever two possible scenarios in play at trial. First, the one advanced by you, that Mr X or someone

² *R v Yates* [2018] NZHC 2600.

³ At [17].

associated with him killed Mr Leman and your involvement was limited to assistance after the fact, by removing the body and transporting it to Tyler Street. In that scenario the murderers, and not you carried out the desecration. That scenario has been rejected by the jury as not reasonably possible. The second scenario, as advanced by the Crown was that you, having murdered Mr Leman were solely responsible for all steps to conceal and dispose of his body.

[43] To be clear, I reject the possibility of a third scenario as is seemingly advanced on your behalf, that you murdered Mr Leman, but then other unidentified persons stepped in and were responsible for the desecration and disposal of the body. In my view that scenario is fanciful. I do not consider that the absence of a specific charge dealing with the desecration is in any manner an obstacle to my finding that it was you personally who carried out the desecration and disposed of the body.

[44] I consider the desecration and the disposal on the facts of this case go very much hand in hand. There is no basis on the evidence to find it is reasonably possible somebody else was involved.

[45] Mr Rodger, I sense, having had the opportunity to watch you give evidence, that you have a narcissistic streak. You have portrayed yourself firstly as a hero in this case, acting to protect Ms Grant and Ms Plimmer and then as a victim acting out of fear of Mr X. You denied killing Mr Leman. You deny desecrating his body. You may well believe your own lies, perhaps as a mechanism to avoid confronting what would otherwise be the enduring torment of knowing you engaged in such hideous, cruel and shocking conduct in killing another man, then desecrating his body and concealing his body parts.

[46] That determines the factual dispute. I am going to turn to the victim impact statements and then to your personal circumstances.

Victim impact statements

[47] I have listened carefully to the victim impact statements. I had read them earlier this week. They make harrowing reading, and they consistently describe the

profound consequences of your offending. Your actions have left a family completely shattered.

[48] It is clear Richard Leman was a loving father to his three sons and three stepdaughters. He was a devoted and dearly loved youngest son. He was a caring and kind uncle to his nephews and nieces. He was a dearly loved brother and ex-partner. The reports tell me that Richard would make people laugh, make them feel welcome and important. He was kind. He was a gentle giant who made those around him feel safe.

[49] His family have suffered incalculable anguish knowing Richard was not only killed but that he suffered gross indignities. Understandably, his family feel robbed, not only of Richard's life but of being allowed to truly mourn and move on, having been denied the chance to properly say goodbye, face to face. His family forever carry the burden of the memory of what happened to their loved one, wondering how time can possibly heal the pain they continue to endure. I sense and understand the victims' frustration, verging on disbelief that somebody who confesses in the witness box that they knew of and assisted in the dismembering of Richard's body can be so devoid of remorse or empathy for the family members.

Personal circumstances

[50] I turn to consider your personal circumstances. The provision of advice to courts (PAC) report records that you simply refused to engage at all with the report writer. The report tells me that your last psychological assessment was undertaken in 2016. At that time, you were recorded as demonstrating a "high degree of reluctance to participate". Clearly that has not changed.

[51] But in 2016, you were assessed as a high overall risk of general violent and sexual offending and the psychologist considered that your future offending would likely be precipitated by a return to substance abuse, involvement with antisocial associates, relationship rupture, emotion dysregulation and poor impulse controls. As the PAC report author observes that assessment has proven to be reliable.

[52] Earlier this week, I received and have considered a lengthy psychological assessment prepared by clinical psychologist, Suhailer Latef Ameer. Ms Ameer tells me the assessment was more circumscribed than would normally occur in a comprehensive forensic psychological evaluation. Her report also records that you refused to provide consent for her to consult your Department of Corrections case manager, denying Ms Ameer access to information about your institutional adjustment, any behavioural incidents, your current sentence management, or your RoC*ROL score. It appears you have a real aversion to either providing information to, or sharing information held, by the Department of Corrections. Ms Ameer appears to have relied heavily on your personal account other than an interview with your partner effectively confirming the nature of your relationship with her children.

[53] I do not doubt for a minute, Mr Rodger, that you had a highly traumatic childhood. Ms Ameer's opinion is that your antisocial presentation appears to have been progressively constructed through developmental trauma, institutional betrayal, chronic exposure to violence, and the absence of safe, consistent adults capable of interrupting that developmental pathway. Ms Ameer found that you use violence as a means of navigating what she described as the interpersonal world. She makes a series of recommendations as regards possible interventions to address what she assesses has been the high risk of you engaging in future violence.

[54] The Ameer report records that you are sorry for what happened to Mr Leman. She records that you say you have empathy for his family. But your only expressed remorse in the report is that you went to Ms Grant's house at all.

[55] I have your criminal history. You are a career criminal, aged 49, previously known as Michael Scott Holden, now as Michael Scott Rodger, you have been regularly offending for 30 years. The only real breaks in your offending over that period have been when you have been incarcerated. You have accumulated multiple convictions for dishonesty, for drug offending, including serious drug offending. You have three convictions for sexual offending, eight convictions for weapons offences and five for violent offending.

[56] Having had the opportunity to observe you at trial, I would describe you as intelligent. You are articulate. You are certainly extremely confident. You were thoroughly familiar with the Crown evidence and fully armed to point out during the course of your evidence what you considered to be shortcomings or inconsistencies in the Crown case. But what stood out during the course of your evidence, consistent with the position you have taken post-conviction, is that although you must have been aware Mr Leman's family were present at the trial, and by today that they have provided harrowing victim impact statements, that notwithstanding what on your own case were truthful admissions of your involvement in the concealing and assistance in the desecration of Mr Leman's body, any expressions of empathy or remorse are quite shallow and unconvincing.

Approach to sentencing

[57] In imposing sentence today, I must have regard to the principles and purposes of sentencing. The essential purposes are to hold you accountable for the harm your offending has caused; to promote in you a sense of responsibility for and an acknowledgement of that harm; to denounce your conduct and deter others from acting in a similar manner. I must protect the community from you and to the extent I can, assist in your rehabilitation and reintegration into society.⁴ I am required to consider the gravity of your offending, the degree of your personal culpability⁵ and I must impose a sentence that is consistent with the sentences imposed in similar cases.⁶ I must impose the least restrictive sentence appropriate in the circumstances.⁷

MPI

[58] I return to the question of the MPI that should apply to your sentence of life imprisonment.

⁴ Sentencing Act 2002, s 7.

⁵ Section 8(a).

⁶ Section 8(e).

⁷ Section 8(g).

Do any of the s 104 factors apply?

[59] Section 104 of our Sentencing Act lists a series of circumstances that, if the Court is satisfied apply, require that an MPI of at least 17 years must be imposed unless it would be manifestly unjust to do so.

[60] Mr Mallett, for the Crown, submits that s 104(1A)(e) is engaged because this murder was committed with a high level of brutality, cruelty, depravity or callousness. Most specifically Mr Mallett relies on your conduct subsequent to the killing, conduct he submits that was highly callous.

[61] Mr Mallett says Mr Leman was particularly vulnerable, having been shot and injured prior to the fatal shot. He points out that having shot and killed Mr Leman you then stole his cash and methamphetamine; destroyed his phones; that you made disparaging remarks about him including laughing and making fun of his weight, commenting that you never liked him; that you were involved in steps to clean up the murder scene; and that you literally hacked Mr Leman's body using a hatchet. He highlights that you have since refused to disclose the location of Mr Leman's missing body parts, causing what is so clearly significant distress to Mr Leman's family.

[62] In his oral submissions this morning, Mr Mallett submits that the acts of desecration and disposal of body parts could likewise meet the criteria of "other exceptional circumstances"⁸ so as to justify a 17-year MPI within s 104(1A)(j).

[63] On your behalf, Mr Huda submits the murder, involving a close range shooting leading to a swift death was not committed with the level of brutality, cruelty, depravity or callousness that of itself would meet the threshold for a 17-year MPI, but he acknowledges "there is little doubt that the murder was committed with a high level of brutality, cruelty, depravity or callousness due to the decapitation and dismemberment as part of the broader offending."

[64] As Mr Huda has emphasised in his written submissions and touched on this morning, the desecration of Mr Leman's body did not occur until, I am satisfied, at

⁸ Above n 1, s 104(j).

least five days after the murder. Mr Huda realistically acknowledges that the act of desecration is “an important feature of the broader offending that meets the criteria of a high level of brutality, cruelty, depravity or callousness ...” but he submits the Court might more appropriately consider that those actions fall under the “other exceptional circumstances” limb of s 104. He submits the Court might consider it moot to determine whether it is ss 104(1A) (e) or (j) that applies in your case. As I understand his submission, he accepts s 104 applies because at the very least you acknowledge that you were a secondary party to the acts of desecration and disposal.

[65] I have been referred to a number of cases. In cases where this Court has been satisfied that desecration of a deceased body does reach the high level of depravity or callousness to justify a 17-year MPI, the desecration itself has either occurred immediately following the murder or within a relatively short period thereafter.⁹ In *R v Gosnell*¹⁰ Chisholm J considered the post-murder desecration of a victim’s body might better fit within the “other exceptional circumstances” criterion. In a case such as yours where the desecration is inflicted several days after the murder, I tend to agree.

[66] On the facts as I have found, your offending may well fall within ss 104(1A)(e). I need not determine that question because I am satisfied that what you did to Mr Leman’s body is, to use the language of the Court of Appeal in *R v Parsons*,¹¹ “so horrendous, so repugnant,” to amount to “exceptional circumstances” within s 104(1A)(j) as to require denunciation through an MPI of 17 years. “Exceptional circumstances” are in my view established when the murder engages a circumstance that is clearly out of the ordinary and reflects a particularly high level of culpability. It is fortunately rare that this Court is confronted with an offender who, having committed murder, has engaged in such high-level acts of depravity, callousness and cruelty to conceal their crime. Put more colloquially, I am satisfied this was an especially bad murder falling within the category of case that s 104 is intended to capture.

⁹ *R v Weatherston* HC Christchurch, CRI-2008-012-137, 15 September 2009; *R v Moore* HC Wellington, CRI-2006-085-4361, 11 April 2008.

¹⁰ *R v Gosnell* [2013] NZHC 1313 at [17].

¹¹ *R v Parsons* [1996] 3 NZLR 129 (CA) at [131].

[67] Section 104 is engaged.

Cross-check

[68] Having found s 104 is engaged, I must then cross-check against comparable cases to determine whether an MPI of less than 17 years might be justified. What I am considering in this exercise is what is referred to as a notional MPI. To carry out that exercise I have regard to the aggravating and mitigating factors of the offending and of you, the offender.

[69] I am satisfied there are a number of aggravating factors of your offending:

- (a) A degree of premeditation. You entered the Andrew Street property armed with a loaded .22 rifle and almost immediately upon entry embarked on an argument with before shooting and killing Mr Leman.
- (b) You used a lethal weapon.
- (c) You fired a first shot that left Mr Leman incapacitated. He posed no threat to you. You then, in effect, carried out an execution style killing.
- (d) Your conduct in the immediate aftermath of the murder was undoubtedly callous. You dragged Mr Leman's body into another room. You robbed him of cash and methamphetamine. You bundled his body into the boot of a car where you left it for several days.
- (e) At the scene and when dropping off Ms Plimmer, you made serious threats to kill the two women who had, in effect, witnessed your murder.
- (f) Most significantly, you moved the body to an address which you believe afforded you the privacy where you desecrated your victim's body in the most grievous manner. You then disposed of body parts.

- (g) Finally, as an aggravating factor, the harm that you have caused to Mr Leman's family is at the very highest level reflecting the atrocities that you have carried out in the aftermath of the murder.

[70] I have considered a number of cases, both those referred to me by counsel and others.¹² None, as Mr Huda submits, are directly comparable to your offending. He referred to *R v Yates*¹³ in support of his submission that a starting notional MPI for you is around 14 years' imprisonment. In *Yates* a 14 and a half year MPI was adopted for a gang member who shot and killed a fellow gang member. The victim was shot twice and injured, and then later fatally shot. The offender buried the body in a shallow grave in the bush. He disposed of evidence and threatened harm to an associate, who had learnt of the offending.¹⁴ So it has some similarities. But what distinguishes your offending from that case is that you took the extraordinary steps to conceal your crime, demonstrating such a callous disregard for human dignity. In *Yates* the body was ultimately found and returned to the deceased's loved ones for burial.

[71] Mr Huda also relied on the 14-year MPI adopted in *R v Vaitohi*. That offender had shot the victim three times at close range over a drug deal gone wrong. He had then fled the scene, and both destroyed and disposed of evidence. The sentencing Judge described the shooting, including a shot to the back as brutal and callous but not reaching the high level of conduct required to trigger s 104. Mr Huda submits that offending is comparable to yours. I do not accept that submission. That case did not involve indignities to the deceased body. In my view, the aggravating factors of your offending are far more culpable.

[72] In *R v Lingman* the offender shot the victim six times in the context of a drug deal. Concerned that his son would find the body the offender purchased a freezer and used a chain saw to remove the deceased's legs so the body would fit in the freezer. He engaged in a cleanup to conceal the crime including hiding the victim's car. The

¹² *R v Weatherston*, above n 9; *R v Moore* above n 9; *R v Korewha* [2015] NZHC 308; *R v Gosnell* above n 10; *R v Roigard* [2016] NZHC 166; *R v Yates* above n 2; *R v Vaitohi* [2023] NZHC 2761; *R v Graham* [2022] NZHC 2947; *R v Lingman* [2021] NZHC 1394; *R v Collins* [2021] NZHC 1029.

¹³ *R v Yates*, above n 2.

¹⁴ The starting point MPI was 15.5 years' imprisonment, reflecting an additional year for discrete offending committed, of which the offender was on the run at the time of the index offending.

desecration was described by the Judge as partially explained by panic and the desire to protect the son. In that case, a 15-year MPI was adopted.

[73] Having regard to those cases and others, in my view, an uplift of at least two years beyond the 14-year mark adopted in *Yates* and *Vaitohi* and at least 12 months beyond the 15-year mark in *Lingman* would be appropriate to reflect the acts of desecration and disposal you committed.

[74] As for your personal circumstances, you have a long history of criminal offending I have discussed. Mr Huda questions whether a discreet uplift is called for but acknowledges that it is open to the Court to do so. Of particular relevance, you have three prior convictions for unlawfully possessing a firearm. You have prior convictions both for assault with intent to injure and injuring with intent to cause grievous bodily harm. As best as I can assess, most of your prior offending has been committed in the context of drug use.

[75] Your prior convictions do provide to me a good indication of your character. They do reflect your overall culpability. There can be little doubt, Mr Rodger, that you have little respect for the law and for many years you have been undeterred by the risk of criminal prosecution and incarceration. Your entrenched history of offending tells me, as does both the PAC report writer and the Ameer report that you present as a very high risk of offending in the future. In assessing the notional MPI that would otherwise be imposed, I am satisfied that an uplift of 12 months would be necessary to reflect the sentencing purposes of denunciation and deterrence, and to protect the community from you.

[76] The only personal mitigating factor Mr Huda advances on your behalf relies on the personal background factors set out in the Ameer report. Mr Huda submits that your experiences in State care considered against the other personal background factors that I need not detail would justify a deduction of around 10 per cent. He observes that as a 49-year-old, you have spent around 20 years in prison. He submits the Court ought to find there is a causal connection between your background, your criminal history more generally and in what led you ultimately to kill Mr Leman and to take the steps I have found that you took to both conceal and dispose of his body.

[77] Personal mitigating factors play an important role in any sentencing, but it is acknowledged they play a lesser role when sentencing an offender for murder.¹⁵ That is particularly so in my view when the offending engages such a high level of depravity and callousness. In those circumstances, the scope available to a Judge to reduce the otherwise appropriate MPI to reflect those personal circumstances must be more constrained. Your refusal to engage with the PAC author or to permit Ms Ameer to access your Corrections records does you no favours.

[78] This Court is very much alive to the long-term consequences suffered by those who were abused in State care. I accept that there is a causal connection between your background and your offending generally, and this particular offending. The extent of causal connection is, as Mr Mallett submits, reduced given you have offended so regularly over the years and that you committed this offence at the age of 49 notwithstanding the number of interventions the courts would have taken over the years to assist you to deal with past trauma.

[79] I consider your background would, in considering a notional MPI, justify a deduction of up to 18 months.

[80] Where that leaves me, Mr Rodger, in terms of calculating a notional MPI is one in the region of 15 and a half years but for the application of s 104.

Manifest injustice?

[81] The final issue I must consider is whether it would be manifestly unjust to impose a 17-year MPI. To find that it would be manifestly unjust, the Court must be satisfied that your case falls outside the scope of the legislative policy that murders with specified features are sufficiently serious to justify at least that term.¹⁶

[82] As the Court of Appeal in *Williams v R* observed,¹⁷ the 17-year MPI should not be departed from lightly and the presence of mitigating factors will rarely displace the presumption. The focus when setting an MPI is on the circumstances of the offence

¹⁵ *Frost v R* [2023] NZCA 294 at [41].

¹⁶ *Williams v R* [2005] 2 NZLR 506 (CA) at [67].

¹⁷ At [66]–[67].

rather than the offender.¹⁸ The critical factor that I have found that qualifies your offending under s 104 is, in my mind, what ultimately defines your offending and prohibits any finding that a 17-year MPI would not be manifestly unjust.

Result

[83] Please stand Mr Rodger.

[84] Michael Scott Rodger, on the charge of murdering Richard Leman, I sentence you to life imprisonment. I impose a minimum period of imprisonment of 17 years.

[85] I make a firearms prohibition order.

[86] You may stand down.

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Eaton J

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Crown Solicitor, Christchurch

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P H B Hall KC, Barrister Christchurch
E Huda, Barrister, Christchurch

¹⁸ *Frost v R*, above n 15, citing *Simon France* (ed) *Adams on Criminal Law — Sentencing* (online ed, Thomson Reuters) at [SA103.03].