

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

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

**CRI-2025-092-008015
[2026] NZHC 3363**

THE KING

v

TAILASA VAKAVALÉ OTUHA'APAI PONGIA

Hearing: 29 October 2026
Counsel: A Al-Janabi for Crown
JJ Corby and DM Cross for Defendant
Judgment: 29 October 2026

SENTENCING REMARKS OF DOWNS J

Solicitors:
Crown Solicitor, Manukau.

Introduction

[1] Tailasa Pongia, you are for sentence for murder and causing grievous bodily harm. You committed both crimes on the evening of Friday, 1 August 2025, or in the early hours the next morning.

Facts

[2] I begin with the facts, which are simple but sad.

[3] The victims, Greig Temarama-Abela and Inoke Fonokalafi were with others socialising at a home in Ōtara. You and others were socialising at your cousin's home. The two homes are a little more than one kilometre apart. A little before midnight, the victims' group walked to where your group was. One of their group had an unresolved dispute with your cousin. Words were exchanged. Violence followed. There was a wide-ranging fight, or fights, in which punches were thrown.

[4] No weapons were involved until you introduced one. At some point, you armed yourself with a knife. While Mr Temarama-Abela had his back turned to you, you stabbed him once in the upper left back.

[5] Mr Fonokalafi saw what you did and punched you. You fell briefly to your knees. You then stood up, adopted a boxer's stance, and lunged forward. You stabbed Mr Fonokalafi to the abdomen.

[6] Mr Temarama-Abela died at the scene. He was 19 years of age. Your stab wound entered his lung and severed an artery.

[7] Mr Fonokalafi received three stitches and was discharged from hospital several hours later.

[8] You claimed to have been asleep until you were found by police. You said you had no knowledge of, or any involvement in, what occurred. You later exercised your right to silence.

[9] You committed two offences the day before these crimes. On 31 July 2025, you were stopped by police. Two knives were found in your car. You acknowledged being in possession of them. Earlier that day you helped another or others commit a burglary. You have no other criminal record.

[10] You were then 19 years of age. You are now 20.

Victim impact

[11] I pause to again acknowledge the presence of the family of Mr Temarama-Abela. Four victim impact statements were read aloud this morning by members of his family. I acknowledge that you have suffered profound harm because of Mr Pongia's actions. Your lives will not be the same because of what he did. To use your own words from this morning, your hearts are broken.

[12] I acknowledge also Mr Fonokalafi's victim impact statement, which was read aloud this morning by Ms Al-Janabi on behalf of the Crown. Fortunately your offending, Mr Pongia, has had no long lasting effect on him.

Life imprisonment?

[13] The law says anyone convicted of murder must be sentenced to imprisonment for life unless the circumstances of the offence and the offender mean that outcome would be manifestly unjust.¹ The presumption in favour of life imprisonment is strong for obvious reasons, including sanctity of human life.

[14] That said, a higher court has held a more flexible approach is required when a young defendant is sentenced for murder.² This (more flexible) approach recognises young people are not adults and may make decisions adults would not make because of their age.

[15] I begin with the points that it would be manifestly unjust to impose life imprisonment on you. First, your age. Second, that you killed with a single stab

¹ Sentencing Act 2002, s 102(1).

² *Dickey v R* [2023] NZCA 2.

wound, intending to inflict bodily injury, rather than to kill.³ Third, that the other group had come to your cousin's home, and your impulsive behaviour in becoming involved in the fight. Fourth, that your additional offending, by which I mean your wounding of Mr Fonokalifi, arguably involved an element of excessive self-defence. And fifth, the information I have about you, which comes from a pre-sentence report and a psychiatric report, discloses some remorse and prospect of rehabilitation.

[16] As against those points, others support the presumptive conclusion of life imprisonment. First, that while you are young, you are not that young. Second, your use of a knife. I repeat what I said earlier: no one else had a weapon. Use of knives as weapons is also a matter of significant public concern. Third, Mr Temarama-Abela had not attacked you in any way; indeed, his back was to you. Fourth, the fact you did not need to become involved in what was occurring: you chose to become involved. Fifth, your commission of another serious offence by which I mean obviously your wounding of Mr Fonokalifi. His injury could have been much worse. Indeed, it could have been fatal had things been a little different only.

[17] Your case is then, Mr Pongia, right on the cusp.

[18] Ultimately, I am persuaded life imprisonment would be manifestly unjust because of a three-fold combination, listen carefully please: your age; your impulsivity in what occurred, which likely reflects your age; and your prospect of rehabilitation. I record the Crown offered no opposition to this conclusion.

Starting point

[19] The Crown advances a starting point of 30 years' imprisonment. Your lawyer, Mr Corby, who has worked very hard on your behalf, advances a starting point of 26 years' imprisonment.

[20] I adopt 30 years for these reasons: you introduced a weapon; you stabbed the victim from behind when he was not attacking you; you stabbed a second victim in violence intending to cause him grievous bodily harm; and because you had no need

³ Crimes Act 1961, s 167(b).

to enter the fight. I also adopt 30 years' imprisonment because the figure is consistent with other cases in this area, case which I shall collect in a footnote to my written remarks.⁴

Mitigating features

Pleas and remorse

[21] I now turn to things that may make your offending less serious; the law calls these mitigating features. I begin with your pleas of guilty. You were charged 23 September 2025. You pleaded guilty 5 August 2026. By law, the maximum discount I may give is 10 percent unless a higher figure would be appropriate.⁵

[22] Mr Corby says you should receive the full discount of 25 percent. He notes he asked the Crown on 27 May 2026 to confirm it would not seek life imprisonment. The Crown responded 22 July 2026.

[23] I do not regard this aspect as particularly important because (a) the issue is always for the Judge, who passes sentence in the public interest, (b) you pleaded guilty to the charge as alleged, and (c) your trial was scheduled to commence this month. However, I am persuaded to afford 15 percent for your pleas rather than 10 percent, as they spared the need for a potentially long and difficult trial in which much time would be spent determining what happened, and because your pleas afforded certainty to the victims. I have no doubt their awaiting the trial and the uncertainty in connection with it would have been stressful. All those things said, greater discount would be contrary to the spirit of the new regime, and I go no further for this reason.

[24] Mr Pongia, I turn briefly to your personal circumstances. You describe a stable and relatively happy upbringing as an adopted child. You say you were bullied at school and ultimately expelled, or at least asked to leave school. You report anxiety and panic attacks but suffer no delusions or recognised psychological impairment. You appear to have had no trouble in obtaining employment of different types. You

⁴ *Dickey v R*, above n 2; *R v McCarthy* [2025] NZHC 4039; *R v D* [2024] NZHC 2118; *R v Huntley* [2024] NZHC 182; *R v TH* [2023] NZHC 630; *R v Rapira* [2003] 3 NZLR 794, *R v Stanaway* [2026] NZHC 173 and *R v Messervy* [2024] NZHC 3770.

⁵ Sentencing Act, ss 9H, 9J and 9K.

used alcohol as a young person, and some drugs. You appear wary of answering questions about gang connections, but there is no suggestion your offending was gang related. In some respects, then, your upbringing presents as unremarkable.

[25] Mr Corby seeks a discount of 25 percent for your age, background, and prospect of rehabilitation. He notes Dr Duff, the psychiatrist who prepared the report about you, says the offending might have reflected a heightened sense of threat because of your background.

[26] I consider 25 percent appropriate, but not quite for the reasons Mr Corby advances. I consider Dr Duff's opinion a possibility only, in circumstances in which any conclusion drawn by an expert is only as good as the information given to them. You told Dr Duff you did not think you had done any significant harm to anyone, at least initially. That cannot be right as your guilty pleas acknowledge you stabbed Mr Temarama-Abela, intending *then* to cause him bodily injury which you knew was likely to cause his death, and that you stabbed Mr Fonokalifi, intending *then* to cause him very serious bodily harm.

[27] In affording you 25 percent, I place weight on the prospect of your rehabilitation rather than your background, as I do not believe it had much role, if any, in what occurred. That you have completed rehabilitative courses in prison provides some, albeit modest, support for this approach.

[28] Mr Corby also seeks a five discount for remorse. I accept you have expressed remorse including, for example, in your letter to the victim's family. That said, I am not persuaded your demonstrations of remorse are sufficiently tangible or exceptional to warrant additional discount. And to the extent they inform your prospect of rehabilitation, the 25 discount — which is significant — reflects them.

[29] This produces a sentence of 18 years' imprisonment, which is consistent with sentences imposed on others of similar age for broadly similar offending.⁶

⁶ *R v TH*, above n 4; *R v Huntley*, above n 4; and *R v Messervy*, above n 4.

Minimum period of imprisonment

[30] The Crown seeks a minimum period of nine or 10 years' imprisonment. A minimum period may be imposed by the Court if it is satisfied the usual non-parole period would be insufficient for any or all of these purposes:

- (a) Holding the defendant accountable for the harm done to the victim and community.
- (b) Denunciation, which is just a big word for marking out what someone has done is wrong.
- (c) Deterring the defendant or others from committing like offending.
- (d) Protecting the community.

[31] Mr Corby accepts a minimum period is warranted but argues it should be confined to seven years' imprisonment. That figure, however, presupposed a lower finite sentence of 14 years' imprisonment.

[32] I consider a nine-year period necessary given the purposes I have just mentioned; because your offending was right on the cusp of life imprisonment, which would have attracted a minimum period of at least 10 years; and because a 50-percent minimum period is consistent with the preponderance of the case law in this context.⁷

Sentence

[33] Mr Pongia, please stand. For murdering Greig Temarama-Abela, you are sentenced to a term of 18 years' imprisonment with a minimum period of nine years; and for wounding Inoke Fonokalafi you are sentenced to a term of five years' imprisonment. Both terms run together at the same time. In the language of the law, they are concurrent.

⁷ See the cases at footnote 4.

Strike warning

[34] I must also give you this warning. Given your conviction for murder, you are now subject to the three strikes law. I am going to give you a warning accordingly and you will be given a written warning in prison. The warning is this:

- (a) If you are convicted of any serious violence offence other than murder committed after this warning, and if a Judge imposes a sentence of imprisonment, you will serve that sentence without parole or early release.
- (b) If you are convicted of murder committed after this warning, you must be sentenced to life imprisonment. You would serve that without parole unless it would be manifestly unjust. In that event, the Judge must sentence you to a minimum term of imprisonment.

[35] Stand down.

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Downs J