Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

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MEDIA RELEASE

JESSICA MULFORD v THE KING

(SC 110/2025) [2026] NZSC 177

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: www.courtsofnz.govt.nz.

Suppression

High Court order made under s 205 of the Criminal Procedure Act 2011 prohibiting publication of any material relating to specified background facts remains in force.

What this judgment is about

This judgment concerns three issues relating to a young woman's sentencing for manslaughter in respect of the killing of an infant in her care in a moment of uncontrolled stress. First, should the sentence starting point address youth-related factors (such as isolation, inexperience, impulsivity and inability to cope with stress) and mental health issues (including depression and mental distress), and if so, how? Secondly, does s 18 of the Sentencing Act 2002 prevent an earlier incident of injury to the infant being considered as an aggravating feature in the manslaughter sentencing? Thirdly, what sentence should have been imposed?

Background

This appeal arises from the tragic killing of a two-year-old child, Harlee-Rose Niven, in April 2022. The appellant, Ms Mulford, was 18 years old at the time. She was Harlee-Rose's primary caregiver, but not her mother. Her partner was Harlee-Rose's father. The cause of death was hypovolemic shock, occurring as a result of serious abdominal injuries consistent with stomping, kicking or punching.

Ms Mulford was found guilty of manslaughter after a trial by jury on a charge of murder, and guilty also of earlier injuring Harlee-Rose with intent to injure, in respect of an act involving strangulation committed when Ms Mulford was aged 17. In February 2025, she was sentenced

to five years and seven months' imprisonment for the manslaughter and discharged on the injuring charge. The Court of Appeal dismissed her appeal against sentence. The sentence at issue in this appeal was imposed before the entry into force of the Sentencing (Reform) Amendment Act 2025 in June 2025, meaning the prior version of the Sentencing Act governs this appeal.

In December 2025, the Supreme Court granted leave for Ms Mulford to appeal her sentence.

Supreme Court decision

The Court has unanimously allowed Ms Mulford's appeal. It has quashed the sentence of five years and seven months' imprisonment and substituted one of four years' imprisonment.

Should the sentence starting point have addressed youth-related factors and associated mental health issues, and if so, how?

On the first issue, the Crown had submitted that youth arises as a sentencing consideration only after the sentence starting point has been established, at stage two—where the starting point is adjusted to account for aggravating and mitigating factors relating to the offender (at [29]).

The Court unanimously agreed that the fixed line drawn by the Crown was not correct, at least on the facts of this case. It held that considerations relevant to setting the starting point at stage one can be complex and nuanced, and may include youth-related factors where causative of the offending (at [30]). The essential focus in setting the sentence starting point is on the gravity of the offending—a consideration which includes the culpability of the offender. Moral culpability—and, therefore, gravity—is diminished by mitigating considerations that are an operative or proximate cause of the offending, thus also reducing the imperatives of general and specific deterrence, denunciation and accountability. In violence cases, a very substantial number of different factors may be weighed in setting the starting point, and not all are merely descriptive of the conduct of the offender and what they did to the victim. In certain circumstances, impulsivity, mental health and youth-related factors may all diminish culpability and bear upon the sentence starting point at stage one. Furthermore, individualised sentencing requires the starting point in each case to bear a rational relationship to comparator cases. A starting point set for an adult offender in a guideline judgment or comparator case is unlikely to be appropriate where youth-related factors are an operative or proximate cause of the offending (at [31], and see at [35]–[43]).

The Court held that, ultimately, what matters most in setting a just but consistent sentence starting point is identifying factors that bear on gravity and culpability, and then relating those in a rational way to starting points imposed in appropriate comparator cases (at [44]).

Does s 18 of the Sentencing Act prevent the earlier incident of injury to the infant being considered as an aggravating feature in the manslaughter sentencing?

At the time of sentencing, s 18 prevented a court from imposing a sentence of imprisonment on an offender in respect of certain offences, where the offender was under 18 at the time of the commission of the offence. It was common ground that s 18 applied to Ms Mulford's sentencing for the injuring with intent conviction (on which she was discharged).

The Court held by majority (Ellen France, Kós, Miller and Cooke JJ) that s 18 of the Sentencing Act does not compel the sentencing judge to disregard prior conduct directly aggravating culpability for the index offence of manslaughter—here, prior violence against the same victim. The prior offending against Harlee-Rose increased the seriousness of the manslaughter because it was not a one-off act of violence against her, and because the first occasion should have brought home to Ms Mulford her capacity to lose control (at [55]).

Dissenting on this issue, Williams J considered that s 18 prevented the earlier injuring offence from being used to increase Ms Mulford's term of imprisonment for manslaughter. In his view, any such increase remained imprisonment "in respect of" the earlier offence and was therefore prohibited by s 18 (at [73]–[84]).

What sentence should have been imposed?

On the third issue, the Court concluded that youth-related factors of isolation, inexperience, impulsivity and inability to cope with stress, and associated mental health issues including depression and mental distress, were an operative or proximate cause of the crime committed by Ms Mulford. They were matters calling for consideration in setting the sentence starting point (at [58]).

The majority concluded that those factors, relevant comparator cases and the prior offending against Harlee-Rose in combination meant a starting point of four years and nine months' imprisonment was appropriate (at [68]), resulting in an **end sentence of four years' imprisonment** after considering personal mitigating factors not an operative or proximate cause of the offending (at [69]–[70]). Williams J would have reduced the majority's starting point by a further six months to exclude the aggravating effect of the earlier injuring offence, which would have resulted in an end sentence of three years and seven months' imprisonment (at [85]).

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