

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

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

**CRI-2019-225-000088  
[2020] NZHC 1488**

**THE QUEEN**

v

**DANIEL ALAN CAMERON**

Hearing: 29 June 2020

Appearances: R W Donnelly for Crown  
W N Dawkins and G S Williamson for Defendant

Judgment: 29 June 2020

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**SENTENCING NOTES OF DUNNINGHAM J**

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**Suppression**

[1] Mr Dawkins has formally abandoned his application for continued name suppression. Name suppression is therefore lifted.

**Sentencing**

[2] Mr Cameron, you are here today for sentence having pleaded guilty to the charge of murder.

[3] But before I begin the formalities of sentencing I want to acknowledge the members of Hunter's family who are here today, along with their friends and supporters. I know today is an important milestone in your grieving for Hunter. Through your victim impact statements, through the eulogy that was read at his funeral, and through the photos I have seen of Hunter from birth right through to nine years old, I have got a wonderful picture of what Hunter meant to all of you and how devastated you are not just by his loss, but by the circumstances of it.

[4] As you have heard, I will not be able to give you answers today, no-one has been able to give us answers, and I am not going to be able to compensate you for your loss. It is clear to me that Hunter was too precious to you for that to ever be possible. All I can do is sentence in accordance with the law, and let you return to your lives knowing that the Court process is now behind you.

[5] I also want to acknowledge Mr Cameron's family today. Their lives have also been shattered through no fault of their own and I know they are hurting too.

### **Facts of the offending**

[6] Before I go on to explain how I have decided on your sentence, I must briefly outline the facts of the offending. These are contained in full in summary of facts but, for the purposes of sentencing, I say the following.

[7] You were 15 years old at the time of the offending and you lived in Otautau with your mother and brother.

[8] The victim in this matter, Hunter, was a nine year old boy. He lived in Otautau with his stepfather and mother. Your families knew each other and you had babysat Hunter on at least 10 previous occasions.

[9] On Wednesday, 30 October, your mother was going to play pool at the local hotel with Hunter's mother and stepfather, which was a weekly event. At about 6 pm your mother drove you to Hunter's house to babysit as arranged. Your mother and Hunter's mother and stepfather left the house at the same time. Your mother then went home for dinner before meeting Hunter's mother and stepfather at the local hotel.

[10] At around 7.40 pm you were seen walking down Rye Street not far from where Hunter lived. You had exchanged a number of text messages with Hunter's mother earlier in the evening and the last one was sent to her at around 7.57 pm. Nothing in them indicated that anything was amiss. At around 8.20 pm you sent a message to a friend through Facebook messenger that simply said "help". Shortly afterwards you sent a Snapchat to three friends which said "what would you do if I killed someone". Soon after you sent a Facebook message to another friend which said "what would you think of me if I killed someone" and, in the next message, "straightforward answer".

[11] At around 9.30 pm you messaged a friend through Facebook saying "call", and at around 10.00 pm you called a friend and said you were not coming to school.

[12] At around 10.10 pm Hunter's mother texted you and asked if Hunter was asleep. You did not respond. Finally, at around 10.30 pm you sent a text to your mother which said "I'm sorry come get me".

[13] At around the same time Hunter's mother and your mother decided to drive together, but in their separate cars, back to Hunter's house so that your mother could pick you up and take you home. Hunter's mother went inside first. Your mother waited in her car for you to come out. When Hunter's mother went to check on Hunter as you have heard today, she found him in the bedroom lying on his back on the floor at the foot of his bed with a large 25 centimetre chef's knife embedded in his stomach. He appeared dead. She ran out screaming and your mother then went in and found Hunter on the floor of his bedroom. You were nowhere to be found. Emergency services were called but they confirmed that Hunter was dead.

[14] Shortly after 11 pm you were picked up on a rural road by two males who dropped you off in Otautau and you were found in the early hours of the morning at your home.

[15] A post-mortem revealed that Hunter had received three large knife wounds to his torso and chest area and he probably died within 90 minutes of you being in charge of him. The major wound was to his stomach where the knife was located. Hunter

also had ligature marks around his neck along with petechiae eye, consistent with asphyxia, in other words, consistent with pressure being applied round his throat. He also had a moderate head injury. The pathologist found the cause of death was the stab wounds to the chest and abdomen, resulting blood loss, and concurrent asphyxia from neck compression.

### **Impact of your offending**

[16] The impact of your offending has been devastating. It has shattered every member of Hunter's large extended family. Your crime is every parents' worst nightmare and Hunter's family are living that nightmare. It has also shattered the small community of Otautau. His teachers, his classmates and everyone else who knew Hunter are struggling to understand why and how this happened.

### **Purpose and principles of sentencing**

[17] In sentencing you today, I have to do a number of things. I have to denounce your conduct, I have to deter your behaviour, I have to hold you accountable for the harm you have done. However, I also have to provide for the prospect of your rehabilitation and reintegration. I have the obligation to place the least restrictive sentence on you that is appropriate in all the circumstances. So, I have borne all those matters in mind in sentencing you today.

[18] The sentence for murder as you have heard is largely dictated by the Sentencing Act. I must sentence you to life imprisonment unless it would be manifestly unjust, and in the circumstances of this case, counsel are agreed, and I agree too, that life imprisonment is inevitable.

[19] That means the only real issue in sentencing you today is what is called the minimum period of imprisonment (MPI). The Sentencing Act provides that the minimum period of imprisonment that must be served by someone serving a life sentence is 10 years.<sup>1</sup>

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<sup>1</sup> Section 103(b).

[20] However, the Crown also argues that this is a case where a MPI of 17 years is required under s 104 of the Sentencing Act because the victim was particularly vulnerable because of his age. However, even if that section is satisfied, both lawyers agree that I cannot impose a minimum period of imprisonment of 17 years if that would be manifestly unjust.

[21] Now, in making that assessment, I need to compare your culpability with the range of murders that come before these courts. That means I have to consider factors relating to the offending and factors relating to you as an offender. If I reach the view that a MPI of less than 17 years should be imposed under that analysis I must still decide whether I should impose 17 years having regard to s 104 of the Sentencing Act. If it would be manifestly unjust to do that, then I must sentence you to a lesser MPI.<sup>2</sup>

### **The offending**

[22] I start by looking at the aggravating features of your offending. That means the factors which make the offending worse. The Crown has identified a number of aggravating features of your offending:

- (a) the loss of life;
- (b) the use of a weapon;
- (c) the nature of the injuries;
- (d) the victim's vulnerability;
- (e) the breach of trust; and
- (f) your actions after the fact.

[23] Your lawyer, Mr Dawkins, in his written submissions, has taken issue with some of these, correctly in my view. I note that a loss of life is inevitable in any case of murder.

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<sup>2</sup> *R v Williams* [2005] 2 NZLR 506 (CA).

[24] The use of a weapon is a somewhat aggravating feature, but I do accept, that weapons are commonly used in homicides.

[25] However, I agree with the Crown that the nature of the injuries which caused Hunter's death are an aggravating factor. You stabbed the victim on more than one occasion and you also tried to strangle him. This tells me that your efforts to kill Hunter were not instinctive, the result of a fleeting moment of rage, but rather it was a more sustained attack designed to immobilise him. However, I accept that this is not in one of those categories of cases where it was premeditated.

[26] In terms of victim vulnerability and breach of trust, I agree with your lawyer that these elements are linked. Hunter was just a child. While you were young, you were clearly much bigger and stronger than him and you could readily overpower him. Linked to that, Hunter was in his home and you were the person left in charge. As one of the victim impact statements said, home is meant to be a safe place for children and it was not. You were meant to be the responsible person in this situation. He had no-one else to turn to, and you abused that trust in the worst way possible. That, in my view, does clearly engage s 104.

[27] In terms of your actions after the fact, the Crown says you demonstrated a certain level of callousness, leaving it for Hunter's mother to find out what had happened to him, while you wandered the district before accepting a ride back. I understand their views. However, I accept that your behaviour was probably not motivated by callousness. I consider your relative immaturity meant you were overwhelmed and simply did not know what to do when you acted the way you did.

[28] In terms of mitigating factors, both lawyers agree that your guilty plea and your youth and lack of any previous involvement with the police or the Courts need to be acknowledged in the sentencing process. Sadly though, I do not see any real evidence of remorse, although that may simply be a reflection of your immaturity.

[29] I now go on to consider the appropriate starting point, ignoring for the moment s 104. Both lawyers have cited a range of cases to me, although of course, none exactly match the fact pattern we have here. The Crown has said a starting point minimum

period of imprisonment of 16 years is open to the Court having regard to the cases discussed in their submissions.<sup>3</sup>

[30] Your lawyer has referred me to a range of cases, including a recent sentencing in Invercargill, and suggests the starting point of 14 years to 14 and a half years.<sup>4</sup> While taking account of that Invercargill case, and that there was not the level of pre-meditation here as in that case, I consider the vulnerability of the victim in this case makes it slightly more serious.

[31] In my view, the key aggravating features are the killing of someone who was extremely vulnerable and who was entrusted to your care, along with the use of a knife in addition to attempted strangulation, and I would start with a MPI of 15 and a half years as a starting point.

### **Personal circumstances**

[32] I turn now to consider your personal circumstances. The Court has received two psychiatrists' reports, along with reports from the Youth Forensic Team regarding your background and whether you suffer from mental health issues which may be relevant to your offending or your fitness to stand trial.

[33] Your lawyer has discussed these matters in detail in his submissions. I can say, in summary, that you do not suffer from any recognised mental health issues. Furthermore, compared with many people who come before the Courts, I can say that your background is relatively untroubled. You have never been involved with the criminal justice system before. As your mother has said, you were raised to be respectful and well mannered and she never saw this coming.<sup>5</sup>

[34] However, there are some issues which are identified in these reports which, as Dr Knight suggests, may have been “psychologically traumatic” for you and which may need to be explored in the process of addressing the causes of your offending.

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<sup>3</sup> *R v Heenan* [2014] NZHC 553; *R v Blake* [2015] NZHC 1714; and *R v Scofield* [2015] NZHC 2109.

<sup>4</sup> *R v Dickey* [2018] NZHC 1403, and *R v Whiting-Roff, Brown and Scheepers* [2018] NZHC 3239.

<sup>5</sup> As recorded in a letter received by the Court from Christine Cameron on 25 June 2020.

You suffered a form of abuse as a pre-schooler, although you do not remember this and you do not suggest that you suffer any psychological or emotional effects from it.<sup>6</sup> You were bullied at primary school and your mother says you could lash out verbally as a result of this. However, that appeared to have resolved when you changed schools.

[35] The report also suggests that you have personality characteristics that can be conceptualised as mildly autistic traits. However, they do not appear to have impaired you and there is general agreement that they do not warrant a diagnosis of autism spectrum disorder. You do report a tendency to be angry at “the stupidest things” and that will need to be a focus of your rehabilitation, as the nearest we get to an explanation for your offending is in the report of Dr Knight where you say that Hunter was being really annoying that evening and had a device like an airhorn which made a very loud sound. He kept making loud sounds with this device and would not stop when you asked him to.

[36] If this is indeed, the motive for murder, it suggests you have very significant issue with anger management which must be addressed before you could ever be considered for release.

[37] In summary, you do not suffer from any recognised mental health issues, although you have faced some challenges in your childhood and may have difficulties responding appropriately to stress and provocation. However, these do not, in my view, warrant a discrete discount. I take them into account as part of your youth and immaturity.

### **Discount for youth**

[38] You are entitled to a discount for youth.

[39] The reasons why we give a discount for youth are discussed in a case called *Churchwood v R*.<sup>7</sup> That case recognises that young people’s actions may be partly explicable (but not excusable) by their state of neurological development. It also

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<sup>6</sup> Mr Cameron was sexually abused by a young family member.

<sup>7</sup> *Churchwood v R* [2011] NZCA 531; (2011) 25 CRNZ 446.

recognises their experience of prison can be disproportionately severe, and their capacity for rehabilitation may be greater.

[40] The discount for youth can range considerably. I accept the Crown's submission, which is effectively endorsed by your lawyer, that a discount of three years should apply to the MPI for your youth and factors relating to your childhood.

### **Early guilty plea**

[41] I turn now to your guilty plea.

[42] Although discounts for guilty plea do not strictly apply on a life sentence, they are regularly acknowledged by a reduction to the MPI. The Crown submits a discount of 12 months could be applied to recognise your guilty plea, though the strength of the Crown case against you is why a greater discount is not warranted.

[43] Your lawyer points out that your guilty plea was entered promptly after psychiatric and psychological assessments were done. Mr Dawkins points to a number of cases where up to a two year discount has been afforded.<sup>8</sup> Similar ranges of discounts were discussed in *R v Dickey*,<sup>9</sup> *R v McIsaac*,<sup>10</sup> *R v Pomare*,<sup>11</sup> and *R v Pomare and Perkinson*.<sup>12</sup>

[44] I am satisfied that the early guilty plea saved further trauma for Hunter's family and is appropriately marked by a discount of 18 months.

[45] While the Crown reached a notional minimum period of imprisonment of 12 years, and your lawyer suggests it could be reduced to 10 years, I consider that the minimum period of imprisonment should be 11 years.

[46] I turn now to the key question which is whether a 17 year minimum period of imprisonment required by s 104 would be manifestly unjust. Given the large disparity

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<sup>8</sup> *R v Karauria* [2018] NZHC 1184; *R v Gottermeyer* [2014] NZCA 205.

<sup>9</sup> *R v Dickey*, above n 4.

<sup>10</sup> *R v McIsaac* [2016] NZHC 1544.

<sup>11</sup> *Pomare v R* [2017] NZCA 155.

<sup>12</sup> *R v Pomare and Perkinson* [2016] MZJC 1346.

between the sentence I have reached, having regard to the aggravating and mitigating features of your offending, and you as an offender, and the statutory minimum, I am satisfied it would be manifestly unjust to require you to serve a minimum period of imprisonment of 17 years. I take particular account of your youth and the need to offer you some hope of rehabilitation and reintegration into society. Now, this should not be interpreted as meaning that you will be released from prison at that time. You are being sentenced to life imprisonment and you will not be released until a Parole Board considers you are no longer an undue risk to the community. The very minimum you must serve is 11 years.

### **Conclusion**

[47] Mr Cameron, would you please stand.

[48] On the charge of murder, you are sentenced to life imprisonment. The minimum period you must serve in prison is 11 years.

[49] Stand down.

Solicitors:  
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