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

**I TE KŌTI MATUA O AOTEAROA  
TE WHANGANUI-A-TARA ROHE**

**CRI 2017-085-2927  
[2019] NZHC 1267**

**THE QUEEN**

v

**RICHARD GEORGE APPERLEY**

Sentencing: 6 June 2019  
Appearances: P K Feltham for the Crown  
V C Nisbet and S W O Campbell for Mr Apperley  
Date: 6 June 2019

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**SENTENCING NOTES OF MALLON J**

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**Introduction**

[1] Mr Apperley, you can remain seated for now. There is a lot to go through when a sentence of preventive detention is sought so it will take a while. When I come to formally pass sentence on you I will ask you to stand and that will be at the end.

[2] You appear for sentencing on 14 charges to which you have pleaded guilty.

[3] These charges comprise:

- (a) six representative charges for sexual violation;<sup>1</sup>
- (b) two charges for attempted sexual violation;<sup>2</sup>
- (c) three charges for sexual violation as a party;<sup>3</sup>
- (d) one representative charge of assault with a weapon;<sup>4</sup> and
- (e) two representative charges for objectionable publications:
  - (i) one for knowingly making them;<sup>5</sup> and
  - (ii) the other for knowingly possessing them.<sup>6</sup>

[4] You were made aware that the Crown was seeking a sentence of preventive detention.<sup>7</sup> As is required when such a sentence is sought, the Court commissioned two health assessor reports, one from Dr Chaplow, a psychiatrist, and the other from Ms Brown, a psychologist, concerning your likelihood of committing further sexual and violent offences.<sup>8</sup> Your counsel arranged on your behalf a report from a third health assessor, from Mr Riley, a psychologist. The sentencing was delayed until today to allow sufficient time for that report to be completed.<sup>9</sup> The Court convened yesterday to allow counsel the opportunity to question the three health assessors.

### **Summary of the offending**

[5] The sexual offending charges concern four female victims, who I will refer to as E, F, G and H.

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<sup>1</sup> Crimes Act 1961, s 128(1)(a)-(b); maximum sentence of 20 years' imprisonment.

<sup>2</sup> Section 129(1); maximum penalty of 10 years' imprisonment.

<sup>3</sup> Sections 128(1)(a)-(b) and 66(1); maximum penalty of 20 years' imprisonment.

<sup>4</sup> Section 202C(1)(a); maximum penalty of five years' imprisonment.

<sup>5</sup> Films, Videos and Publications Classifications Act 1993, ss 123(1) and 124(1); maximum penalty of 14 years' imprisonment.

<sup>6</sup> Sections 131(1) and 131A(1); maximum penalty of 10 years' imprisonment or a \$50,000 fine.

<sup>7</sup> Sentencing Act 2002, ss 87(3) and 88(1)(a).

<sup>8</sup> Section 88(1)(b).

<sup>9</sup> Guilty pleas on the charges, except the breach of ESO were entered on 5 November 2018 shortly before the trial was scheduled to commence.

*First victim: E (1994-1998)*

[6] Your offending against E was the most prolonged and serious. The charges relating to her are representative charges of sexual violation by rape, and oral and anal connection; a representative charge of assault with a weapon; attempted rape and attempted unlawful connection; and sexual violation by rape, oral connection and anal connection as a party.

[7] You and E met in 1994 when you were both 15 years old. You became friends, commenced a sexual relationship and she became pregnant with the first of your three children with her. Over the next four years you repeatedly sexually, physically and mentally abused E. The eldest child witnessed some of the offending and this ultimately led to E ending the relationship in 1998.

[8] On the first two occasions you forcibly raped E when you were intoxicated. Afterwards, you were crying, and told her it would not happen again and you were sorry. However, your offending continued. On many occasions, usually when you had been drinking and later on when you were abusing substances, you would forcibly rape E, force your penis into her mouth and into her anus. Often E would wake up in bed to find her hands were tied and you were on top of her violating her. You would ignore her repeated refusals to have sex and her visible distress at what you were doing to her and assault her to get her to comply.

[9] Your violence sometimes involved pulling her by the hair, restraining her hands, slapping her across her face or whipping her buttocks and lower torso with a belt. You would make her say things to you when you were violating her. When E was pregnant you would sometimes threaten to harm your unborn child to intimidate her into compliance. You also began verbally berating her, and making her say things to you, while you violated her. Over time your violence and aggression increased. You sometimes lit cigarettes and threatened to burn her face with it. On occasion you also placed your hands around her neck and began to strangle her and you spat in her face. Sometimes, when you were violating E, you told her how you wanted to abduct, rape and kill a random female from the street. E was terrified by this.

[10] The party charges arise from an occasion when E was at home alone at night. She heard a noise and went to her bedroom. You were in the room in the dark and another male with a balaclava climbed through an open window. You and the other male raped her and forced your penises into her mouth. You also forced your penis into her anus. When you and your associate were finished, you both left via the open window.

*Second victim: F (2010-2011)*

[11] The offending against F concerns a representative [rape] charge. You met F in August 2010 when she was 19 years old. You moved in together soon after meeting her. Your relationship lasted a year. It ended after an argument where you strangled F until she couldn't breathe and feared for her life. The pressure caused bruising and redness on her neck. You were in a rage but you suddenly let go and F left the house. You sent texts saying you were sorry and asking if she was okay.

[12] Initially your relationship involved consensual sex with you placing your hands around her neck and calling her names. Over time you became more dominant and forceful, would make her say degrading things about herself, tie her hands, slap and yell at her and spit on her face. These occasions would start as consensual activity but as the victim became repulsed and distressed at what you were doing she would ask you stop but you would not do so. You filmed yourself offending against F in this way on at least 10 occasions. There were other occasions of F refusing to have sex with you but you restraining and sexually violating her. One of those occasions was after you had been consuming methamphetamine and had not slept for days and were irritable.

*Third victim: G (2011-2013)*

[13] The offending against G involves a representative rape charge. You met at the end of December 2011 and had a 20-month relationship with her. Your offending against G was similar to the others. The summary of facts describes three instances when you and G would engage in consensual sexual activity during which you would become increasingly violent and cause pain and discomfort to her. She would try to push you away, resist you and plead for you to stop but you would continue. You

would verbally berate her, spit on her face while you did this. On one of these occasions you filmed the activity.

*Fourth victim: H (2013-2016)*

[14] Your offending against H involves a representative charge of rape. The offending occurred in the context of a relationship between 2013 and 2016. Initially the sexual activity was consensual and H agreed to role play while you filmed it. You wrote degrading names on her chest, demanded she say things about herself and performed other degrading activities on her which disgusted her. The summary of facts refers to other occasions when you forcibly raped her. On one of these occasions you had pressure on her neck and she felt she would not be able to breathe if she resisted. On other occasions you slapped her on the face and spit in her face.

*Objectionable publication charges*

[15] Pursuant to search warrants executed at your address in November 2017 and January 2018, the police located over 20,000 images and movies downloaded from the internet which had been labelled and stored by you. Eighteen movies were chosen at random and formed the basis of the objectionable publication charge. They showed women subjected to torture, sexual violation and brutal assaults.

[16] There were also over 2,000 images and movies labelled as relating to your previous and current female partners. Fourteen were chosen at random and form the basis of the making of an objectionable publication charge. They depict the women being sexually violated, urinated on and subjected to other humiliation.

**The impact of your offending**

[17] There are victim impact statements from your four female victims as well as the eldest son of your first victim. Four of those statements have been read today.

[18] The victims describe their feelings of shame, embarrassment, guilt, and a lack of self-worth and confidence. Your offending has had profound impacts on their personal lives, ranging from drug and alcohol issues, difficulty in being intimate with others, or to hold jobs or carry out studies, or to deal with the everyday stresses of life.

Your victims have suffered from post-traumatic stress disorder, depression, suicidal thoughts and anxiety because of what you did to them. They have needed regular counselling and other treatment and your first victim has a serious physical illness which is attributed to the stress suffered from your offending. There have also been serious impacts on your children as you have heard from your son today.

[19] I acknowledge the courage and strength of character that your victims have displayed in speaking to the Police about what you did to them, and in doing their best to find, in their various ways, ways to move on from what you did to them.

### **Personal circumstances of the offender**

#### *Background*

[20] Turning to your personal circumstances. You are 39 years old. Your offending in this case occurred from when you were 15 to 36 years old but with the significant gap when you were in prison for offending, which I will shortly refer to. You were raised in a loving family but were sent to live with [redacted] when you were about 13 for a period of about nine months. At this time you were exposed to drinking and cannabis and a mutual viewing of a wide range of pornography [redacted]. The health assessors consider this was likely to have a link with your later offending behaviour. As Mr Riley puts it, at a critical time in your psycho-sexual development, you were exposed to a range of practices and emotions which were highly atypical and likely contributed to your aberrant and destructive coping practices.

[21] You left school when you were 14 or 15 years old without any formal qualifications. You have held employment only sporadically and have generally lived an unstable and chaotic lifestyle since then. At present, you lack any pro-social support and do not have any contact with your family. You have used alcohol and methamphetamine heavily in the past on occasions, but you do not regard this as an ongoing issue.

#### *Previous offending*

[22] You have a number of convictions. Of present relevance are the following.

[23] You have convictions for rape and a conviction for abduction arising from events in September 1998. You were 19 years old. Your relationship with E had just ended. You came upon a 15 year old female victim who was home alone. You threatened her with a knife, tied her up, and abducted her in your car to your home some kilometres away. Once there, you again threatened her with the knife and proceeded to rape her. After this, you tied up her hands, placed masking tape on her face, turned the stereo up, told the victim you needed to be alone to think and left the house. You returned a short time later, and proceeded to anally rape the victim. You then became remorseful and drove her back to a friend's house. You were quickly apprehended, admitted your offending and said you did not know what had come over you but you had contemplated killing the victim and disposing of her body to avoid detection.

[24] For this offending you were sentenced to 10 and a half years' imprisonment. You were released on parole on 14 December 2005. During your sentence you completed the Kia Marama treatment programme. This programme is for men who sexually offend against children. You qualified for this programme because your victim was 15 years old. Corrections did not have a more suitable programme for you at that time. After your release you engaged in individual treatment with a Corrections psychologist. You also attended monthly group meetings of a programme geared towards maintaining the treatment and preventing relapse. You were still attending these sessions when you were arrested on the present charges.

[25] On 31 May 2010 you were sentenced to one year's imprisonment on 11 charges of possessing objectionable publications and there was also some cannabis offending. You were also convicted of breaching your release conditions. The charges arose out of a search warrant executed on your address on 6 May 2008. A computer was seized and on examination this was found to contain many pornographic movies. These included sexual violations of women, including by you on your partner. These also included degrading activity on the women and describing them in a denigrating manner.

[26] On 12 August 2010, arising out of your convictions for these matters, a 10 year extended supervision order was imposed. On three occasions you were convicted of

breaching the ESO. This involved breaching your curfew and obtaining employment without prior approval. You were subject to the ESO when your offending against F, G and H occurred.

*Other information*

[27] The report writers describe you as a polite, cooperative, engaged and intelligent person. While not necessarily being prepared to accept all of the detail in the summary of facts, you have pleaded guilty because you acknowledge your offending and wished to prevent the victims from having to give evidence. You accept responsibility for the distress and harm caused to the victims and their wider families. You have conveyed through counsel your admiration of the courage your victims, including your children, have displayed here today in the statements they have read to you and in the ways they have managed to move on with their lives. You have told all the report writers that you are motivated to address your offending.

*Assessment of risk and treatment*

[28] The pre-sentence report writer considers you pose a “very high risk of harm to others” and a “very high likelihood of further offending”. The report writer considers your risk factors to be your difficulties with interpersonal relationships, willingness to use violence, offending-related sexual arousal, attitudes of entitlement supporting the offending, and the number of convictions, victims and period over which the offending occurred.

[29] Ms Brown concluded that you fall into a class with offenders who are at a very high risk of further sexual offending. This is based on three measures used by Corrections to assist with risk assessment: the ASRS-R (on which you are classified as a medium-high risk); the VRS (on which you are classified in the high risk category) and the PCL:SV (where you scored above average) and it is based on her clinical opinion.<sup>10</sup> She comments that her opinion is that you have demonstrated the presence of personality traits known to be associated with increased risk of re-offending and

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<sup>10</sup> These are the Automated Sexual Recidivism Scale – Revised (ASRS-R), the Violent Risk Scale: Sexual Offender (VRS: SO) and the Psychopathy Checklist: Screening Version (PCL: SV).

which are likely to be enduring and resistant to change and deviant sexual arousal and that subsequently there is a notably high likelihood of sexual reoffending.

[30] Ms Brown considers that any reoffending would most likely be against females with whom you are in an intimate relationship. The likely scenario would be rape involving violence, restraints and themes of degradation, humiliation and violence, and repeated over a prolonged period of time.

[31] Ms Brown considers it is possible that you will successfully complete treatment but there are some responsive barriers. Psychopathic traits, which she considers to be present, can be enduring and any treatment gains need to be interpreted with caution and be tested over a long period time. She notes that your offending has continued despite official sanctions (both custodial and community-based) and your apparently successful completion of treatment previously, which has failed. Her view is that though you present yourself as engaged and cooperative with treatment and supervision, you have previously been able to subvert these efforts through your continuing offending on a covert basis. She cautions that any treatment gains need to be viewed with scepticism before concluding they are meaningful.

[32] Dr Chaplow says that diagnostically you present with personality disorder with antisocial and psychopathic traits and sexual paraphilia. Paraphilia describes an intense recurrent arousing fantasy or urge which can occur in many different ways. In your case it has features of sadism, voyeurism and humiliation of your sexual partners, as well as rape fantasies, to increase your arousal and orgasm. People tend to mature out of paraphilia but that has not been the case with you. However, Dr Chaplow says paraphilia is learned behaviour and is relatively easy to treat. He does not view this part of your personality as at the heart of the problem.

[33] More problematic in his view are your psychopathic traits. In his assessment, you fall short of the full-blown condition of psychopathy but you scored in the high mid-range of the PCL: SV. This is more challenging to treat and the traits are more enduring. He accepts a targeted adult programme offers some hope, though he has limited expectations in relation to this. He said in a sense there is no cure and what is

required is careful and close ongoing management. He concludes that, if you are released in your fifties, your ongoing risk will require careful management.

[34] Mr Riley sets out the issues with each of the three measures relied on by Ms Brown. He considers the Kia Marama programme, at the time you completed it, was not the best place to deal with the type of therapeutic challenges you posed. He agrees with Dr Chaplow that you display paraphilia and this disturbance is amenable to treatment. He also agrees you have psychopathic traits. He notes that Corrections does now have an Adult Sex Offender Treatment Programme for which you would be an eligible candidate. He considers your motivation and intelligence should be an asset in your treatment and “an honest appraisal of [your] emotions, coupled with the artful employment of cognitive behavioural strategies, have very real potential to assist” you. He regards you as having good treatment prospects and he considers Corrections have the tools to make a well-supported judgment on whether the treatment has been successful.

[35] He concludes overall that, in his view, your risk in the future falls into the medium-high range. He considers there is good potential for appropriately focussed treatment to significantly reduce that risk during the course of your imprisonment, and that your intelligence and the motivation for change which you evinced in your interview with him, are positive features, although personality factors will require careful management.

### **Finite sentence**

[36] Your counsel submits I should impose a finite sentence. I will consider what a finite sentence would be, before determining whether preventive detention is the appropriate sentence.

### *Submissions*

[37] The Crown submits a starting point of 18-19 years’ imprisonment is appropriate for the offending as a whole. It submits this should be uplifted by 12 months because of your previous relevant offending and for a further three months because the offending occurred when you were on the extended supervision order. It

submits the discount for your guilty plea should be 20 per cent and there are no other mitigating factors for which you should receive any further discount. By my calculations, this would mean an end finite sentence of somewhere between 15 years and five months' and 16 years and two months' imprisonment.

[38] Your counsel submits a starting point of 16 years' imprisonment is appropriate for the offending. He submits the uplift for your previous relevant offending should be eight months and a further one month because some of the offending occurred when you were on the extended supervision order. He submits there should be a discount because of your youth when the offending against your first victim occurred and a further discount because of your unfortunate experiences as a 13 year old and the link that this has to your offending. He submits a discount of 25 per cent for your guilty plea is appropriate. If I were to allow somewhere between six months to one year discount for youth and your background, this would mean a finite sentence, as I calculate it, of between 11 years and 10 months' and 12 years and two months' imprisonment.

#### *My assessment*

[39] I agree with both sides that a starting point should be assessed by looking at your offending as a whole. I also agree with both sides that your offending falls within band four of the Court of Appeal's guideline judgment.<sup>11</sup> The starting point for that band is 16 to 20 [years'] imprisonment.

[40] The principal aggravating factors are that there was multiple offending, over an extended period, involving four victims; in some cases the offending was accompanied by threats of violence or actual violence, including strangulation; there were elements of grooming and manipulation; in all cases there was the associated progressively degrading and humiliating activity; and the impact on your victims has been very serious. The worst of your physical violence was on your first victim and that also involved the instance of the terrifying offending with your associate.

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<sup>11</sup> *R v AM (CA27/2009)* [2010] NZCA 114, [2010] 2 NZLR 750. The guideline judgment in *R v AM* is applicable to the offending against E even though it took place prior to *R v AM* because the maximum penalty was increased to 20 years' imprisonment before the offending: see *R v W* (2006) 23 CRNZ 531.

[41] I acknowledge you were young at that time and had not yet been to prison and had the opportunity for treatment. I consider that these factors do need to be factored in.

[42] I acknowledge also that after your prison sentence and your opportunity to address your offending, your offending changed somewhat in that often, but not entirely, it occurred when you took consensual activity too far. However, I do not consider this factor is entitled to weight in assessing what a finite sentence would be.<sup>12</sup> Your victims made it plain to you that they were distressed, upset and disgusted by what you did to them and made them to do to you, and you continued nevertheless because it increased your arousal. Their disgust and distress was your pleasure.

[43] Looked at globally, I would set a finite sentence of 17 years inclusive of all matters including your previous offending and that you were on an ESO and in light of your youth and background when you first offended.<sup>13</sup> If I were imposing a finite sentence, I would allow you a full discount of 25 per cent for your guilty plea. Although it came close to trial, there had been discussions ongoing for some time and the pleas were entered once agreement had been reached with the Crown on the charges and the associated summary of facts. Your guilty pleas spared the victims the further distress and anxiety of a trial and shows them that you accept what you did to them. Your guilty pleas were also of value to the State and the community in avoiding the burden of a lengthy trial and in saving a jury drawn from that community from the burden of what would undoubtedly have been an unpleasant trial for them.<sup>14</sup>

[44] So if I were imposing a finite sentence, that would mean one of 12 years and nine months' imprisonment.

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<sup>12</sup> Although going too far in consensual activity can be mitigating, it is circumstance-dependent (*R v AM (CA27/2009)*, above n 11, at [55] and [61]).

<sup>13</sup> Both sides referred to *R v Gage* [2013] NZHC 2053 (upheld on appeal *Gage v R* [2014] NZCA 28) which is probably the closest comparator. Other cases referred to or considered by me include *R v Laurence* [2013] NZHC 956; *Jenkins v R* [2015] NZCA 131; *Tau v R* [2012] NZCA 18; and *R v Alden* HC Palmerston North, CRI-2010-054-1873, 13 May 2011.

<sup>14</sup> I also note that you responsibly decided on a judge-alone trial as the trial approached.

*Minimum period of imprisonment (MPI)*

[45] It would be necessary to impose a minimum period of imprisonment for accountability, denunciation, deterrence and protection of the community.<sup>15</sup> Your counsel realistically does not suggest otherwise. He had initially submitted an appropriate MPI would be 50 per cent of the finite sentence but accepts orally on your behalf today the Crown's submission that an appropriate MPI would be the maximum permitted by the law, namely two-thirds of a finite sentence.

[46] I accept the Crown's submissions on this point. If I were to sentence you to a finite sentence, I would impose a minimum period of two-thirds of that sentence. I consider that would be appropriate because of the prolonged and ongoing nature of your offending behaviour, in spite of a significant period of imprisonment on similar offending, and that your offending against three victims was while you were on the ESO.<sup>16</sup> There is a very real need for deterrence and for protection to the community from the risk you present.

[47] That would mean, on a finite sentence, a minimum period of imprisonment of eight years and six months.

**Preventive detention**

[48] In light of my assessment of what a finite sentence would be, I now consider whether preventive detention should be imposed instead. You are eligible for preventive detention because of the offending against the later three victims and your age<sup>17</sup> and because I am satisfied that you are likely to commit another qualifying sexual or violent offence if you are released at the sentence expiry date of the finite sentence that I have just outlined.

[49] In reaching this view I note that the report writers consider you present a risk of reoffending and will remain a risk if you are released in your early fifties, unless

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<sup>15</sup> Sentencing Act 2002, s 86.

<sup>16</sup> This distinguishes the case from *R v Gage*, above n 13.

<sup>17</sup> You are not eligible for preventive detention for your offending in relation to the first victim because of your age at the time: see Criminal Justice Act 1985, s 75(1); Sentencing Act 2002, s 153; and *Mist v R* [2006] 3 NZLR 145, (2005) 22 CRNZ 192, (2005) 8 HRNZ 10.

you are able to be successfully treated and you will, even then, require careful management on your release. I note Ms Brown's view that you are at a very high risk is not Mr Riley's view. I accept Mr Riley's view that there are some factors in Ms Brown's assessment which potentially overstate this. For example, the better classification of your offending in one of the measures is "adult" rather than "mixed" given your age and the age of your victims at the time of your earlier offending and that the treatment you had in prison was not the most appropriate to your needs. Nevertheless, Ms Brown's view is based on a range of matters including her clinical opinion, and Mr Riley's view is that you are a medium to high risk and you will require careful management.

*Any pattern of serious offending disclosed by your history*

[50] In assessing whether preventive detention is the appropriate sentence I note there is a clear pattern of serious offending disclosed by your history. You develop intimate relationships with women through your pleasant and intelligent demeanour and then eventually escalate consensual sex to violent, humiliating and degrading rapes and sexual violations. There has been some de-escalation in that the abduction and party offending has not been present. However, in another sense, there has possibly been escalation in the degrading and humiliating aspects of the offending and which has often been accompanied by your filming of that activity.

*The seriousness of the harm to the community caused by your offending*

[51] The harm inflicted by your offending is at the serious end. Your prolonged offending has caused significant distress and had ongoing consequences for your victims. It has also affected your children, as you have heard.

*Information indicating a tendency to commit serious offences in future*

[52] The information put before the Court indicates a tendency to commit serious offences in the future. The report writers have your risk of reoffending somewhere between medium-high (Mr Riley) to very high (Ms Brown, and the pre-sentence report writer). Treatment is necessary to address your risk. There will be challenges with aspects of this. The very experienced Mr Riley nevertheless considers you are a good

prospect for treatment and your intelligence and motivation will be assets with this. If you are not successfully treated, however, your personality traits are likely to endure. As Dr Chaplow says, you will require careful and close management for a long time.

*The absence, or failure of, efforts by you to address the causes of offending*

[53] You have made some efforts to address the causes of your offending through the Kia Marama programme, the individual counselling and the monthly group meetings. You were compliant with this treatment, but they were not successful possibly partly because of their focus and also because of your personality traits. You say you are motivated to address your offending. Your intelligence and motivation can be an asset for this. I accept there is hope for you if you stay motivated and use your intelligence to help you to stop you from hurting women in the way that you have.

*The principle that a lengthy determinate term is preferable if this provides adequate protection for society*

[54] However, I am not satisfied in all the circumstances that a lengthy finite sentence, coupled with a further restrictive ESO, would provide adequate protection for society. It did not do so the last time when you had the opportunity to show that you had learned from your earlier offending. You will remain a risk unless you are successfully treated. That is possible, and there may well be good prospects for this, as Mr Riley says. But there are challenges because of the enduring personality traits and the outcome of any treatment needs to be measured over a long time to determine its success. If that treatment is not successful, your risk of serious offending remains high.

[55] I therefore conclude that a sentence of preventive detention is necessary.

*MPI under s 89*

[56] A minimum period of imprisonment is necessary. Notwithstanding the Parole Board's responsibilities I do not regard the MPI period that would apply to a finite sentence is adequate for the risk you pose to the safety of the community, taking into account your amenability to treatment, and the need for the success of any treatment

to be measured over a long period.<sup>18</sup> I accept the Crown's submissions that the MPI should be ten years' imprisonment.

### **Sentence**

[57] Mr Apperley, please stand. You are sentenced to preventive detention with a minimum period of imprisonment on charges 10, 11 and 12, being the sexual offending on F, G and H. On charges 1 to 8, being the sexual offending against E, I impose a concurrent sentence of 12 years and nine months' imprisonment. On charge 9, being the representative charge of assault with a weapon, I impose a concurrent sentence of two years' imprisonment. I impose concurrent sentences of one year's imprisonment on each of the objectionable publication offences.

[58] I make an order for destruction of the objectionable publications and for forfeiture of the things used to commit that offending.

[59] Please stand down.

Mallon J

[60] I record that, at the commencement of today's sentencing hearing:

- (a) I made an order ending Mr Apperley's interim name suppression;
- (b) I made a suppression order over para 7 on page 2 of the Summary of Facts relating to F in her interests; and
- (c) a guilty plea was entered through counsel on the charge of breaching the extended supervision order and Mr Apperley was convicted and

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<sup>18</sup> Sentencing Act 2002, s 89(2); and *Ellmers v R* [2013] NZCA 676. See also *Adams on Criminal Law – Sentencing* (online looseleaf ed, Thomson Reuters) at [SA89.01].

discharged (CRI: 17096515311) and leave to withdraw the other similar charge was granted (CRI: 18085500208).

Mallon J