

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

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

**CRI-2018-063-538
[2019] NZHC 2718**

THE QUEEN

v

**ROSANA MAIRO MORGAN
TYLER BAILLIE**

Hearing: 24 October 2019

Counsel: M A O'Donoghue and J M Webber for Crown
M J Vesty and C S Lawes for Ms Morgan
R M Mansfield for Mr Baillie

Sentencing: 24 October 2019

**SENTENCING NOTES OF THOMAS J
(ANONYMISED FOR SUPPRESSION ORDERS)**

Introduction

[1] Ms Morgan and Mr Baillie, you appear for sentence having been found guilty of murder following trial by jury in August 2019.¹ Prior to trial, Mr Baillie had pleaded guilty to three charges of supplying GHB, a Class B controlled drug,² and Ms Morgan pleaded guilty to four charges of supplying methamphetamine³ and one charge of offering to supply methamphetamine, a class A controlled drug.⁴ Ms Morgan was also

¹ Crimes Act 1961, ss 167 and 172; maximum penalty life imprisonment.

² Misuse of Drugs Act 1975, s 6(1)(c) and (2)(b); maximum penalty 14 years' imprisonment.

³ Section 6(1)(c) and (2)(a); maximum penalty life imprisonment.

⁴ Section 6(1)(c) and (2)(a); maximum penalty life imprisonment.

found guilty by the jury of one charge of supplying GHB⁵ and one further charge of supplying methamphetamine.

[2] In sentencing you, I will first address the facts of your offending and set out my conclusions as to the existence of disputed aggravating facts. I will then turn to your personal circumstances, the pre-sentence reports and victim impact statements. Finally, I will address the sentencing regime for murder and set the appropriate minimum period of imprisonment for your sentences.

Facts of your offending

[3] You were convicted by the jury on the basis that Mr Baillie suffocated Ms Harris while Ms Morgan assisted or encouraged the suffocation. Beyond that, the facts of your offending are disputed. The Crown alleges that you murdered Ms Harris to carry out a contract of sorts for Vicki Brookes, who was Ms Harris' aunt. Both your counsel submit the evidence does not support that allegation. Mr Mansfield submits on behalf of Mr Baillie that all that was proved at trial was that Mr Baillie arrived at the house in the evening and suffocated Ms Harris. In respect of Ms Morgan, Mr Vesty submits it was not proven that drugs played any role in the murder and Ms Morgan was only found guilty of assisting Mr Baillie by her continued presence during the suffocation of Ms Harris. To rely on the alleged contract with Ms Brookes in sentencing, the Crown must prove it beyond reasonable doubt on the basis of the evidence at trial.⁶

[4] I am satisfied beyond reasonable doubt that you were both involved in a plan to kill Ms Harris in exchange for money or drugs from Ms Brookes and that the plan originally involved an attempt to induce an overdose using a combination of drugs.

[5] I have arrived at this conclusion by drawing an inference from all the evidence disclosed at trial. The short point is that, once all the evidence is considered together, I am satisfied there is no other plausible explanation for why you suffocated Ms Harris.

⁵ Section 6(1)(c) and (2)(b); maximum penalty 14 years' imprisonment.

⁶ Sentencing Act 2002, s 24(1)(a) and (2)(c).

Furthermore, this was surely the conclusion reached by the jury, as it was the very basis of the Crown case at trial.

[6] There are several parts to the inference. First, there is the following evidence, which supports a conclusion that you had a deal with Ms Brookes involving an exchange of money or drugs to kill Ms Harris:

- (a) The undisputed evidence that Ms Brookes harboured immense and intense hatred for Ms Harris who had formed a relationship with Ms Brookes' husband.⁷ She had assaulted Ms Harris. She had made a voodoo doll of her. She was herself involved in the local drug scene. There was evidence she had made threats to kill Ms Harris in the past to the extent Ms Harris was fearful and had developed a safety plan.
- (b) Ms Morgan's text message to Mr Baillie at 7.01 pm on Sunday 7 February 2016 (by which time Ms Harris was dead) saying, "We go to your auntie now", to which Mr Baillie effectively agreed. Ms Brookes was at Ms Morgan's house when Ms Harris' daughter returned there from the police station on the day Ms Harris' body was found.
- (c) Evidence that, on the day of the murder, both of you were in possession of reasonably large quantities of methamphetamine.
- (d) Mr C's evidence that Mr Baillie went straight to Ms Brookes' house after he was called to the police station about Ms Harris' death. Mr C said Mr Baillie told Ms Brookes that Ms Harris was dead and then hugged her. Mr Baillie stayed there for about an hour, smoked methamphetamine and at some stage left the room with Ms Brookes.
- (e) Blair McNaughton's evidence that he was with Mr Baillie when he met Ms Brookes and Mr Baillie asked her when he was getting the rest of his money. He told Mr McNaughton he was waiting for \$8,000 and

⁷ The incident at the hospital at the end of January 2016 was likely the catalyst for the plan.

half an ounce of crack for the job he did for his auntie, which he described as an overdose. Mr McNaughton maintained, at some stage, Mr Baillie told him he got money for cars from doing the job for his auntie, by which Mr McNaughton said he meant “the overdose”.⁸

- (f) Mr McNaughton also said that when he was in custody with Mr Baillie in September 2016, Mr Baillie told Mr McNaughton he had already spent the money, that what happened was over Ms Brookes’ husband, who was sleeping around and Ms Brookes wanted her gone, that Ms Brookes had come to Mr Baillie and asked if he would do something for her and she would pay.
- (g) Ms F’s evidence that Ms Morgan told her that she had been hanging out and partying with Ms Harris, feeding her up on “rinse” (GHB) and that Ms Brookes was paying her 11 grams of methamphetamine to do it.⁹

[7] Secondly, there is the post-mortem evidence of GHB, methadone and methamphetamine in Ms Harris’ system. When that is viewed in light of the following circumstantial evidence, it leads to the conclusion that the drugs were present in Ms Harris’ system as a result of an attempt to induce an overdose rather than as a result of her own drug habit:

- (a) Evidence that on the day of the murder Ms Morgan was sourcing different drugs, including methadone, and lying about the reason.
- (b) Ms A’s evidence that Ms Morgan gave her half a pill and asked her if she would ever kill anyone. She said Ms Morgan instructed her to crush up the pills using a screwdriver and told her to do it more finely.
- (c) The fact no syringe containing methadone was found at Ms Harris’ home.¹⁰

⁸ Mr McNaughton said Mr Baillie told him he got money for his XR ute and Lancer for doing the job. I note the evidence suggests Mr Baillie already had the ute before 8 February 2016.

⁹ I am mindful that Ms F was declared hostile. I note too that Ms F’s evidence on other matters was consistent with that of Ms Jackson.

¹⁰ I have had regard to the evidence of Dr White and Dr Garavan that they could not identify any

- (d) The syringe top with Ms Morgan's DNA on it found by Ms Harris' body.
- (e) Mr H's evidence that Mr Baillie said he and Ms Morgan had poisoned Ms Harris with a "hotshot". Mr H described Mr Baillie as confident and smiling.
- (f) The evidence of Nicole Fearnley that Mr Baillie turned up at the address she shared with Jamie Brookes and told him Ms Harris was dead and then said he did it. According to Ms Fearnley, Mr Baillie said the two of you had both been involved with a "hotshot".
- (g) Mr McNaughton's evidence that, on Sunday 7 February 2016, Ms Morgan called him over to her place. When he arrived at her house, she told him that "they" had made a "hotshot" but the person's body started to handle it so "we had to suffocate her".
- (h) Evidence Ms Morgan offered to pay Mr McNaughton to go back to Ms Harris' house, clean up the scene and make it look like an overdose.

[8] Thirdly, the following evidence suggests you were both involved in the plan together:

- (a) Text message evidence that Ms Morgan was messaging Mr Baillie while she was at Ms Harris' house on the day of the murder.¹¹ This included her saying, "Be home soon gonna to finish it off" and, "Tell Ty it's just about finished ... I love home kill". And then at 6.11 pm, "I FELL SICK".

area on Ms Harris' body consistent with having been injected. I note, however, the state of decomposition of Ms Harris' body at the time of the autopsy and Dr Garavan's acknowledgement that it was not practical to carry out a close investigation of all possible injection sites in an autopsy.

¹¹ Simply because Mr Baillie did not send the same extent of incriminatory text messages as Ms Morgan does not mean he was not involved.

- (b) Jacob Harmon's evidence that he was woken on Sunday 7 February 2016 by Mr Baillie slapping him in the face with a bag of methamphetamine, which he estimated was worth \$5,000, and telling him to go upstairs to see Ms Morgan. Ms Morgan told him she had "injected someone who will probably not be around much longer". Mr Harmon said Ms Morgan had three bags of methamphetamine, about the same size as the one used to wake him up. Around midnight on Sunday evening, Ms Morgan gave Monique Jackson a rock of methamphetamine, which Ms Jackson said was at least twice what she had expected.

- (c) Shannon Mosen-Taku's evidence that, when he was in custody in September 2016, Mr Baillie told him you had both been in "the lady's" bedroom. She was on the bed, Mr Baillie grabbed her and held her while Ms Morgan injected her with methamphetamine. Mr Baillie called Ms Morgan an amateur because she had put only half a gram of methamphetamine in the syringe whereas it should have been a gram. The plan was to administer a second injection, but Ms Morgan freaked out and ran out of the room, and Mr Baillie suffocated her.

[9] Fourthly, there is evidence that you were complicit in keeping Ms Harris' daughter with you at Brunner Street, away from her home, thereby creating an opportunity to kill Ms Harris without witnesses:

- (a) Although her initial removal from the house resulted from a chance encounter, it is relevant that the daughter did not return home until Ms Harris' body was found six days later, even though she had no cellphone, no shoes and no change of clothes.

- (b) Her evidence that she was fobbed off when she asked to use a phone.

- (c) She said that when she asked to go home to get some clothing, Ms Morgan instead took her shopping and Mr Baillie paid for new clothes for her.

- (d) She gave evidence that she asked more than once a day to go see her mother, but you would always end up going to do something else with her.

[10] Fifthly, there is evidence that you both administered GHB to associates prior to Ms Harris' death. This offending was the subject of the separate drugs charges. The evidence supports an inference that this was done in preparation for the murder.¹²

- (a) Mr Baillie's three drug charges relate to one incident of administering GHB to three associates at Brunner Street around the week or so leading up to the murder.¹³ The supply was for free. Mr Baillie administered the GHB by mixing it with orange juice. The associates were aged between 17 and 23 years old. A larger dose was given to Mr Harmon, causing him to black out and become unresponsive.
- (b) Ms Morgan's one charge of supplying GHB relates to another voluntary supply to Mr Harmon a couple of days prior to Mr Baillie's supply of GHB to Mr Harmon. Again, no money was exchanged. Ms Morgan gave him about two millilitres of GHB by squirting it into his mouth. A couple of days earlier, Ms Morgan had offered it to him by needle but said, "Nah, I wouldn't do that to you, it would kill you". Mr Harmon also gave evidence he overheard Ms Morgan asking someone how much it would take to kill a person.

[11] A few observations about all this evidence. While questions could be raised about some of the evidence, in particular some of the admission evidence, it is not necessary to be satisfied beyond reasonable doubt on the truth of each piece of evidence. What is required is that, when taken together as a whole, the evidence proves beyond reasonable doubt that this murder was planned and carried out by you

¹² The experts were not able to determine whether the GHB in Ms Harris' system had occurred naturally post-mortem or had been externally administered. However, when all the evidence is considered, including the evidence that both Mr Baillie and Ms Morgan supplied GHB to associates in the week or so leading up to the murder, together with Ms F's evidence of Ms Morgan's admission to her, I am satisfied use of GHB to murder Ms Harris was part of the plan.

¹³ There was some difference between the witnesses as to timing.

both in exchange for money or drugs from Ms Brookes, as the Crown contends. I will say, however, that I found the witnesses to be generally credible. I say that bearing in mind the circumstances in which many were living at the time, heavily involved in the drug scene. I remind myself of the required caution in respect of the admission evidence, in particular the admissions made when Mr Baillie and the witnesses were in police custody.¹⁴ I have considered the circumstances, any incentives offered or sought and the timing of their statements to the police.¹⁵ Inevitably, there were some inconsistencies between the witnesses. Some recollections might not have been 100 per cent accurate. The exact sequence of events and timing is somewhat unclear, as is to be expected when there is no direct evidence of what happened.¹⁶

[12] There is simply too much evidence pointing to the involvement of drugs in the death of Ms Harris to ignore the role they played in the murder. There is no other plausible explanation for why so many different witnesses gave evidence relating to an overdose or “hotshot”. Nor can it be ignored that the combination of drugs in Ms Harris’ system matched the drugs you procured in the lead up to the murder. Once it is recognised that the drugs played some role in the murder, then the inferences of a contract with Ms Brookes and the elements of planning, including the experimentation with GHB, become irresistible. Those aspects are indispensable parts of the narrative of the offending. Without the contract, there would have been no motive for murder. I highly doubt the jury would have convicted if it had not been satisfied there was a contract. As Mr Webber says, the verdicts do not exist in a vacuum.

[13] In summary then, at some stage in the days leading up to the murder, you accepted a contract with Ms Brookes to kill Ms Harris in exchange for approximately \$11,000 in methamphetamine and cash. You then concocted a plan to carry out the contract, namely that you would overdose Ms Harris on drugs. In preparation, you carried out experiments by supplying GHB to your associates.

¹⁴ Evidence Act 2006, s 122(2)(d).

¹⁵ For example, Mr McNaughton’s statement to the police was made after he had declined bail. He acknowledged he asked the police for help and was told there would be no promises. Mr Mosen-Taku said he received no inducement from the police to give his statement. Mr Harmon made his statement (unsigned) in April 2016. He received a reduced sentence for an aggravated robbery for reasons including cooperation with the police. Mr Harmon explained in evidence that he had not signed his statement earlier because he was scared.

¹⁶ For example, the time or times Ms Morgan and Mr Baillie received payment from Ms Brookes.

[14] It is clear you both took advantage of your relationships of trust with Ms Harris in order to carry out your plan to kill her, including by gaining access to her home. Ms Harris was Mr Baillie's aunt. Ms Morgan had cultivated a friendship with her. Additionally, you took advantage of the opportunity to remove Ms Harris' daughter from her house and keep her away over the following days.

[15] At various points during Sunday 7 February 2016, the following events took place:

- (a) Ms Morgan gradually administered a cocktail of drugs, including quantities of GHB, to Ms Harris in an attempt to induce an overdose, which was unsuccessful because Ms Harris exhibited a high degree of tolerance to the drugs.
- (b) Once it became apparent the plan was not working, Ms Morgan acquired methadone, which she then administered to Ms Harris, potentially along with methamphetamine.
- (c) At a later stage, Ms Harris' health had deteriorated from the toxic effects of the drugs to the extent she was unconscious and in a critical condition, but still breathing.
- (d) Finally, Mr Baillie suffocated Ms Harris with a pillow, causing her death.

Victim impact statements

[16] There are victim impact statements from Ms Harris' two daughters, her brother and her mother. I will briefly summarise them.

[17] The younger daughter, whom you had removed from the house, describes how Mr Baillie and Ms Morgan have turned her life upside down. She lost her only parent and has since had to live with more distant family. She understandably suffers from trust issues following your manipulation of her and her mother.

[18] The elder daughter is dismayed that someone she grew up with could kill her mother. She describes Mr Baillie's actions as a betrayal of her family. It is evident from her statement that she has been impacted greatly by both your actions and is forced to wonder whether she could have prevented her mother's death.

[19] Your actions have had a profound effect on Ms Harris' brother, who is also Mr Baillie's brother and we have heard his statement read out. He has struggled to come to terms with how a person could be so cold to someone so close to them. He says he has lost his job and partner because of his mental state following the murder.

[20] Finally, Ms Harris' mother describes the immeasurable pain she has suffered from experiencing the death of her only daughter. She regrets being unable to say goodbye and is haunted by images of her daughter left alone after she died. She also feels betrayed that Mr Baillie was the person who first told her of her daughter's death.

[21] It can fairly be said these statements reveal the predominant impact on Ms Harris' family has been one of confusion and betrayal. The purpose of sentencing is not to reflect the value of Ms Harris' life. It cannot do that. Any sentence imposed will never be able to reflect adequately what the family has lost. Nevertheless, I acknowledge the devastating effect this has had on them.

Personal circumstances – Mr Baillie

[22] Mr Baillie, you were 24 years old at the time of the murder and you are now 28. At the time of the offending you were on a sickness benefit, although you had previously worked in fisheries, plastering and block laying. You have 35 previous convictions, mostly for low-level violence and traffic offences. Your more recent convictions include more drug offending and, in 2018, you were convicted of wounding with intent to injure and received a first strike warning. That charge relates to events in September 2016, after the murder.

[23] The pre-sentence report describes your upbringing around a lifestyle of drugs and violence. Your father was a drug dealer, your mother an alcoholic. Both are now deceased. You told the probation officer that you were physically and emotionally abused by your father. Engaging in illegal behaviour became a normalised activity for

you from a young age. You received your first conviction when you were only 17 years old. You are also affiliated with the Nomads gang.

[24] You began using cannabis at age 13 and started drinking alcohol and using methamphetamine at age 17. You report using methamphetamine daily around the time of the murder and suffering withdrawal symptoms. You told the probation officer you sold drugs to support your own use. You also suffer from depression as a result of the death of your father.

[25] The probation officer describes you as displaying limited empathy for the victim's family and little insight into the feelings they would have from losing a loved one. The probation officer notes you continue to maintain your innocence and could not identify any remorse for your offending. The report assesses you at high risk of re-offending and a high risk of harm to others.

[26] The cultural report provides further details of your tragic upbringing, including a traumatic incident when you witnessed a dreadful episode involving your mother when you were only six to eight years old. Your father, who is described in the report as a "career criminal", is said to have "actively coached" you in illegal behaviour and encouraged you to have ready access to weapons at all times. It is evident you were brought up in poverty, for instance you would sometimes go to school hungry. Your parents were both absent from your life at times, your father in prison, your mother in rehabilitation. There is also reference in the report to a period of your childhood where a cousin, who had been tasked with your care, was using your family home as a brothel.

[27] When you were 13 years old, your father began manufacturing methamphetamine at your home address. It is clear from the cultural report your father was a role model for you, although not a positive one. He died in a motor vehicle accident that occurred when he was being pursued by the police in 2014. Your mother died from the effects of alcohol abuse a year later. Your father's death had a profound effect on your state of mind.

[28] The report writer summarises your situation by saying that you “almost by a form of social osmosis, absorbed a sub-cultural intergenerationally criminalised perspective”. The writer summarises the influences on your offending behaviour as: systemic economic, social, cultural and spiritual deprivation; childhood trauma; father deficit; compromised childhood development; prejudicial labelling; addictions and gang membership.

Personal circumstances – Ms Morgan

[29] Ms Morgan, you were 28 years old at the time of the murder and are now 32 years old. You say you have worked multiple jobs to provide for your four children. You have 28 previous convictions, almost all of which are for dealing in methamphetamine. You have no history of violent offending.

[30] You left school at 15 with no formal qualifications and you used to consume methamphetamine on a daily basis. You apparently started consuming drugs after the breakdown of your relationship with your ex-husband. You admit to dealing in methamphetamine for your own financial gain. You expressed no remorse about this, justifying your behaviour by saying if people do not buy their drugs from you, they will buy them from someone else. However, you have said you never wish to be involved in “that world” again and you have recently engaged in the drug and alcohol programme while in prison, behaving well since having been in custody.

[31] The pre-sentence report assesses your risk of re-offending as medium but it would increase to high if you returned to methamphetamine use. Your risk of harm to others was assessed as high.

Sentencing principles

[32] I turn to consider the relevant principles in sentencing on a charge of murder. A person convicted of murder must be sentenced to life imprisonment unless it would be manifestly unjust to do so.¹⁷ It would only be in exceptional cases that a life sentence for murder would not be imposed.¹⁸ Your circumstances do not come near

¹⁷ Sentencing Act 2002, s 102(1).

¹⁸ *R v Rapira* [2002] 3 NZLR 794 (CA).

that category, as your counsel accept. The real issue today is what minimum period of imprisonment there should be before you can apply for parole.

[33] Any person sentenced to life imprisonment for murder must serve a minimum of 10 years in prison before becoming eligible for parole.¹⁹ Where the circumstances of the murder fall into one of the more serious kinds of cases, a minimum period of imprisonment of at least 17 years must be imposed.²⁰

[34] The Crown submits that two of those circumstances are applicable to your offending:

- (a) murder involving calculated or lengthy planning, including making an arrangement under which anything of value passes from one person to another;²¹ and
- (b) murder committed with a high level of callousness.²²

[35] If the circumstances of your murder fall within one of those categories, the requirement to impose a minimum period of imprisonment of 17 years is mandatory, unless it would be manifestly unjust to impose a sentence of that length. Again, that is a high threshold.

[36] In determining the appropriate minimum period of imprisonment to impose, I am guided by the Court of Appeal's decision in *R v Williams*.²³ It is necessary first to consider the appropriate minimum term of imprisonment having regard to your culpability compared with the standard range of murders. That involves consideration of general sentencing principles, including the need to hold you accountable, denounce your offending, deter others from committing similar offences and to protect the community from you.²⁴ I must also have regard to the policy that minimum periods of imprisonment over 17 years are generally justified for murders involving one or

¹⁹ Sentencing Act 2002, s 103(1).

²⁰ Section 104(1).

²¹ Section 104(1)(b).

²² Section 104(1)(e).

²³ *R v Williams* [2005] 2 NZLR 506 (CA) at [52]–[54].

²⁴ Sentencing Act 2002, s 7(a), (e), (f) and (g).

more of the circumstances to which I have already referred. Only then, if a minimum period of imprisonment of less than 17 years seems appropriate in your circumstances, am I required to consider whether it would be manifestly unjust to impose such a sentence.

Minimum period of imprisonment

[37] The Crown's submission is the murder justifies a minimum period of imprisonment of 17 to 18 years because it involved an agreement to kill the victim in exchange for drugs and entailed a level of planning over a period of days, including gaining the victim's trust and the trust of her daughter, determining the method of killing and procuring the required drugs. The Crown also submits the murder was carried out with a high level of callousness in that you displayed insensitivity and cruel disregard for the victim's daughter, in that you professed to care for her while planning her mother's murder. The Crown characterises your offending as motivated by greed.

[38] Both your counsel argued for minimum periods of imprisonment of 10 to 12 years. Those submissions were based on the contention there was insufficient evidence to prove you accepted a contract with Ms Brookes to carry out the murder and planned to kill her by a drug overdose. As I have rejected that contention, it will be evident such a low period is not appropriate.

[39] I consider both the circumstances identified by the Crown are applicable to your offending. One of the key features of this murder is that it was carried out in exchange for drugs and money.²⁵ That immediately puts your offending outside the usual range of murders. There is no suggestion you were motivated by any kind of personal grievance with Ms Harris, nor was this a spur of the moment act. Your decision to kill Ms Harris can only be described as calculated.

[40] Your offending falls squarely within the category of cases contemplated by the section, namely, where the murder is carried out under an arrangement for money or something else of value, such as the methamphetamine you were to receive. Beyond that, it is also evident you put some thought and preparation into planning the crime,

²⁵ I acknowledge Ms Brookes was the instigator of the plan.

although it might not have been particularly protracted. You cultivated your relationships with Ms Harris and her daughter over the preceding days to gain their trust. In the period prior to the murder, you tested one of the drugs to be used in your attempt to kill Ms Harris. You also carried out and adapted your plan to kill Ms Harris persistently over the course of Sunday 7 February. These actions meet the requirement for calculated planning.²⁶

[41] Moreover, I consider that murdering someone in exchange for money and drugs necessarily demonstrates a high level of callousness.²⁷ Callousness is “insensitive and cruel disregard for others”.²⁸ The Court of Appeal has said that many murders involve elements of callousness, so the callousness must be at a high level before it will meet the requirements of the section. In essence, what is required is that the murder is cold blooded.²⁹

[42] A certain level of indifference is inherent in putting a price on the life of another, especially when that person is a member of your own family, as is the case for Mr Baillie. That unusual feature of this murder makes it far more callous than the ordinary case. I am reinforced on this point by the similar conclusion reached by Courtney J in *R v Chow*, a case involving a commercial contract killing.³⁰

[43] With respect to Mr Baillie, I acknowledge the submission that you may have been unsettled in your decision, but the pre-sentence report confirms you display a lack of empathy.

[44] In reaching the conclusion the murder was highly callous, I place less weight on the way in which it was carried out than suggested by the Crown. In this regard, I accept the submission advanced by counsel that there was nothing more callous than usual about the method of killing. I also agree your deceptive treatment of Ms Harris’ daughter, while undoubtedly damaging for her, does not on its own elevate the murder

²⁶ See *Desai v R* [2012] NZCA 534 at [59]–[60]. In my view, the planning was more extensive than that in *R v Afamasaga* [2014] NZHC 2142.

²⁷ Although stemming from the same facts, the presence of a high level of callousness is a separate aspect of culpability.

²⁸ *Gottermeyer v R* [2014] NZCA 205 at [79].

²⁹ *R v Frost* [2008] NZCA 406 at [36].

³⁰ *R v Chow* HC Auckland CRI-2006-032-356, 15 February 2007 at [13], upheld on appeal in *Chow v R* [2013] NZCA 360.

to a high level of callousness. Covering up your offending by lying to family members or associates of the victim is unfortunately to be expected as an ordinary part of any murder.

[45] When assessing your culpability compared to the standard range of murders, including your personal circumstances, considering the applicable principles of sentencing and considering the policy that periods over 17 years are generally justified for murders involving the circumstances I have identified as applicable to your offending, I am satisfied a minimum period of imprisonment of 17 years is appropriate for both of you. It is therefore unnecessary to consider whether the imposition of a 17-year period would be manifestly unjust in your circumstances.

[46] I am cognisant of the submissions from your counsel seeking to differentiate your culpability from each other. In the end, I do not see your culpability as greatly different. You were both involved in planning the murder and in receiving payment for it. That plan had to be adapted over the course of Sunday 7 February 2016. You each played different roles at different times, but the reality is the murder was a joint enterprise. The fact death ultimately ensued from suffocation rather than from the drug overdose was simply a result of events as they unfolded.

Result

[47] Mr Baillie, please stand. I sentence you to life imprisonment in respect of the charge of murder. I order your sentence be subject to a minimum period of 17 years' imprisonment. On each of the charges of supplying GHB, I impose concurrent sentences of eight month's imprisonment.

[48] Ms Morgan, please stand. I sentence you to life imprisonment in respect of the charge of murder. I order your sentence be subject to a minimum period of imprisonment of 17 years. On the charge of supplying GHB, I impose a sentence of eight month's imprisonment. On each of the charges of dealing in methamphetamine, I impose a sentence of one year's imprisonment. Those sentences are to be served concurrently.

Thomas J

Solicitors:
Crown Solicitor's Office, Nelson