IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
KIRIKIRIROA ROHE

CRI-2016-087-738
[2019] NZHC 996

THE QUEEN

v

DONNA CATHERINE PARANGI

Hearing: 8 May 2019

Counsel: HJ Sheridan for Crown
S Gray and JA Kincade for Defendant

Sentenced: 8 May 2019

SENTENCING NOTES OF FITZGERALD J

Solicitors: Pollett Legal, Tauranga

[1] I would first like to acknowledge the presence of those here in Court today, whānau and other friends and recognise that this is no doubt a difficult day for everyone involved. And so I thank you for your participation.

[2] Now Ms Parangi, you obviously appear for sentence today, a jury being unanimous in finding you guilty of the charge of manslaughter.

[3] I note at the outset (as I have mentioned earlier today) that as many here will be aware, you have been sentenced previously on the charge of manslaughter, after an earlier trial in which the jury also found you guilty.[1] Your conviction was, however, later quashed, and a retrial ordered. And in that context, and as I have flagged with counsel earlier today, I propose to sentence afresh; which means I will not simply be adopting the sentence of the previous Judge.[2] I will sentence you in accordance with the facts as I found them at trial, insofar as they are consistent with the jury's verdict.

[4] I will first set out the factual background to the charge in a general way. I fully appreciate that you and the lawyers, and others here today, will be familiar with these facts, but it is important the public know the basis upon which I am sentencing you today.

Background

[5] The victim in this case was an eight- month-old baby boy named Isaiah. Isaiah was your grandson (mokopuna).

[6] As at 2 November 2015, Isaiah, his parents, Lacey Te Whetu (your daughter) and her partner, Shane Neil, as well as their two older children, were all living with you and your long-term partner in your family home in Ruatoki.

[7] 2 November 2015 was a Monday. You were not working that day. It was the start of a holiday for you. At about 9.30 in the morning, the two older children had been picked up to go to Kohanga Reo. At that point, you and your daughter drove to Kawarau. You took Isaiah with you, and he was in a child car seat in the back of the

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1 *R v Parangi* [2017] NZHC 1494.
2 *R v Miers* (1994) 11 CRNZ 307 (CA).

car. The purpose of your trip was to buy synthetic cannabis, which by that time was illegal. After purchasing the synthetics and something to eat, you and Ms Te Whetu, along with Isaiah, returned to Ruatoki. Your daughter was driving.

[8] When the vehicle returned to your home at Ruatoki at about 12.30pm, it was parked in the back yard of the address behind the house. It was parked in an area in full sunlight and it was a sunny day. In your Police interview, you said the car had been parked in a shady area or there was at least some shade over the car. I do not accept that. The evidence was overwhelming that the car had been parked, and remained parked, in the position it was in when the Police photographed it later that evening.

[9] At the time you and Ms Te Whetu arrived home, Isaiah was asleep in his car in the back seat. In the videotaped interview by Police, you said that you told Ms Te Whetu to leave Isaiah in the back seat because he was asleep. You suggested she go inside and have a sleep. It was not uncommon, and indeed from the evidence I heard, seemed to be the case that when you were not working, you often took on the role of looking after the children. This was because, as you knew, your daughter was hopelessly addicted to synthetic cannabis. Indeed, when she gave evidence, Ms Te Whetu candidly said that she would smoke it whenever she could get her hands on it, from when she woke up until the end of the day. She said that as a result, this forced the care of her children onto other members of the family.

[10] Unfortunately, you joined your daughter in regularly smoking synthetic cannabis. The evidence, which I accept, was that from about 2014, you bought synthetics whenever you could afford to, you would often smoke it after work, you had been smoking it regularly with your daughter from when she had been living with you in Whakatane, that continued once synthetics became illegal, and you continued to regularly smoke it when you were all living at Ruatoki. Indeed, you said to the writer of a report submitted on your behalf for this sentencing that in about 2014, you had started to smoke synthetics on a daily basis, which you described as a "release" and to enable you to "wind down" after work.

[11] The effects of smoking the synthetics, on both you and Ms Te Whetu, could be dramatic, particularly after they became illegal and went onto the black market. The evidence was clear, and I accept, that by the time of November 2015, you and Ms Te Whetu would often collapse from the effects of the drugs, sometimes falling asleep on the wash house floor, sometimes making it to other parts of the house. In your Police interview, you tried to downplay, quite significantly, the extent you were smoking synthetics and the effects they had on you. Again, having listened to all the evidence, I am satisfied that was also incorrect.

[12] These were also not one-off events. Evidence from other family members highlighted their concern in 2015 at your and Ms Te Whetu's drug use and the lack of supervision of the children when you were under the influence. This concern led to one of your daughters, when she came to the house only a few months before Isaiah's death and found both you and Ms Te Whetu passed out, removing the two older children from the home and into her care for some weeks. (Isaiah on that occasion was also being cared for by other family members.)

[13] I mention these matters not to be deliberately or unnecessarily critical of you today, Ms Parangi, but it is very important the decision-making you made on 2 November 2015 is viewed in its proper context. You would have known that your daughter was going to smoke synthetic cannabis when she went inside and that once she had, she would be in no fit state to look after Isaiah. There was no evidence of whether you thought Mr Neil was at home at that time, and there was no evidence he was told Isaiah was left out in the car. But in any event, it was clear that you and others didn't think much of him as a father, and the evidence was that he played virtually no part in the children's upbringing. In those circumstances, you could not have reasonably expected him to step in and be the primary caregiver for Isaiah when he was in the car. Nor was there any suggestion your partner would take on that role, or knew Isaiah was in the car. I therefore do not accept that you expected either or both of Ms Te Whetu or Mr Neil to look after Isaiah after he had been left in the car.

[14] Having left Isaiah asleep in the car, you then attended to some washing. You went inside and you acknowledge that you also smoked synthetics. You did so knowing this could well have a significantly detrimental effect on your ability to

supervise and look after Isaiah. It did, and you fell asleep. This robbed you of the ability to make proper judgments about Isaiah's care.

[15] I accept that when you decided to leave Isaiah in the car, you made a genuine, but misguided, decision not to disturb him when he was sleeping. But you did nothing to check on Isaiah after leaving him in the car.

[16] A lot of evidence was given at the trial as to the state of the car when you left Isaiah in it, in terms of whether the windows, doors and sunroof were open or closed. As I said, I am clear the car was parked in full sun. Evidence at the trial was that the temperature at Ruatoki would have been around 21 degrees, probably a little higher. The uncontested evidence was that within about 45 to 50 minutes in a fully sealed car, the temperature would have got up to at least 41 degrees, and more likely around 44, 45 or 46 degrees.

[17] Evidence was called from a neighbour and from other persons who were at the address that afternoon about the state of the car. None of those persons saw the doors or windows open. To be fair, none were taking any particular notice of the car when they looked over or visited the property. In addition, one viewed the car from one side only.

[18] The jury was obviously satisfied beyond reasonable doubt, however, that Isaiah had been left in a car that was hot enough, and for long enough, that by the time he was taken out of it, which I accept was at around 2.45pm/3pm that afternoon, he was either critically unwell or had already died. Having listened to all the evidence, I agree with the jury's assessment. I consider that when assessed in its entirety, the evidence was to the effect that Isaiah was left in a car which had the doors and windows closed, and in all probability, the sunroof closed as well. At the very least, in a state which led to the types of temperatures I mentioned earlier.

[19] In your interview with the Police, you said you believed the windows and doors of the car were left open. Again, having listened to all the evidence, and viewed the photographs of the car taken later that day by Police, I do not agree. Including for the reason that at least one of the windows, and possibly two, did not work. I also do not

accept that at some point during the afternoon of 2 November 2015, somebody went out to the car, while Isaiah was still in it, and turned the ignition on, operated the controls to close the working electronic windows and the electric sunroof.

[20] The factual findings in this case were particularly important to determining the cause of Isaiah's death, given all four pathologists who gave evidence agreed that the medical findings from Isaiah's post-mortem were "non-specific"; which means they were not *determinative* of the cause of his death. The medical findings were, however, consistent with Isaiah's death being caused by over-heating.

[21] It was suggested at trial on your behalf that the cause of Isaiah's death was from "overlay", or overlay was at least a reasonable possibility which the Crown could not exclude. "Overlay" is when a parent accidentally rolls onto a child when they are in bed and smothers them. The jury obviously considered there was no credible factual basis for overlay and again, I agree with their assessment.

[22] All four pathologists, including the two called by the defence, also agreed that the external injuries seen on Isaiah, the bruising, a bite mark and other minor and non-troubling injuries, did *not* cause Isaiah's death.

[23] There was no suggestion that once Isaiah had been brought out of the car and into the house at around 2.45pm/3pm, you had any further involvement in his care that afternoon. I therefore do not need to say very much about what happened from that point. But as I said earlier, I am satisfied that when Isaiah was taken out of the car, he was either very critically unwell, such that he needed *immediate* medical intervention, or he had already died. He did not receive medical attention at that time, his parents, both heavily influenced by synthetics, not realising the true state he was in. By the time an ambulance was called, it was too late.

Sentencing principles

[24] Against that general background, it is necessary to consider the sentencing principles which are set out in the Sentencing Act 2002, that inform the sentence to be imposed today.

[25] In my view, holding you accountable for your offending, denouncing your conduct and providing general deterrence are key principles at play in a case such as this.[3] I must also take into account the desirability for consistency with co-offenders;[4] I must impose the least restrictive outcome that is appropriate in the circumstances;[5] and I must take into account your personal, family, whānau, community and cultural background in imposing a sentence.[6]

Starting point

[26] The first issue I need to determine is what is referred to as the "starting point". That is the sentence I consider appropriate in light of the *offending* itself, before then considering whether any adjustments need to be made, up or down, to reflect matters personal to you.

[27] As a preliminary point, I accept Ms Gray's submission that the fact your offending involved a breach of trust and the victim was vulnerable are not specific or particularly aggravating features in this case. As Ms Gray says, those factors are largely inherent in the charge you faced.

[28] The lawyers have also referred to several other cases where a person had been convicted for manslaughter after a young child in their care had died. I also take into account that when sentencing Ms Te Whetu and Mr Neil, each of whom pleaded guilty to a charge of manslaughter, the sentencing Judge, Lang J, adopted starting points of four years, two months' imprisonment in the case Ms Te Whetu, and two years, nine months' imprisonment in the case of Mr Neil. The Judge adopted a starting point of four years in your case.

[29] As you have heard this morning, the Crown submits the culpability of your offending justifies a starting point of around four to five years' imprisonment, and Ms Gray says a starting of no more than three years' is appropriate.

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3 Sentencing Act 2002, ss 7(a), (e) and (f).
4 Section 8(e).
5 Section 8(g).
6 Section 8(i).

[30] None of the cases to which the lawyers have referred me is very similar to this case, other than they all involve terrible sadness and tragedy. But they do provide some guidance. It is therefore necessary for me to briefly explain those other cases. Please bear with me while I do so.

[31] All lawyers have referred to a case called *R v X*.[7] That is a case where a health professional who was extremely tired and concerned about work responsibilities simply had a "memory blank" and left her child in the rear seat of a car. The child died of over-heating. The defendant was ultimately discharged without conviction. I take your case to be very different because you *knew* Isaiah was in the back of the car, and you knew that you ought to check on him, but you instead smoked synthetic cannabis knowing the effect it would likely have on you.

[32] Another case referred to is *E v R*.[8] In that case, a mother had left a baby in a bath of water. She left the child unattended for a period of 11 to 15 minutes to prepare breakfast for another child. She was described as suffering from deep depression at the time. While she was attending to her other child, the baby drowned. The Judge in the High Court adopted a starting point of four years' imprisonment, but the Court of Appeal reduced it to three years'. I also consider your case more serious than this. Isaiah was left in the hot car in the sun, a situation well known to be dangerous, for a much longer time than the baby in the bath. But perhaps more importantly, in that case, the mother left the baby unattended to go and look after another child. In this case, you left Isaiah to engage in recreational drug use, which as I said, robbed you of the ability to make proper judgments about Isaiah's care.

[33] Both lawyers have also referred to a case called *R v Tukiwaho*.[9] In that case, a mother was sleeping in a car overnight. In order to ensure that her baby was warm she placed the baby over her shoulder. Unfortunately, she smothered the baby during the night. The mother had been drinking extremely heavily before she made the decision to hold the child close to her in the car. The sentencing Judge in that case adopted a starting point of three years' imprisonment. I again consider this case to be

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7 *R v X* [2015] NZHC 1244.
8 *E v R* [2011] NZCA 13.
9 *R v Tukiwaho* [2012] NZHC 1193.

slightly more serious. In that case, the mother made the decision to have the baby in the car with her when she was already very drunk. This does reflect, in my view, on culpability in a general sense. I accept it cannot be a mitigating factor in and of itself. You made the decision to leave Isaiah in the car and then take drugs before you were under the influence, and when you must or ought to have known that Isaiah would need regular checking that afternoon, but put nothing in place to ensure that occurred. This is, in my view the real crux of culpability in this case.

[34] I have also been referred to a case called *R v Peterson*.[10] While under the influence of methamphetamine, a mother formed the honest but totally irrational belief that in order to protect her 18-month old child, she needed to take the child out into the bush, where she left her. The child died. The sentencing Judge said the appropriate starting point was around five to six years' imprisonment, and adopted a starting point of five years. While that case involved the consumption of a very serious Class A drug, the defendant made the decision while she was already under the influence of drugs. I nevertheless consider this case to be less serious and that a starting point of five years is too high in your case. The use of the class A drug methamphetamine was clearly a significant factor in assessing the defendant's culpability in *Peterson*.

[35] Ms Gray has also referred me to the case of *R v Scott.*[11] In that case, the six-year old son of a family friend of Ms Scott visited her farm from time to time, and they were introduced to quad bikes. Ms Scott let them ride them, she imposed rules for them to follow and required that they wore helmets. Later that day, Ms Scott let the boys ride the quad bikes again, and they rode away from her and out of her sight. Not long afterwards, the six-year old crashed into a ditch which had water in it. He became stuck under the bike and drowned.

[36] A charge of manslaughter was brought and Ms Scott pleaded guilty. The sentencing Judge took into account her guilty plea, her good character, her teaching career which demonstrated a significant body of community service and the impediments going forward to her of her manslaughter conviction. In all those circumstances, the Judge ordered a sentence of reparations.

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10 *R v Peterson*, HC Whangarei, CRI 2007-088-899, 20 December 2007.
11 *R v Scott* [2015] NZHC 3239.

[37] I consider that to be a very lenient sentence in the circumstances, and I do not find the case of any real assistance. Your counsel's submission that a starting point of three years in this case also rightly acknowledges that this case is more serious.

[38] Ms Gray has also referred to the case of *R v Illston*.[12] In that case, the defendant's 22-month old daughter was in the paddling end of the family swimming pool. She was with three other children who were competent swimmers. Two of them had live-saving certificates. The defendant left the pool for a brief time to attend to her two-week old baby which was crying. When she got to it, she realised it needed changing. The time between her leaving to attend to her baby and coming back to the pool was very brief. The 22-month old had got out of the pool with the other children, but had fallen back in. The older children pulled her out and commenced CPR but neither they nor the defendant were able to revive her.

[39] The defendant in that case pleaded guilty to manslaughter. The sentencing Judge stated that the defendant's reasonable reliance on the older children to look after the victim for the brief time she was away substantially reduced the starting point, which he assessed as 12 months' imprisonment. Again, and as your counsel's submissions recognise, your case is more serious, given I do not consider it was reasonable for you to have expected Ms Te Whetu or anyone else to look after Isaiah when he was out in the car.

[40] Finally, Ms Gray also refers to a case called *Waiba*, in which the defendant's son had drowned when she left him in an empty bath with the shower running and without the plug in, while she left to answer the telephone and talked for up to 20 minutes.[13] The defendant listened out for her son, and she could hear him playing in the shower. When she no longer heard him, she rushed in and found a toy had blocked the plughole and he had drowned. The sentencing Judge did not say what starting point he adopted, but after taking into account a range of personal mitigating factors, including the defendant's guilty plea, he entered a discharge without conviction. Again, it is not disputed that this case is different and more serious; Isaiah

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12 *R v Illston* HC Wanganui CRI-2011-034-273, 26 October 2011.
13 *R v Waiba* HC Auckland T025743, 8 August 2003.

was plainly in a dangerous situation, in circumstances where you chose to smoke synthetics and did not ensure there were regular checks on him that afternoon.

[41] Turning now to your culpability compared to that of Ms Te Whetu and Mr Neil, I consider your culpability to be similar to that of Ms Te Whetu, but slightly less, but more than that of Mr Neil.

[42] It was your suggestion to leave Isaiah in the car, and Ms Te Whetu, as she had clearly done many times before, proceeded on the basis you would care for Isaiah while she was under the influence of synthetics. You knew she would not be in a fit state to care for Isaiah that afternoon. For these reasons Lang J viewed Ms Te Whetu's culpability when Isaiah was in the car as significantly less serious than yours, as she at least had a reasonable basis to believe that another adult was looking after him. Nevertheless, Ms Te Whetu was Isaiah's mother, and she also failed later in the day, when he was brought inside and she was too influenced by drugs to appreciate his perilous condition.

[43] In the case of Mr Neil, the Judge sentencing him did so on the basis he had no knowledge that Isaiah was in the car until he retrieved him later that afternoon, and thus, consistent with him playing virtually no part in the upbringing of the children generally, he was not in a care-giving role that afternoon. At the trial before me, there was no suggestion Mr Neil was told or was aware that Isaiah was in the car. In what I accept is a perverse way, his hopelessness as a father, and that he was not aware Isaiah was in the car that day, meant his culpability was lower than Ms Te Whetu's or yours.

[44] In light of the other cases I have discussed and reflecting the desire to ensure consistency with co-offenders, I adopt a starting point in your case of **three years, eight months' imprisonment**.

Personal aggravating and mitigating factors

[45] I turn now to whether this starting point should be increased or decreased because of factors personal to you.

Aggravating factors

[46] There are no aggravating factors personal to you, which means there is no reason or need to increase the starting point.

Mitigating factors

[47] I accept there are a number of mitigating factors which mean it is appropriate to reduce the starting point. I will discuss the factors generally to start with, and then consider what overall or global discount should be given for the totality of these matters.

[48] You are now in your mid-50s and you appear before the Court for the first time. You have led a blameless life to date. You are hardworking, and until recent times, have often been the primary breadwinner for the family. And at least when you have not been under the influence of synthetics, you have stepped in and tried to help your daughter as much as possible with her children.

[49] The Crown takes no objection to a discount of six months to reflect your good character. Your lawyer also says that a discount for good character should be given. I agree such a discount is warranted. You are not a bad person. You are a good person who has made some very bad choices.

[50] I turn now to remorse. I accept without hesitation that you are extremely remorseful over Isaiah's death generally. Unsurprisingly, it has had a devastating effect on you. I also accept Ms Gray's submission that the fact you defended the charge of manslaughter cannot preclude the possibility of a discount for remorse.

[51] But, despite the submissions made this morning by your lawyer, you do not accept your actual role in causing Isaiah's death (at least beyond leaving him in the car), and indeed suggest that others are directly responsible for his passing, a suggestion which I reject. Given your lack of insight into your actual role in this offending, your continued rejection of the jury's verdict and suggestion that others are in fact wholly responsible for Isaiah's death, I cannot give you a discrete discount for remorse.

[52] Your lawyer has also referred to two earlier reports, one from nearly two years ago in 2017 and one prepared shortly before trial, written by a consultant psychiatrist, Dr Immelman. I do not propose to go into those reports in detail, given they contain matters personal to you.

[53] While Dr Immelman states in his most recent report that you no longer suffer from post-traumatic stress disorder, it is clear that a variety of factors, particularly the fall-out from Isaiah's death and what I accept must have been a harrowing process of going through a trial and then a re-trial, have left you in a relatively fragile state. This does not explain or excuse your offending. But mental health issues may render the sentence imposed unduly heavy. This can be taken into account.[14] I accept the difficulties identified by Dr Immelman will make any custodial sentence more difficult for you than a person without these issues. So, a further reduction is warranted on that basis. But in my view, the discount can be relatively modest only, as the primary driver of the present issues is your offending and the consequences of it, rather than any pre-existing underlying condition.

[54] Your counsel has also provided me with a cultural report pursuant to s 27 of the Sentencing Act 2002 which I have carefully considered.

[55] The report writer notes that you now have a deep connection with your culture and Māori heritage, particularly with Tuhoe, having lived in that tribal region (iwi rohe), for some 28 years. You also have a sense of connectedness to your Ngapuhi community because of your whakapapa (lineage).

[56] This deep connection with your culture has not always been the case. When you were very young, you lived in various parts of Auckland with your whānau. You have stated that you your upbringing had some disadvantages, including that you grew up without knowing your biological father, but you clearly drew support from an uncle who was like a father figure to you. You also took support from your mother, and describe her as playing a big part in your motivation to work and what is clearly your strong work ethic. Having read the materials concerning your background, I accept it

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[14] *Shailer v R* [2017] NZCA 38, [2017] 2 NZLR 629 at [48].

was humble, though you appear to have been brought up in a close whānau and with good support.

[57] After leaving school at 16, I also accept that you have worked hard *all* your life, in a variety of forms of employment. You describe being welcomed and embraced as a member of your partner's whānau, and you are presently connected to three marae in Ngai Tuhoe. The cultural report writer recounts that you have strong whānau support, including helping you deal with the fall-out from Isaiah's death. Both the cultural report writer and Dr Immelman in his 2017 report, express their view that a community-based sentence would best enable you to heal, from the perspective of your mental health, in a culturally appropriate environment.

[58] Before considering the effect of these matters on the sentence I will impose today, I first made some general observations about the role cultural information can play in the sentencing process.

[59] An offender's background is clearly relevant at sentencing. Indeed, as noted earlier in these sentencing remarks, the Sentencing Act *requires* me to take into account not only the offender's personal background, but also matters in relation to his or her family, whānau, community and cultural background.[15] This background can also extend to what is described as systemic disadvantage, namely longstanding deprivations that affect some groups, at least when that background may relate in some way to the commission of the offence.[16]

[60] I have considered a number of other decisions which comment on the way in which such cultural matters can be relevant to sentencing. They may, for example, relate directly to the offending, inform the degree of the offender's moral culpability or suggest a particular pathway to rehabilitation.[17] Cultural reports also often canvass

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15 Sentencing Act 2002, s 8(i).

16 *Solicitor-General v Heta* [2018] NZHC 2453 at [41], [50]; *R v Patangata* [2019] NZHC 744 at [42].

17 *Solicitor-General v Heta* at [39] and [49]; *R v Xu* [2018] NZHC 1971 at [44]-[47]; *R v Taulapapa* [2018] NZCA 414 at [30]; *Arona v R* [2018] NZCA 427 at [59]; *Keil v R* [2017] NZCA 563 at [53]-[57]; *R v Alexander* [2018] NZHC 1584 at [69] and [104]-[107]; *R v Taiapa* [2018] NZHC 1815 at [39].

matters relevant to other aspects of the sentencing process, such as remorse, good character and other personal mitigating factors.[18]

[61] Discounts can also be given on a "mercy" or compassionate basis. This reflects that a sentencing judge has the discretion to allow mercy to temper the severity of the penalty that would otherwise fit the crime.[19] But the exercise of mercy should not generally result in a sentence so far out of line with prevailing sentencing patterns that it gives the appearance of unwarranted inconsistency.[20]

[62] Returning to your case, your counsel urges a range of discounts for personal mitigating factors, including for good character and rehabilitative prospects, the impact a custodial sentence will have on your mental health, remorse, broader personal and cultural factors and the recognition of compassion and mercy. In terms of cultural factors, Ms Gray does not so much rely on them as reflecting on or reducing your moral culpability, but rather as an important aspect of treatment for your anxiety and broader mental health. Ms Gray also refers to several factors which she submits ought to be taken into account on compassionate grounds, including the fact of Isaiah's death, the loss of day-to-day custody and care of your two older grandchildren, Ms Te Whetu's incarceration, whakamā or shame, the loss of what to date has been steady employment and media and social media attention. Total discounts of more than 50 percent are suggested, with an end sentence of home detention.

[63] While I accept you are entitled to discounts for several of the personal mitigating factors Ms Gray has raised, I do not consider they are properly available in the very large amounts proposed. That would involve, in my view, an unprincipled approach. For example, while I accept many of the factors to which Ms Gray refers by way of compassion exist, a number reflect the inevitable, though I accept no less difficult, consequences of offending such as this and the legal and other processes which follow in many, if not most, cases before the courts. Further, the need to

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18 *Arona v R*, above n 17, at [62].
19 Simon France (ed) *Adams on Criminal Law – Sentencing* (online looseleaf ed, Thomson Reuters) at [SA8.10].
20 At [SA8.10].

denounce your conduct tempers the level of discount which can be given for purely compassionate reasons.[21]

[64] Having carefully considered the materials submitted on your behalf, including the eloquent and moving letters from your whānau, I intend to adopt a global discount for personal mitigating factors of **14 months**, being somewhat over **30 percent**. A key basis for that discount is your prior good character, to which I allocate approximately 15 percent. The Court of Appeal has emphasised that an allowance for good character is a matter of impression.[22] Significant discounts will often reflect the absence of prior convictions together with positive and tangible contributions to the broader community, which I accept are evident here. Devoted service to wider family and whānau can also be taken into account in this context.[23]

[65] Of the global discount, I allocate approximately 10 percent to reflect the additional hardship a custodial sentence will impose on you because of your mental health issues; and the remaining discount to compassionate and cultural factors.

[66] I consider this total discount to be the upper limit of what is available, and reflects a proper balance between the various sentencing factors I must take into account today.

[67] Ms Parangi, this brings your end sentence to one of **30 months**, or **two years, six months' imprisonment**.

[68] Ms Gray confirms that you spent almost five months in custody before your earlier conviction was quashed. The start date of the sentence I impose today will accordingly be deemed to be the start date of your original sentence.[24] This means that you will be taken to have already served approximately five months of the

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21 See for example, *R v Jarden* [2008] NZSC 69, [2008] 3 NZLR 612 at [14], in which the Court noted that the crucial importance of deterrence in drug offending cases meant the compassionate discount for quite tragic events unconnected with the offending was nevertheless required to be modest.

22 *R v Hockley* [2009] NZCA 74.

23 *Britow v R* [2017] NZCA 229 at [11]; *Davidson v R* [2011] NZCA 356 at [18].

24 Parole Act 2002, s 79(2).

sentence to be imposed today. This will obviously need to be taken into account by the Department of Corrections when calculating your parole eligibility date.

Sentence

[69] Ms Parangi, would you please now stand. On the charge of manslaughter, you are sentenced to **two years, six months' imprisonment**.

[70] You can now stand down.

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Fitzgerald J