

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

**CRI-2020-092-7343
[2023] NZHC 1320**

THE KING

v

NUI RANGIRANGI

Hearing: 30 May 2023
Counsel: C Piho for Crown
P J Kaye for Defendant
Sentence: 30 May 2023

SENTENCING NOTES OF HINTON J

Solicitors: Kayes Fletcher Walker, Auckland

Introduction

[1] Mr Nui Rangirangi, on 4 April 2023 following a Judge alone trial I convicted you of one charge of causing grievous bodily harm with intent to cause grievous bodily harm.¹ You now appear for sentencing.

Your offending

[2] You and the victim, Mr Cocker, were residing at a Grace Foundation boarding house in Māngere at the time of the offending, along with another eight or so men. It seems that you at least had been placed there on EM bail. On 23 July 2020, you and the victim got into a physical altercation over \$50. The victim said he won that fight. He punched you at least three times to the face and jaw. You ended up on the ground. A short time later, you confronted the victim in the lounge of the boarding house with a knife, approximately 30 cm long. You then stabbed the victim five times, twice to the back, once to the left side of his body, and twice to his head (once near his temple and once near his ear). The victim had injuries including a skull fracture, a broken rib, and a collapsed lung.

[3] The victim drove himself to hospital, at which point hospital staff called the police. You were arrested the next morning.

Approach to sentencing

[4] I will return to your personal circumstances shortly and now address the approach I have to take to sentencing.

[5] In sentencing you I must have regard to the principles and purposes of sentencing as outlined in the Sentencing Act 2002. In your case I must keep at the forefront the need to hold you accountable for the harm done, invoke a sense of responsibility for that harm, denounce your conduct and deter you and others from offending in the same manner. I also have regard to your rehabilitation and reintegration into society. At the same time, I must consider the seriousness and nature

¹ Crimes Act 1961, s 188(1). Maximum penalty of 14 years' imprisonment.

of your offending and adopt the least restrictive outcome while maintaining parity with similar cases.

Starting point

[6] The tariff case for offending involving grievous bodily harm is *R v Taueki*.² The Court of Appeal outlined three bands of proposed starting points of which, most relevantly here, for band two the starting point is 5 – 10 years' imprisonment.³

[7] The Court of Appeal also outlined factors which may aggravate or mitigate the seriousness of grievous bodily harm offending.⁴

[8] Both the Crown and your counsel submit your offending falls between band two and band three, and they suggest starting points of 8 years, and 7 years at the most, respectively. Band two encompasses offending which features two or three of the identified aggravating factors.⁵ In your case, the use of a knife, attack to the victim's head, and use of extreme violence are agreed to be the key aggravating factors.

[9] I consider that your offending falls more into band two. I do not see this as a case where the combination of aggravating features is particularly grave which is usual for cases in band three. On the facts of this case, I would normally consider that a starting point of something like six and a half to seven years would be appropriate. However, I consider I should also take account of the effect on the victim and of the victim's views of this matter. While I do not have a victim impact statement, I consider I can make my own assessment from the evidence given by the victim.

[10] In giving evidence, the attack on which the victim was focused was the stabbing in his rib cage area. With prompting he recalled other places he was stabbed but with little comment on the head. My impression both from seeing and hearing the victim was that while at least one of the stab wounds to the head could have been very significant for him, and therefore for you, that is not how it turned out. I had the

² *R v Taueki* [2005] NZCA 174, [2005] 3 NZLR 372.

³ At [34].

⁴ At [31] – [33].

⁵ At [38].

impression there was little in the way of long-lasting effect on the victim. He was very lucky. The medical evidence did not show any permanent damage. In addition, the victim said a number of times he did not wish to press charges and that he forgave you. I did not consider the victim was under pressure to say what he did or that he was cowered by you because, for example, when it was put to him in cross-examination that he might have been the one with the knife, he said had that been the case you would be dead. He would not have said something like that if he was scared of you.

[11] A victim's views cannot condone violent conduct as there is public interest at stake as well as the interest of the victim. But I consider the victim's views of forgiveness and moving on, reflect the circumstances in which this offending took place, that is, the wider circumstances: a men's hostel where the occupants were presumably supposed to be under some sort of supervision but where that was very loose. The occupants were gang members or largely so. You and two of the witnesses for the Crown were Mongrel Mob, although you claim you have distanced yourself from the Mongrel Mob. The victim was Killer Beez. The other witnesses referred to him as "the Killer Beez guy". The man who described himself as the house father, who was also a witness in the case, had gone to bed prior to the incident, although he got up upon hearing the noise. In any event, without in any way justifying the incident, which was clearly serious, there was clear potential for disaster: beginning with the fist fight between the victim and you, heavy use of alcohol by the victim and apparent methamphetamine use by others. One witness asserted that you had all used methamphetamine that day. The camp father said there were fights on all the time in that house. This does not strike me as a sound situation in which to place a group of men together, especially from different gangs.

[12] Taking account particularly of the victim's forgiveness, the wider context of the offending and the victim's apparent lack of any significant ongoing effects, I fix a starting point of six years' imprisonment.

Personal circumstances

Aggravating factors

[13] I then turn to consider your personal circumstances: first of all, aggravating circumstances. Your criminal history, both in New Zealand and Australia, involves violent offences, including a conviction from 2019 for injuring with intent and in 2013 for aggravated robbery causing grievous bodily harm. Your bail history shows that the present offending was committed while on bail at the Grace Foundation.

[14] The Crown contend that an uplift of three to four months' imprisonment should be applied to reflect your previous convictions, plus a further uplift of two months' imprisonment for offending while on bail. It is not clear to me from the record what caused you to be on bail and as noted above, I am concerned anyway about the circumstances of the bail. I have decided to allow an uplift of three months to reflect both factors. That is rather less than the Crown has sought.

Mitigating factors

[15] I will now consider whether there are any factors in your background which mitigate your culpability in that they have a connection to the offending. You are 35 years old and identify as Māori-European (of Ngāti Whātua heritage).

[16] A s 27 report was provided to the Court by Dr Jarrod Gilbert and it is a very thorough and very balanced report I have to say. It describes your upbringing as "a childhood filled with violence" and says that you were subject to physical and psychological abuse. I consider this the most important factor in your history. It was verified by your mother and your sister. Your father beat you sometimes with lumps of wood. You said on one occasion you thought you were going to die. You were sometimes made by your father to stand outside naked as punishment to humiliate you. It is hard for a child to learn how to do the right thing when you are being constantly punished for allegedly doing the wrong thing. As you said yourself, you were never too sure what it was you had done and in the end you just took no notice.

[17] You describe growing up in a “run down” state house, where you “grew accustomed to having nothing to eat”. By seven or eight years old, you had started stealing food from the shops and items you could sell in exchange for money.

[18] Your father was incarcerated when you were in your teens and you report that his absence had a big impact on you.

[19] You describe also being exposed from a young age to drug and alcohol use, these being things that you stole from your father. You say that you were under ten years old when you first began smoking cannabis and sniffing petrol. You first used methamphetamine at 13 and the report suggests that you have, at least historically, suffered from an addiction to methamphetamine and have abused alcohol. That was particularly so after you lost your father to suicide when you were in your mid-twenties. Dr Gilbert recorded also that you believe you may have been badly behaved because of undiagnosed attention deficit hyperactivity disorder and that you have received a diagnosis of this as an adult, for which you now take Ritalin. There is often a close association between that diagnosis and behaviour and drug-taking.

[20] But having said all of that, your upbringing was not amongst the worst this Court sees. Your mother, though herself beaten also by your father, has it seems to me always been there for you. She is here today with other members of your whānau.

[21] Up until today you have denied the offending. Today you accept responsibility and you apologised. The letter that you have written seems genuine to me. I have to assume that you have thought about this and you have decided that you should take responsibility. I can clearly take that into account.

[22] Your counsel submits that a discount of between 40 and 50 per cent is allowable for your mitigating factors. The Crown accepts that a discount of between 20 and 25 per cent may be appropriate. I accept that there is clearly a causative link between your background and your offending. Your circumstances are not such that a 40 per cent discount is warranted. However, it is clear that you suffered from instability in the home and that violence against yourself and others was normalised from a young age. The effects of systemic deprivation on a person’s propensity to offend, including

the incarceration of family members as happened to your father, are well documented. I consider that a discount of 20 per cent is appropriate to reflect the factors in your s 27 report. In addition, to acknowledge your efforts to rehabilitate while in prison by attending programmes aimed at curbing substance abuse and learning more about your culture and for your remorse and apology, I allow a further discount of 13 per cent, bringing the total discount to 33 per cent.

Result

[23] Mr Rangirangi, please stand.

[24] On the charge of causing grievous bodily harm with intent to cause grievous bodily harm, I sentence you to four years, three months' imprisonment.

[25] Thank you. You may stand down.

Hinton J