

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

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

**CRI-2016-009-5233
[2018] NZHC 748**

THE QUEEN

v

SAINEY MARONG

Hearing: 20 April 2018

Appearances: P Currie and S Mallett for the Crown
J Krebs and N Hansen for the Defendant

Judgment: 20 April 2018

SENTENCING REMARKS OF MANDER J

[1] Mr Marong, you are for sentence this morning, having been found guilty by a jury of murdering Renee Duckmanton. The sentence for murder is life imprisonment. There can be no suggestion that a sentence of life imprisonment would be manifestly unjust, so that is the sentence that I will be imposing on you.

[2] The only question that arises is the minimum period of imprisonment that should be imposed as a condition of that sentence. The minimum period of imprisonment is the term you must serve before you can be eligible for consideration for parole. It does not fix the term of your sentence which, as I have said, will be one of life imprisonment. Before addressing that issue, it is necessary I set out the factual basis upon which I proceed to sentence you.

The facts

[3] Shortly after 9.00 pm on 14 May 2016, you picked Ms Duckmanton up from a central Christchurch street where she was working that evening as a sex worker.

[4] The last communication received from Ms Duckmanton was that her client wanted to take her back to his house and that she was going to be gone for an hour. CCTV footage and cell phone tower tracking records showed you travelled with Ms Duckmanton to the outskirts of Christchurch. The last message received from Ms Duckmanton's cell phone was at 10.23 pm. A few minutes later her phone disconnected from the telecommunications network. It is believed it was approximately around that time that you strangled Ms Duckmanton.

[5] The following day you disposed of Ms Duckmanton's half-naked body on the side of a rural Canterbury road. You doused the body with petrol and set her on fire. Your semen was found in Ms Duckmanton's vagina, indicating that sexual intercourse had taken place. There is a lingering question as to whether sexual intercourse took place before or after Ms Duckmanton's murder. The Crown has acknowledged that because it cannot prove that potential aggravating feature, that possible aspect must be put to one side.

[6] At trial, you claimed that en route to a friend's house, Ms Duckmanton requested you stop and have sex in the car. You maintain that occurred and that an argument then developed because Ms Duckmanton insisted she be taken back to Christchurch, whereas you were intent on going to your friend's house. You claim this, to use your word, "agitated" you and you impulsively responded by compressing her neck to shut her up. You also claim you did not know what you were doing, nor that you understood it was wrong. I reject that claimed scenario as, indeed, I am sure the jury did.

[7] Your offending was predatory. You had for some time been considering the abduction and killing of a prostitute. The combined nature of internet searches you conducted over the previous weeks, which included such topics as kidnapping, information about local prostitutes, rendering a person unconscious, killing with your bare hands, past murders of Christchurch sex workers, and necrophilia, indicate you

appear to have been preoccupied with murdering a sex worker with the likely objective of fulfilling a depraved sexual fantasy.

[8] You admitted in evidence that at the time you made the internet searches you wanted to learn how to do the things about which you sought information, and that you wanted to kill. I consider it implausible that your strangulation of Ms Duckmanton only a relatively short time later was just simply coincidence.

[9] You admitted having followed a sex worker on an earlier night in order to find out where she lived because you had, in your words, “a desire to kill”. In response to a question as to why you had picked up a prostitute, you said, “They’re slaves and she (a reference to your victim) met the criteria”. You referred to what you had done as like “hunting in the wild”. All this evidence shows what you were about that night. Your killing of Ms Duckmanton was not the product of some unforeseen event which happened unexpectedly, and caused you to suddenly react, but a premeditated killing. You will be sentenced on that basis.

Victim impact statements

[10] I have read the victim impact statements that have been provided to me, and you have heard them read out this morning by members of Ms Duckmanton’s family. Her family and friends must forever bear the loss of Renee. They remember her as a bubbly and kind young woman who they greatly loved. They have been left to struggle with the circumstances of her violent death. There is nothing I can add to their personal statements of grief to emphasise the profound impact upon them and the devastation that you have caused, other than to acknowledge their grief and personal loss.

[11] I also acknowledge there is no sentence I can impose which can mitigate that grief and harm. The sentence I am required to impose certainly cannot in any way begin to compensate the family for their loss or ease the pain that you have caused. My function is to sentence you in accordance with the law on behalf of the community.

Personal circumstances

[12] Mr Marong, you are aged 33 years. You were born in Gambia. You advise that you have a wife and family in that country, but it does not appear you have maintained contact with them. You arrived in New Zealand by way of a number of other countries in January 2014. Since that time, you have lived in Auckland and Christchurch, and obtained employment in the meat processing industry. You appear to have lived without difficulty in New Zealand, developing friendships and associations with work colleagues and others. Your status in this country has been the subject of review and, as I understand the position, in March 2016 you were made the subject of a deportation order. You have no previous convictions in New Zealand, however, information regarding your conduct before reaching this country is unknown.

[13] You claimed at trial that you were mentally and physically unwell at the time you killed Ms Duckmanton and in the period leading up to the commission of that crime. This was based upon alleged complications arising from your diabetic condition. It is not necessary to go into that claimed defence which was, unsurprisingly, clearly rejected by the jury. It is sufficient to note there was no professional basis for such a claim, and that after your initial diagnosis with diabetes shortly after you arrived in this country, you kept good health and maintained employment.

Minimum period of imprisonment

[14] As I have already noted this morning, the sentence can only be one of life imprisonment. The issue for me is how long should the minimum period of imprisonment be. In undertaking that task, I am required to compare your culpability with cases of murder that attract the normal statutory minimum of 10 years which serves as a benchmark for the sentencing exercise. Taking into account aggravating and mitigating factors, I am required to decide whether an additional minimum period is required to satisfy the sentencing purposes of accountability, denunciation, deterrence and community protection.¹

¹ Sentencing Act 2002, s 103(2); *R v Williams* [2005] 2 NZLR 506 (CA) at [49].

[15] In following that process, I am required to give effect to the legislative policy of the Sentencing Act. This includes consideration of whether a minimum period of imprisonment of at least 17 years should be imposed in your case.²

*Did the murder involve significant planning?*³

[16] Mr Marong, I consider your offending was premeditated and predatory. However, I am unsure as to whether it falls into the category of case described in the legislation as involving “calculated or lengthy planning”. In the weeks and months leading up to the murder, you undertook repeated internet searches of topics that are consistent with features of your killing of Ms Duckmanton. You appear to have been fixated with the idea of abducting and killing a local prostitute and, it would appear, fulfilling necrophilic sexual fantasies.

[17] Your web browsing history includes numerous searches for sex workers in Christchurch. You made internet searches regarding chemicals used by kidnapers, and information about chloroform and where to get it in New Zealand. You accessed dozens of pornographic videos depicting necrophilia, and undertook searches such as “how to kidnap a girl”. You appear to have sought information regarding the murder of previous Christchurch prostitutes, and accessed sites informing how to kill with your bare hands, including such subjects as whether punches to the throat could kill.

[18] You took significant steps in an attempt to conceal your offending, including the use of two vehicles, lying to associates in order that they unwittingly provided you with assistance, the burning of Ms Duckmanton’s body, and cleaning the vehicle in which you killed and stored her body. Those are all features to be taken into account, but those steps could equally be interpreted as reactionary after the event steps as they could be considered predetermined.

[19] The search history, as with your admission of having previously acted on your stated desire to kill by following a sex worker on an earlier occasion, shows that the commission of a murder was something that you had been considering for a period of

² Sentencing Act 2002, s 104; *R v Robertson* [2016] NZCA 99.

³ Sentencing Act 2002, s 104(1)(5).

time. However, whether that preoccupation amounts to the type of “calculated or lengthy planning” as required by the Act is perhaps unclear.⁴ Ultimately, it is not necessary for me to come to any concluded view regarding that issue because I consider the circumstances of your murder of Ms Duckmanton were, in any event, of an exceptional nature.⁵

*Was the murder committed with a high level of brutality, cruelty, depravity, or callousness?*⁶

[20] Mr Marong, you murdered your victim by strangling her. There was no weapon used, and there is no evidence of a prolonged attack. Of itself, in terms of the unedifying comparison that must be made with other cases to assess whether the murder was committed with a high level of brutality, cruelty, depravity or callousness, it may not at first blush appear to fall into that category. However, when viewed in context, this was a particularly callous and cruel murder. It was cold-blooded, and I cannot help but observe that the use of lethal manual force, unlike in most cases involving the act of strangulation, was the likely result of a premeditated choice, in order to leave your victim’s body unwounded and intact. That would appear consistent with your depraved motivation to kill.

[21] Ms Duckmanton was targeted by you. You described it as “like hunting in the wild”. She was picked up by you for the purpose of being killed. She was a complete stranger to you, and you to her. You left her lying in the boot of your vehicle until the following evening, when she was dumped on the side of a rural road in order for you to douse her with petrol purchased specifically to set her on fire. This cruel disregard of your victim is consistent with, and elevates, the callousness of the circumstances of the murder itself, as do the comments you made regarding the status of your victim as a sex worker, and that she met your criteria as a victim.

⁴ *R v Mulligan* HC Wanganui CRI-2010-083-1242, 1 July 2011.

⁵ Sentencing Act 2002, s 104(1)(i).

⁶ Sentencing Act 2002, s 104(1)(b).

*The vulnerability of the victim*⁷

[22] Ms Duckmanton was a young woman working alone at night on the street as a sex worker. That was by choice, but it does not diminish the vulnerability of her situation. It is notable that Ms Duckmanton weighed only 48 kilograms and measured approximately 150 centimetres in height. She was a small woman, and an easy target for you. That may well have been why you considered she fitted your “criteria”.

[23] The Crown have noted that Ms Duckmanton suffered from cerebral palsy and had limited movement down the left side of her body. This would likely have affected her ability to defend herself against you, and made her even more vulnerable, although I acknowledge it is not clear whether you would have been aware of Ms Duckmanton’s condition at the time you picked her up.

*Other exceptional circumstances*⁸

[24] Whatever reservations there may be regarding aspects of the particular statutory circumstances listed in the Act, any one of which by itself may trigger the presumptive imposition of a minimum period of imprisonment of at least 17 years, I consider the combined circumstances of your offending are exceptional and fall well inside the scope of the legislative policy that attracts such a minimum term.

[25] It is an inescapable conclusion that your murder of Ms Duckmanton was the manifestation of an apparent depraved need to target a sex worker for the purpose of killing that woman to meet some sexual ambition. It cannot be established whether you succeeded in that regard, however, it is apparent this was your motivation. On this night, you carried through with a crime that you had been contemplating for some time, at least to the point of committing a coldblooded killing. The calculated nature of the offending and the insight obtained from your subsequent disclosures demonstrate the callous disregard you had for your victim.

[26] Your subsequent actions after the murder show you were devoid of any empathy for Ms Duckmanton. It is not necessary for me to rehearse again those

⁷ Sentencing Act 2002, s 104(1)(g).

⁸ Sentencing Act 2002, s 104(1)(i).

circumstances, but it is best illustrated by the way you set Ms Duckmanton's body alight for the sole purpose of avoiding detection. That act has caused great pain and distress to those close to Ms Duckmanton.

[27] I am satisfied s 104 of the Sentencing Act is engaged. When the invidious comparison is made between your culpability and other cases that fall into the so-called "standard range of murders", and the aggravating and mitigating circumstances assessed, I consider a minimum period of imprisonment of at least 17 years would be warranted for such a serious case of murder.

[28] The aggravating factors of the offending I have already reviewed. I do not consider there are mitigating factors, either as to the offending itself or your personal circumstances, that justify any adjustment. You sought to absolve yourself of the responsibility of your actions by claiming you were acting under some mental disability at the time. Your defence, which you continue to maintain, of having been insane at the time, is baseless and obviously contrived.

[29] You demonstrate neither remorse nor insight into your offending. You prefer to place the blame for your actions on the immigration authorities for having, you say, treated you unfairly. This is consistent with your strong sense of entitlement, which appears to be associated with a personality disorder, and is consistent with a profound lack of empathy and indifference for your victim. I observe the absence of remorse is to be treated as the absence of a mitigating factor and not an aggravating feature.

[30] You are clearly an intelligent person. The traits associated with your likely personality disorders did not impact on your prior understanding of what you set out to do. They may have been a contributing factor in believing you could commit such a crime and get away with it, but they in no way caused you to misapprehend the wrongfulness of your actions, or lessen your culpability. I do not consider they are capable of mitigating the length of the minimum period of imprisonment; to the contrary, your innate personality traits underline the danger you present to the community.

[31] Mr Marong, you had been in this country for a relatively short period prior to your murder of Ms Duckmanton. While you did not come to the attention of the Courts during that time, your background prior to arriving in this jurisdiction was transitory and is largely unknown or unconfirmed. I do not consider there is anything in your personal circumstances which can reliably be taken into account to mitigate the length of the minimum period of imprisonment.

[32] You speak English fluently and have demonstrated a capacity to form friendships and personal associations. You were already estranged from your family and country of birth prior to your arrest, and had been for some years. Your diabetes can be managed without difficulty. I do not therefore consider prison will be any more difficult for you than for any other offender.

Sentence

[33] Taking all these matters into consideration, I consider a minimum period of imprisonment of 18 years is justified.⁹

[34] Could you please now stand.

[35] Mr Marong, you are sentenced on the charge of murdering Renee Duckmanton to life imprisonment with a minimum period of imprisonment of 18 years.

Strike warning

[36] Finally, the three strikes legislation applies to you. This is your first strike. I am required to give you a formal warning. If you are released and ever commit a further serious violent offence, you will serve the resulting sentence without parole. If ever convicted of murder again, you will be sentenced to life imprisonment without parole. The full terms of this warning will be supplied to you in writing.

[37] You may stand down.

⁹ *R v Beca* [2013] NZHC 3279; *R v Fawcett* [2014] NZHC 881; *R v Burns* HC Christchurch CRI-2005-009-5733, 10 April 2006; *R v Hepana* [2014] NZHC 504; *R v Waihape* HC Christchurch CRI-2005-009-1452.

Solicitors:
Raymond Donnelly & Co, Christchurch
Jonathon Krebs, Barrister, Napier