

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN
[SQUARE BRACKETS]

**SUPPRESSION ORDERS EXIST IN RELATION TO ASPECTS OF THIS
JUDGMENT PURSUANT TO S 205 CRIMINAL PROCEDURE ACT 2011: SEE
PARAGRAPH [115].**

<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360354.html>

**IN THE DISTRICT COURT
AT WHANGAREI**

**I TE KŌTI-Ā-ROHE
KI WHANGĀREI-TERENGA-PARĀOA**

**CRI-2021-088-003055
[2024] NZDC 23616**

THE KING

v

WILLIAM THOMAS GEORGE COHEN

Hearing: 26 September 2024
Appearances: T Needham for the Crown
A Fairley for the Defendant
Judgment: 26 September 2024

NOTES OF JUDGE T BAYLEY ON SENTENCING

[1] Mr Cohen, you appear for sentencing in respect of your convictions for threatening to kill, threatening to cause grievous bodily harm, assault with a weapon and cruelty to a child.

[2] You are the father of your five victims: [victim 1], [victim 2], [victim 3], [victim 4] and [victim 5]. Your sons were in your sole care for a number of years after you had separated from [their mother]. You had been granted a custody order in May 1987. Her guardianship of the children was removed at that time and her contact with them effectively stopped.

[3] Prior to your final separation with your wife between 1986 and 1987 the children witnessed ongoing abuse and violence in the home, particularly against their mother. On the evidence that I heard at trial I find that they were so used to the violence in their home that one of the children recalls “cheering you on” as you were beating their mother on an occasion in the lounge. You were also often disparaging of their mother during the time she lived there, and after she left, often calling her a “dog” and other derogatory names.

[4] You lived at several addresses in Fielding and Himatangi in the Manawatu during the time you had sole care of the children. Your offending occurred at those addresses on occasions between August 1988 and January 1997. At trial your sons gave evidence that they were largely left to care for themselves on a day-to-day basis which included the preparation of meals.

[5] [Victim 2], the second oldest son, was a particular target of your violence. Later it was [victim 1], the oldest. All of your children however were subject to assaults or threatened violence during that time. Most of your offending occurred in the late 1980s and early 1990s.

[6] [Victim 2] appears to have had a neurological impairment when he was younger. It affected his co-ordination and motor skills. He became particularly fearful of you over the years. He would refuse to return home after school and he would soil himself out of fear. It caused him ongoing distress and embarrassment. That caused you to lose your temper towards him on many occasions. He was also a sensitive child, which angered you. You appear to have been particularly infuriated by the fact that of the children, he looked most like [his mother].

[7] After many years of assaults and abuse [victim 2] ran away in October 1992. On that occasion he left, he ran for miles to a friend’s home. There was evidence at trial that you pursued him for a short period with a rifle on that occasion. He was 11 years old. He did not return to live with you after that.

[8] For the majority of the time that your five sons lived with you, the presence of firearms and the use of weapons was an ever-present threat. There were repetitive

episodes of psychological abuse as well as assaults. As an example of your coercive behaviour, on one occasion you pinned a photograph of your children's mother to a hedge and encouraged some of the boys to shoot at it.

[9] On another occasion, I find on the evidence heard at trial that you killed a cat with a cricket bat in front of your sons. [Victim 2] in particular, had an affinity with animals including cats that would follow him home from school. You buried animals that you killed in the back yard. As a result, [victim 2] became petrified of cats.

[10] You also played what you called "mind games" with the children. One threat that you made on an ongoing basis was that you were going to "hand your children back" to social welfare. The children feared that because of what had happened to them in one of their foster homes, that was known to you. Also, they did not wish to be separated from each other.

[11] The Department of Social Welfare, as it was then, did not intervene to remove the rest of the children from your care despite apparently being aware that [victim 2] had run away and that a bolt from a firearm had been retrieved from you. They were also aware, at least by 1992 that you had threatened to put the kids "on the block", which I find on the evidence was a threat by you to harm them.

[12] None of the adults that the children complained to appear to have been of help or assistance to them. Your sons were also geographically isolated given you were living out at Himatangi near the coast.

[13] You re-married in 1993. The violence and the abuse of your sons did not end. From that time [victim 1] was particularly singled out and subjected to a number of assaults and ongoing verbal abuse by you. [Victim 1] was repeatedly told over the years by you that he would amount to nothing.

[14] Your youngest, [victim 5], was taken into foster care in 1993 when he was six years old. Your other sons lived with you on and off during their school years and some spent some time living with you in Northland when they were adults, however your relationships with them have never repaired.

[15] Your sons were all interviewed by the police many years later when two of your sons came forward to report your abuse. The first of those police interviews occurred in 2015. Your sons all gave evidence in a jury trial earlier this year which lasted several weeks.

[16] Following that trial you were convicted of 18 charges. I turn now to those offences found proven by the jury.

Charge 1 – Assault with a weapon – [victim 2]

[17] Between August 1991 and October 1992, you would often hit [victim 2] when he got his times tables wrong. At the time [victim 2] was aged 10 or 11 and going to a primary school in Himatangi. You looped the jug cord to strike him, leaving a shape or a welt on his knuckles which would sting.

[18] [Victim 2] said this happened more times than he can remember which was reflected by the representative nature of the charge that was laid.

Charge 2 – Cruelty to a child – [victim 2]

[19] I turn to the next representative charge. On occasions between August 1991 and October 1992 you put your hands around [victim 2]’s neck, lifted him up and held him against the wall in a laundry. He was around 11 years of age at that time.

[20] In evidence [victim 2] described these occasions as being “strung up by the neck”. While holding him against the wall you would tell him to “say goodnight”. He was held by you like that to the point that he would start to lose consciousness.

[21] These occasions would end when [victim 2] had nearly passed out or when his eyes had rolled back into his head. In the end, he learnt to hold his breath and would wait for you to say those words. As he got older you were not able to lift him with one hand only and so you began to use both of your hands.

[22] This happened on frequent occasions, it caused him pain and bruising and fear.

Charges 7–11 – Threatening to kill – [victim 1], [victim 2], [victim 3], [victim 4] and [victim 5]

[23] I turn to the charges of threatening to kill. In the days following television coverage of the mass murder committed in Aramoana in Otago in November 1990 you lined up [victim 1], [victim 2], [victim 3], [victim 4] and [victim 5] in the lounge in your home at Himatangi Street. At that time your children were three, eight, nine and 10 years of age.

[24] You numbered off your children with respective numbers, one to five. You retrieved and presented a firearm at them. You told the children you were going to kill them and that you were “going to fucking end it”. You told them: “Perfect. Keep your heads still.”

[25] You told your sons to say goodbye to each other. [Victim 4] sobbed and pleaded with you: “Please don’t Dad.” One of your sons described looking at things in the lounge to see, to take in, to remember as much as they could before they were killed, looking at the cushions, the TV, the carpet in the lounge.

[26] You told your sons that you would need to “use a .303 to have enough power to get through all of them”, but that “one bullet” would suffice. Your sons believed what you said.

[27] You stood over them and moved around, aiming the firearm at them. You used the bolt action to chamber a round. Hearing that, your children wailed. Your sons continued to plead with you and sob. [Victim 4] said in evidence he believed he was going to die. He said goodbye to his twin [victim 3] because [victim 3] was “his mate”. [Victim 3] said he remembered wishing that he was last in the line of boys and not “number four”.

[28] They were terrified. One of your children soiled himself out of fear. How that occasion ended was not clear on the evidence, however I find this incident lasted at least an hour or more. Later you told your sons that you were just playing “mind games” with them.

Charges 12–15 – Threatening to do grievous bodily harm – [victim 1], [victim 2], [victim 3] and [victim 4]

[29] There was a further incident which involved four of your sons. You were found not guilty of a similar charge involving [victim 5].

[30] At this time, [victim 1], [victim 2], [victim 3] and [victim 4] were aged between nine and 11 years of age. You were living at Himatangi Beach at the time.

[31] Between July 1991 and July 1992, you told your boys [victim 1], [victim 2], [victim 3] and [victim 4] that: “You better run now, if I catch you, I’ll fucking shoot you.” They had been playing outside when you came out with a rifle. You then gave them a countdown to run.

[32] [Victim 4] said in evidence, “...they were frantic...they ran like their feet were not touching the ground...he ran as fast as he could”. As they ran, you took potshots above the boys’ heads with a rifle.

[33] They ran across the road from where you were outside the house and they hid there until it was dark. [Victim 1] hid up some macrocarpa hedging. [Victim 4] hid in some scrub and the toi toi bushes. They all took the threat made by you seriously.

[34] They did not return home until they believed it was safe to go home, which was not for some time. You later told them to come home and you would not hurt them. Eventually, [victim 1] got the bolt from your rifle and hid it under a pillow.

Charge 19 – Cruelty to a child – [victim 2]

[35] On an occasion between August 1988 and November 1991 when [victim 2] was seven years of age you grabbed him by his neck and held him up off the ground against a macrocarpa hedge. You punched him in the stomach. You kept punching [victim 2] until you ran out of breath and you had to stop to catch it.

[36] [Victim 1] watched what happened through a bedroom window. He said in evidence that it was like [victim 2] was so used to “getting a hiding from you” that he

refused to cry. You then continued to punch [victim 2] to his stomach and chest area. He suffered a sore stomach for several days and bruising.

Charge 30 – Cruelty to a child – [victim 4]

[37] When very young boys and aged between six to eight years of age, between July 1988 and November 1991 [victim 3] and [victim 4] would occasionally wet their beds. [Victim 4] said these accidents would make him scared to go to bed. If he wet the bed he would try and hide it.

[38] When you found out, you became angry, ran the cold water tap in the bathtub and then you would come to get him. [Victim 4] said in evidence he knew what was coming next. You dragged [victim 4] kicking and screaming out of bed. Once in the bathroom you held his head forcefully by the back of the head under freezing water. He screamed and pleaded with you: “No, Dad.”

[39] [Victim 4] said that there were times that you put his head right under the water so he could not breathe. He would try to fight you. His screaming was obstructed by the water coming into his mouth.

[40] This happened on at least 12 occasions.

Charge 32 – Assault with a weapon – [victim 1]

[41] Between January 1989 and January 1990, you became angry over a school assignment that [victim 1] had not completed. [Victim 1] was nine years old at the time.

[42] You struck him with a jug cord around 15 times to the hands. He tried to pull his hands away a few times but he was then struck to the head. You told him: “If anything like that happens again, you watch out.” [Victim 1] was screaming during that assault.

Charge 33 – Cruelty to a child – [victim 1]

[43] On another occasion between January 1993 and January 1994, you had become angry with [victim 1] not helping out with chores. At that time [victim 1] was 13 years of age and living in a sleepout.

[44] In that sleepout, you hit him 12 times to the head with a cupped hand. He went “sideways” and hit his head on a chest of drawers. His ear ruptured and he ended up with a “cauliflower ear”. He described cowering in the corner during that assault.

[45] Throughout, you told [victim 1] that he was a “little pussy” and other derogatory names. You also told him that as he was the oldest he should know better and that he was “going to amount to nothing”. You picked up his guitar which was dear to him, it had been a present. You smashed that and threw the pieces at him.

[46] In evidence [victim 1] described that as being the “worst beating that he got”. In addition to his swollen ear, [victim 1] had a headache for a week.

Charge 34 – Assault with a weapon – [victim 1]

[47] Between January 1993 and January 1997 there were other occasions you hit [victim 1] with a jug cord. [Victim 1] was aged between 13 and 16 years of age.

[48] He recalls that happening between 25 to 30 times other than the occasion that you hit him over the late school assignment. Often this would occur out in the back yard, sometimes he was hit on the hands, on other occasions he was told to bend over and was hit on the bottom.

Charge 35 – Cruelty to a child – [victim 1]

[49] There was a further representative charge of cruelty relating to other occasions when you struck [victim 1] around the head with an open hand. That happened between January 1989 and November 1991 when [victim 1] was aged between nine and 13 years old.

[50] It occurred between 40 and 50 times. [Victim 1] said that when he was hit it would cause him pain, and that he would experience ringing and sore ears, like he “had water in his ears”.

Charge 38 – Assault with a weapon – [victim 5]

[51] Finally, there was a specific occasion when you assaulted your youngest son [victim 5]. He was aged between five and six years of age.

[52] [Your step-daughter] had complained to you on that occasion that [victim 5] had been “pulling faces” at her at the dinner table. You told him that you were going to get the jug cord out and give him “ten of the best”.

[53] You folded the jug cord around, you held out [victim 5]’s hand and you hit him with the jug cord. He was hit on the palm of the hand. He was not sure how many times he was hit but I find on the evidence that it was more than once and he suffered pain as a result.

[54] As you have heard counsel say, sentencing in cases involving repetitive and historic family violence is difficult. I intend to approach it this way. I will impose cumulative sentences for each group of offences for each of your victims. That approach recognises that there were separate acts of cruelty and violence by you that occurred at different times against each of your five children. I accept that there was a clear pattern of abusive behaviour towards your sons spanning many years, however, to impose concurrent sentences could be seen as giving a licence to offenders to commit repeated acts of abuse without appropriate punishment. The offending against each of your five victims should be recognised.

[55] My only departure from that approach is to begin with my assessment of the appropriate sentences for the offences where you threatened to kill the victims and the later occasion when you threatened to seriously harm your sons. These were occasions where all five of your sons were together or where four of them were together and they were subjected to the same acts and the same threat.

[56] In assessing the appropriate sentences, I must take into account the factors that make your offending more or less serious than other cases of a similar kind. I bear in mind the need not to double-count aggravating features such as the breach of trust involved in your offending and the vulnerability of these victims. Their ages at the time these events happened and the fact that you were their father however are inescapable facts that relate to each of these offences. After considering any mitigating factors personal to you, I must then step back and consider whether the overall end sentence is proportionate to the gravity or the seriousness of your offending.

[57] I begin with the occasion when you threatened to kill your sons with a firearm in November 1990. There is no tariff for offences of threatening to kill, the circumstances of an offence are always determinative.¹

[58] I have been grateful to receive the assistance of both counsel and their written submissions. I have been referred to the decision of *Freakley v R* as part of those submissions.² It has been submitted that this offence was far less serious than the offending in that case.

[59] I respectfully disagree with that submission. Your actions were as serious, if not more serious than the actions of the offender in that case. As a starting point and a point of difference, there were five victims involved here, not one.

[60] Your threat was directed at young children. They were vulnerable not only due to their age but by virtue of the fact that they were in your sole care and under your control. Section 9A of our Sentencing Act 2002 now provides that in cases involving offending involving children, the Court must take into account the defencelessness of the victims and the magnitude of any breach of a relationship of trust.

[61] That particular provision was not in force at the time of your offending but it is not a new sentencing approach. The community's intolerance of violence employed against children has always been recognised in sentencing for cases of this type.³

¹ *Burchell v R* [2010] NZCA 314 at [25].

² *Freakley v R* [2010] NZCA 497.

³ *R v Mead* [2002] 1 NZLR 594 (CA).

[62] The threat that you made towards your sons was also specific and repetitive. It involved the use of a loaded firearm which was presented at the children. They took your threats seriously because it appeared to them that you were willing to carry it out. They did not know in that moment if they were going to live or if they were going to die.

[63] This is also an incident of some duration during which you positioned your children in a line and told them that this was so they could be killed all at once. It was cruel and it added to their terror. Like some of the other offences committed by you over the years, this was, on any view, sadistic behaviour. At a minimum it was gross emotional abuse.

[64] I cannot summarise in a few words the lasting emotional harm that you have caused to your sons as a result of that offence, it is immeasurable. In his victim impact statement he read today, [victim 3] says that while it has been 30 years since they lived with you in Himatangi, the experiences that they had to endure while there has left a lasting effect on them.

[65] Having regard to those factors, it is difficult to imagine a more serious case of threatening to kill where physical violence was not also employed, or where there was not more significant premeditation.

[66] In my sentencing notes I will refer to the authorities I have taken into account in assessing the appropriate sentencing starting point for these offences.⁴ A starting point of three years' imprisonment is appropriate in my view.

[67] I now refer to the incident between July 1991 and July 1992 where you threatened to shoot four of your sons if you caught up with them when living at Himatangi Beach. Your sons were aged between nine and 11 years old at that time.

[68] You used and discharged a lethal weapon, a firearm, as part of that threat. They believed you would shoot them and they took your threats seriously as you intended

⁴ *Boylard v NZ Police* [2015] NZHC 2463; *R v Sykes* HC Christchurch CRI-2008-009-2603, 19 May 2009; and *Freakley v R* [2010] NZCA 497.

them to do. As I have just referred to, four of these sons had previously been subjected to threats of harm by you using a firearm. Again, there was no one around to help them on this occasion. I increase the sentencing starting point of three years by 12 months' imprisonment to reflect that offending.

[69] I turn now to address each group of charges involving the separate victims.

[70] Firstly, the group of offences involving [victim 2]. During a three-year period between August 1988 and November 1991 you regularly mistreated [victim 2] by assaulting him. These assaults were often accompanied by additional and gratuitous acts of cruelty.

[71] You held your son up by the neck, off the ground, regularly until the point of unconsciousness. Any one of those occasions amounted to a serious assault. However, they were the subject of a representative charge of cruelty to a child and of course it was cruel and callous behaviour. Your comments to him on the occasions that he reached the point of unconsciousness to "say goodnight" can only be described as despicable. In the end he found a way to bring these assaults to an end by learning to hold his breath.

[72] There was a discrete episode of cruelty when [victim 2] was punched repeatedly and regular occasions when he was hit with a jug cord.

[73] It was clear from the evidence he gave at trial that your persistent cruelty towards [victim 2] impacted him immeasurably and continues to do so now he is an adult. I am satisfied from the evidence heard at trial that your sons, as witnesses to [victim 2]'s ongoing mistreatment at your hands, they also felt powerless to help him.

[74] Where there is intentional cruelty to children the usual response is one of imprisonment and that is because behaviour of this kind towards those who are defenceless cannot be tolerated. I increase the sentencing starting point of four years' imprisonment by two years' imprisonment to reflect the group of offences involving [victim 2].

[75] I turn now to the offending involving your oldest son [victim 1]. On occasions during an eight-year period he was regularly assaulted by you, sometimes with a jug cord and other times you struck him to the head with an open hand.

[76] These assaults of him were often accompanied by verbal abuse. He was belittled and bullied. As a result, [victim 1] has been profoundly impacted. You will have heard that as he read his victim impact statement this morning. As a young man he experienced suicidal ideation and thoughts of self-loathing. The severe emotional harm that you have caused him is significant.

[77] I increase the sentencing starting point of six years' imprisonment by a further 12 months to reflect the offending involving [victim 1].

[78] In respect of [victim 4], he was assaulted by you on at least 12 occasions by having his head forced under a cold running tap. There were times he could not breathe. That you would react in such a disproportionate and violent way to such a common issue of a child wetting the bed is inexplicable. He was six years old.

[79] This was another example of your behaviour which led to him living in fear of you. You also knew that this was a way that he had been abused previously during his time in foster care.

[80] [Victim 4] has had his victim impact statement read to the Court today. He has a deep-rooted difficulty in trusting others. He struggles to empathise with others given the emotional detachment he was forced to develop as a child. He has developed obsessive compulsive tendencies which continue to this day. He has been personally conflicted by his feelings towards you. The abuse that he endured has caused life-long harm to his mental wellbeing. [Victim 4] says that your actions have robbed him of a childhood where he should have been safe, where he should have been nurtured and that the scars of that abuse continue to haunt him.

[81] I increase the sentencing starting point of seven years by one year's imprisonment to reflect the representative charge of cruelty involving [victim 4].

[82] Finally, I turn to the specific occasion where you assaulted [victim 5] with the jug cord. You appear to have believed that you could discipline [victim 5] in the way that you did. He was aged between five and six years old at the time.

[83] I accept that this incident was impulsive offending on your part, however it was another example of a disproportionate reaction by you following normal behaviour by a child.

[84] I increase the sentencing starting point by a further six months' imprisonment to reflect that offence.

[85] The overall sentencing starting point for your offending is eight years and six months' imprisonment prior to the adjustments that are now required.

[86] I turn now to the aggravating and mitigating features personal to you.

[87] The Crown refer to your relevant prior convictions in 1985 for common assault and in 1982 for male assaults female. An increase in the sentence is sought for those prior convictions.

[88] Those offences were committed against the mother of your sons. At the time you were dealt with by the Court you were ordered to come up for sentence if called upon, effectively a suspended sentence, or the Court imposed a fine and supervision for a period of 12 months. Given the historic nature of those convictions and the sentences imposed at the time, no increase in the sentencing starting point is warranted to reflect those prior convictions.

[89] Any mitigating factors personal to you must now be considered.

[90] The pre-sentence report outlines that you maintain your innocence. The jury however decided that the Crown had proved beyond a reasonable doubt that you were responsible for these 18 offences. You accept no responsibility and show no remorse. This of course is not an aggravating feature, you are entitled to hold your own view, however it does mean that there can be no credit for remorse or contrition on your part.

[91] A decrease in sentence is sought due to your personal circumstances at the time of the offending, your own upbringing, your character since the date of your offending, your age and your health difficulties.

[92] It is submitted on your behalf that it is relevant for the Court to consider that you were a sole father to five young boys with limited financial means and that you had no help from family or the authorities. Further, that there has been considerable change in societal attitudes from the time that you were raising and disciplining your children to now.

[93] I accept the evidence at trial demonstrated that you were of limited financial means. I further accept that there would have been periods of stress for you as a solo parent with five sons. However, on the evidence, any purported lack of help appears to have been largely of your own making. You appeared to have had access to help if you requested it. You had a good friend living in Fielding, he gave evidence at your trial. You had extended family. There was the opportunity for respite on weekends through the Open Homes Foundation. You appear to have formed a good relationship with your family lawyer who assisted you on at least one specific occasion when you needed her help. For a period, you had also re-married and you had the support of a partner.

[94] Further, none of these acts constituted parental discipline, nor do I accept that there was an attitude at that time that this was, in any way, an appropriate way for a parent to behave towards their children. None of the acts of cruelty or physical violence described in evidence by the victims at trial could be considered as being force used for the purposes of correction or for disciplinary purposes.

[95] I find that these were incidents involving gross physical violence and threats. These were acts of cruelty inflicted on young children for no discernible reason at all. There is no basis to suggest that that type of behaviour towards children was more acceptable during that period than it is in the current time. No discount will be afforded for your personal circumstances at the time of the offending, I do not consider they contributed to it.

[96] The pre-sentence report records that you were brought up by your mother in Te Kōpuru, Northland, and that you often stayed with your grandparents to give your mother “time out”. You have reported to the pre-sentence report writer that your mother was violent and that she would beat you and your brothers with jug cords, vacuum cleaner pipes, copper rods, sticks or “whatever came to hand”. You also reported that your mother was under mental health care for some time and that she took medication for that.

[97] You appear to have had no relationship with your father, your father “abandoned” you and your brothers at an early age.

[98] I accept that there is likely to be some connection between the violence used by your mother towards you and your brothers as a child and your own acts of violence towards your sons. That should be recognised, however as the information available about your upbringing is limited to that content that I have referred to in the pre-sentence report, this does bear on the extent of any discount available.

[99] I note also in the decision that we know as *Berkland*, the Court observed that the causative contribution of an offender’s background may also be displaced in whole, or in part, where the offending is particularly serious.⁵ Your offending in my view meets that criteria.

[100] I turn to your life in more recent years. Your offending occurred up to and over 27 years ago. In 2004 however you were convicted of a common assault involving one of your victims, [victim 3], who was aged in his early twenties at the time.

[101] On your behalf it is emphasised that you have not appeared before the Court since 2004 for any offending and have been offence-free for 20 years. I have been provided with a letter from a friend which I have read who has known you for many years and who speaks highly of you. It is reassuring to see that you have, in more recent years, established settled and amicable relationships and friendships.

[102] I acknowledge that you appear to have reintegrated into the community

⁵ *Berkland v R* [2022] NZSC 143.

since 2004, however an offence-free life is what is to be expected for any member of the community. I will not increase your sentence to reflect your prior convictions, in the same way, I do not intend to reduce your sentence to reflect the fact that you have not offended since 2004.

[103] You are now 69 years of age. You have several health issues. They include significant arthritis in your spine which causes you pain and for which you require pain relief. You also have a significant eye health history which includes cataracts.

[104] I have also been provided with a letter from your general practitioner which outlines that you have told them that you also suffer from post-traumatic stress disorder. The cause of that is not known, there is no independent verification of that diagnosis or the impact of that on you. I therefore set that aside.

[105] The extent to which age and ill health can be treated as mitigating factors and the amount of discount to be given for that varies from case to case, and it is dependent on the particular circumstances of an offender, and the nature of the offending. However, reductions, where given, are generally limited.

[106] Your age is not a significant factor which warrants a discount in sentence. I accept that your arthritis is a degenerative condition and that combined with your eye condition it is likely to cause you some discomfort when you are in prison. A modest discount is available. While they are difficult for you to deal with, your health conditions are not as serious as in other cases where substantial discounts have been given.

[107] Following the approach in a decision that we know as *Moses v R*, I reduce your sentence by 15 per cent which equates to a discount in the region of 16 months' imprisonment.⁶ The discount comprises a five per cent discount for your upbringing and a 10 per cent discount for your health issues. The point I reach is a sentence of seven years and two months' imprisonment.

[108] Given you are being sentenced for multiple offences I must impose a total end

⁶ *Moses v R* [2020] NZCA 296.

sentence that reflects the overall criminality of your offending. It must not be wholly out of proportion.

[109] By way of guidance, I have had regard to the sentences imposed in several earlier comparable cases. These cases have also involved multiple serious, physical and emotional violence offences against children, or against intimate partners, including representative charges covering a significant period of time.

[110] The decisions that I have had particular regard to include the decisions of *Ngamotu v R*, *Clark v R* and *Rasmussen v R* and I will provide the citations for those decisions in my sentencing notes.⁷

[111] The end sentences in those decisions ranged from between five years and two months' imprisonment to six years' imprisonment. In those cases, the offenders had pleaded guilty prior to trial and they were afforded credit for that. After considering the end sentences imposed in those cases and the facts in this case, I have reached the view that a further adjustment is required. I reduce the end sentence by a further eight months' imprisonment to accord with the totality principle.

[112] Mr Cohen, no one is able to erase the immense and ongoing harm that you have caused your sons but it is now time for you to be held accountable for what you have done to them. The end sentence that I reach for your offending is six years and six months' imprisonment.

[113] I impose the sentences for each of the charges as follows:

- (a) For charges 7, 8, 9, 10 and 11, concurrent sentences of three years' imprisonment.
- (b) In respect of charge 12, a cumulative sentence of 12 months' imprisonment.
- (c) Charges 13, 14 and 15, concurrent sentences of 12 months'

⁷ *Ngamotu v R* [2010] NZCA 121; *R v Clark* [2013] NZCA 63; and *Rasmussen v R* [2011] NZCA 626.

imprisonment.

- (d) Charge 1, I impose a cumulative sentence of 12 months' imprisonment.
- (e) Charges 2 and 19, I impose concurrent sentences of two years' imprisonment.
- (f) Charge 30, I impose a cumulative sentence of six months' imprisonment.
- (g) Charge 32, a cumulative sentence of 12 months' imprisonment.
- (h) Charges 33, 34 and 35, concurrent sentences of two years' imprisonment.
- (i) Charge 38, I impose a concurrent sentence of six months' imprisonment.

[114] The end result Mr Cohen is an end sentence of six years six months' imprisonment overall.

[115] Before you stand down, Mr Cohen, there is just one issue I wish to raise given we have a member of the media present. There has been reference during the course of the reading of the victim impact statements to [details deleted]. That appears to have been the subject of earlier court proceedings and out of an abundance of caution I suppress that particular detail pursuant to s 205(2)(d) of the Criminal Procedure Act 2011.

Judge T Bayley

District Court Judge | Kaiwhakawā o te Kōti ā-Rohe

Date of authentication | Rā motuhēhēnga: 21/10/2024