

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Not Restricted

S ECR 2024 0100

THE KING

Crown

v

ERIN PATTERSON

Accused

JUDGE: Beale J
WHERE HELD: Melbourne
DATE OF HEARING: 25 August 2025
DATE OF SENTENCE: 8 September 2025
CASE MAY BE CITED AS: R v Patterson (Sentence)
MEDIUM NEUTRAL CITATION: [2025] VSC 557

SENTENCE – A jury found the offender guilty of murder (x3) and attempted murder – Unknown motive – Offender invited her estranged husband, his parents and his aunt and uncle to lunch – Offender falsely represented that she had serious medical issues which she needed to discuss with them in the absence of her children – The night before the lunch, the husband told the offender he would not be attending – The offender served the four lunch guests Beef Wellingtons deliberately laced with death cap mushrooms – Only the husband's uncle survived – Substantial premeditation – Pitiless conduct post offending – The deceased suffered significantly pre-mortem – Sole survivor suffered similarly and has ongoing health problems – Many indirect victims – Elaborate cover-up – Betrayal of trust – Worst category offending – No evidence of remorse – Life imprisonment appropriate – Whether to fix non-parole period – No relevant criminal history – Offender notorious – Unprecedented media attention – For her own safety, offender held in continuous solitary confinement for past 15 months – Harsher than normal prison conditions likely to continue for foreseeable future – Imprisonment significantly more burdensome for offender than for mainstream prisoners – Non-parole period of 33 years imposed – *The Queen v Coulston* (1997) 2 VR 446 – *R v Kilic* (2016) 259 CLR 256 – *The Queen v Males* [2007] VSCA 302 – *The Queen v Olbrich* (1999) 199 CLR 270 – *Yat v The King* [2024] VSCA 93 – *Crimes Act 1958* (Vic), ss 3, 321P – *Sentencing Act 1991* (Vic), ss 5, 6A–6F, 11, 11A.

APPEARANCES:

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HIS HONOUR:

INTRODUCTION

- 1 Erin Patterson, after a long trial, during which you gave evidence that the poisoning of your four lunch guests on 29 July 2023 was an accident, the jury found you guilty of three counts of murder and one count of attempted murder. In other words, the jury necessarily found that you deliberately served poisoned meals to Gail and Don Patterson and Heather and Ian Wilkinson and that you did so, intending to kill them. Only Ian Wilkinson survived.
- 2 The maximum penalty for murder is life imprisonment¹ and, for attempted murder, 25 years' imprisonment.² Murder is also a standard sentence offence and the standard sentence for murder is 25 years' imprisonment.³

No dispute that maximum sentences appropriate

- 3 The prosecution submits, and your counsel concedes, that your offending falls into the worst category of offending for these offences and that you should receive the maximum penalties for your crimes. I agree, for reasons that I will come to in due course.

Dispute regarding whether to fix non-parole period

- 4 The prosecution also submits that, having regard to the horrendous nature of your crimes, I should not fix a non-parole period. In other words, the prosecution submits that you should never have the opportunity of being released from prison on parole. Your counsel challenged this submission, relying principally on the harsher than usual conditions of your imprisonment which, both sides agree, are likely to continue for the foreseeable future. Whether or not to fix a non-parole period is the main dispute which I have to determine.

¹ *Crimes Act 1958* (Vic) s 3(1)(a).

² *Crimes Act 1958* (Vic) s 3(1)(a), 321P.

³ *Sentencing Act 1991* (Vic), ss 5A & 5B; *Crimes Act 1958* (Vic), s 3(2)(b).

Structure of sentencing reasons

5 These sentencing reasons consist of four parts: first, the circumstances of the offences; second, your circumstances; third, relevant sentencing law; and fourth, the actual sentences.

6 It is convenient at this stage to mention one aspect of sentencing law. Where the prosecution alleges circumstances that aggravate your offending, the prosecution must prove those circumstances beyond reasonable doubt. Where the defence alleges circumstances of mitigation, the defence must prove those circumstances on the balance of probabilities.⁴

Motive?

7 Just before I turn to the circumstances of your offences, I note that at your trial the prosecution conceded that they could not prove motive.

8 As is standard, I directed the jury that the prosecution did not have to prove motive, only the elements of the offences, and that *'some murders occur for no apparent reason. The motives for such murders may only ever be known to the offenders.'*

9 Clearly, the jury was satisfied beyond reasonable doubt that you committed the alleged offences. Only you know why you committed them. I will not be speculating about that matter.

CIRCUMSTANCES OF OFFENCES

Chronology of key events

10 I will begin my discussion of the circumstances of your offences with the fact that you were familiar with the iNaturalist website from at least May 2022. That is a website on which people can post and view sightings of death cap mushrooms, amongst other things.

⁴ *The Queen v Olbrich* (1999) 199 CLR 270, 281, [27].

- 11 On 28 May 2022, you accessed the iNaturalist website and navigated to its world-wide map in relation to sightings of death cap mushrooms. Using that map, you accessed information concerning the sighting of death cap mushrooms in Moorabbin, a suburb of Melbourne.
- 12 In late 2022, a dispute arose between you and your estranged husband Simon Patterson regarding child support payments for your two young children who lived with you. In December 2022, you referred to that dispute in your communications with a Facebook Messenger group with whom you shared an interest in True Crime. You were scathing in your remarks about both Simon and his parents, Don and Gail Patterson. Amongst other things, you derided your father-in-law's suggestion that you and Simon get together and pray for your children, commenting *'this family I swear to fucking god.'*⁵ You called them *'a lost cause.'*⁶ You wondered whether they had *'any capacity for self-reflection at all.'*⁷ You said *'fuck em'*⁸ and that you suspected the best thing you could do was *'just to forget about all of them and live [your] life.'*⁹ You

⁵ On 6 December 2022 at 1019, you sent this message to the group: *'Simons dad contacted me this morning to say that he and Gail had tried to talk to Simon about the matters I raised and to get "his side" but he refused to talk about it other than to signal he disagreed with what I said. Beyond that he won't talk about it. So don said they can't adjudicate if they don't know both sides and Simon won't give his side so he said all he can ask is that Simon and I get together to pray for the children this family I swear to fucking god (sic).'*

⁶ On 6 December 2022 at 1027, you sent this message to the group: *'I said to him about fifty times yesterday that I didn't want them to adjudicate nobody bloody listens to me. At least I know they're a lost cause (sic).'*

⁷ On 6 December 2022 at 1038, you sent this message to the group: *'I wonder if they've got any capacity for self reflection at all? I mean clearly the fact that Simon refuses to talk about personal issues in part stems from the behaviour of his parents and how they operate, according to them they have never asked him what's going on with us, why I keep kicking him out, ...etc, it's too awkward or uncomfortable or something. So that's his behaviour. Just don't talk about this shit (sic).'*

⁸ On 6 December 2022 at 1044, you sent this message to the group: *'...Don rang me last night to say that he thought there was a solution to all this if Simon and I get together and try to talk and pray together and then he also said Simon had indicated there was a solution to the financial issues if I withdraw the child support claim?! My head nearly exploded and I was like what?? And don goes oh sorry just ignore what I said I don't want to get involved. So anyway I sent a group message to them all last night saying how Simon is behaving is unconscionable and asking me to withdraw the child support claim is wrong and disadvantages me and his children and how dare he etc. Don messaged to say he and Gail don't want to get involved in the financial things but just hope we will pray for the kids so I replied this morning saying I understand it's uncomfortable and awkward for them but I want to copy them into this stuff because Simon needs to be accountable for the decisions he is making that are hurting his children and I would hope they care about their grandchildren enough to care about what Simon is doing. That's when don said they tried to talk to him but he refused to talk about it so they're staying out of it but want us to pray together. I'm sick of this shit I want nothing to do with them. I thought his parents would want him to do the right thing but it seems their concern about not wanting to feel uncomfortable and not wanting to get involved in their sons personal matters are overriding that so fuck em (sic).'*

⁹ On 6 December 2022 at 1148, you sent this message to the group: *'I suspect the best thing I can do is just to forget about all of them and live my life. Simon is probably loving how upset I am about all this.'*

accused Simon of 'gaslighting' you, and Don and Gail of using 'weasel words'.¹⁰ You called Simon 'a deadbeat' and wondered why Gail was not 'horrified' by his stance regarding child support.¹¹

13 According to your testimony at trial,¹² and to a lesser extent Simon's testimony,¹³ the dispute over child support had resolved by early 2023.

14 On 18 April 2023, one Christine McKenzie, a former poisons specialist, was visiting her daughter in Loch, which is a small town about a 25-minute drive north-west of Leongatha where you lived. Ms McKenzie observed death cap mushrooms in Loch Reserve and posted details of her observations (including photographs) on the iNaturalist website the same day. Ms McKenzie disposed of all the death cap mushrooms that she could find because of the danger she thought they posed, especially to young children.

15 On the morning of 28 April 2023, your mobile phone, which was never recovered by investigators, connected to certain cell towers, consistent with a possible visit by you to the Loch Reserve.¹⁴

16 That afternoon, you purchased a food dehydrator in Leongatha.

10 On 7 December 2022 at 1120, you sent this message: 'His parents sent me a message yesterday afternoon and Simon sent me one last night but I've read neither and I don't think I will. I don't want to hear it. Simon's will just be horrible and be gaslighting and abusive and it will ruin my day and his parents message will be more weasal words about not gettnng involved so I think I'm going to just move on. I don't need anything from any of those people. Simons parents say they don't want to take sides but by their very actions they have. If their daughter came to them laying all the same complaints about her husband, that I did about Simon, they would never say to her "oh well we can't believe you until we hear Josh's side, right now it's your word against his." No they would just believe her. If their daughters husband just walked away and refused to support her kids they would have things to say to him. But by refusing to hold Simon to account they've made it clear his word means more than mine so that speaks volumes even if they claim they haven't taken sides. Theyve had Simon for tea every night for three months and never once picked up the phone to me since the separation and asked if I'm ok and need help. So that tells me their choices. Simon wants to walk away from his responsibilities too, well that's his choice. Maybe it's easier if he's not involved in even paying their school fees, means I can choose their school all by myself and don't have to refer to him. If he wants them to go to a private Christian school then he can help pay for it, if he doesn't want to help pay for it then I don't have to send them there, do I? So maybe it just means I have even more freedom about my choices, a blessing in disguise (sic).'

11 On 9 December 2022, you sent this message to the group: 'His mum was horrified I had claimed child support. Why isn't she horrified her son is such a deadbeat that I had no choice but to claim?'

12 See, for example, trial transcript, 2197-2201.

13 See trial transcript, 328, regarding arrangement to pay school fees '50/50.'

14 See trial exhibit 41.

- 17 Between 28 April and 4 May 2023, you photographed foraged mushrooms on the trays of your dehydrator. The images were found by investigators on a Samsung Tablet later seized from your home.¹⁵ Dr Tom May, a world-renowned expert in fungi, gave evidence at your trial that those images were '*consistent with [death cap mushrooms]*¹⁶ to a high degree of confidence.'¹⁷
- 18 On 21 May 2023, Dr May observed death cap mushrooms in Neilson Street, Outtrim. Outtrim is a small town about a 23-minute drive south-west of Leongatha. Later that day, Dr May posted details of his observations (including photographs) on the iNaturalist website.
- 19 On the morning of 22 May 2023, your phone connected to certain cell towers, consistent with a possible visit by you to Loch Reserve.¹⁸
- 20 Later that morning, your phone connected to certain cell towers, consistent with a possible visit by you to Neilson Street, Outtrim.¹⁹
- 21 On 24 June 2023, you hosted a lunch at your Leongatha home attended by Don and Gail and your children. You had invited Simon to that lunch but he declined, saying in a text message:
- Hi Erin. Thank you for your kind lunch invite, together with mum and dad. I'm sorry, I'll decline, as I feel too uncomfortable about it.*²⁰
- 22 Between 28 June and 7 July 2023, there were a series of messages between you and Gail in which you falsely represented that you had undergone a needle biopsy (for a lump in your arm) and an MRI. In response to a message from Gail as to how you got on with your medical tests, you messaged her on 7 July 2023 that '*there's a bit to*

¹⁵ See trial exhibit 18.

¹⁶ Dr May used the technical name for death cap mushrooms, namely, *amanita phalloides*.

¹⁷ See trial transcript, 796.

¹⁸ See trial exhibit 42.

¹⁹ See trial exhibit 36.

²⁰ This text was sent on 12 June 2023. See trial exhibit D, p15.

*digest with everything that's come out of it all, I might talk more about it with you both when I see you in person.'*²¹

23 On 16 July 2023, you attended the Sunday service at the Korumburra Baptist Church where Ian Wilkinson was, and is, the Pastor. After the service, you invited Gail and Don Patterson, and Heather²² and Ian Wilkinson, to lunch at your home at Gibson Street, Leongatha on 29 July 2023. Both the Pattersons and the Wilkinsons were surprised by the invitation, as the Wilkinsons had never previously been invited to a meal at your home. You also invited Simon, telling him that you had invited his parents and his aunt and uncle. You told him you had some important medical news which you wanted to discuss at the lunch and that you did not want the children to be present.²³ Simon initially accepted your invitation and informed his parents that the purpose of the lunch was to discuss your medical issues and how to inform the children.

24 On the evening of 28 July 2023, Simon and you exchanged messages. Simon's read:

*Sorry, I feel too uncomfortable about coming to the lunch with you, mum, dad, Heather & Ian tomorrow, but am happy to talk about your health and implications of that at another time if you'd like to discuss on the phone. Just let me know.*²⁴

25 You replied five minutes later:

*That's really disappointing. I've spent many hours this week preparing lunch for tomorrow which has been exhausting in light of the issues I'm facing and spent a small fortune on beef eye fillet to make beef wellingtons because I wanted it to be a special meal as I may not be able to host a lunch like this again for some time. It's important to me that you're all there tomorrow and that I can have the conversations that I need to have. I hope you'll change your mind. You're parents and Heather and Ian are coming at 12.30. I hope to see you there (sic).*²⁵

²¹ See trial exhibit 51.

²² Gail's sister.

²³ See trial transcript, 188, 261 - 266.

²⁴ See trial exhibit 2.

²⁵ See trial exhibit 2.

26 On Saturday 29 July 2023, you served your four lunch guests individual Beef Wellingtons²⁶ which were deliberately poisoned with death cap mushrooms.²⁷ You gave evidence at your trial that had Simon attended the lunch, you would also have served him a Beef Wellington.²⁸ I accept the evidence of Ian Wilkinson that you served your guests their meals on four grey plates, while your individual Beef Wellington was on a smaller, 'orangey tan' coloured plate, a fact that Heather also commented on to Ian and Simon the next day. I find that you did this to ensure that you did not mistakenly consume a poisoned meal. I also accept the evidence of Ian Wilkinson that at the conclusion of the meal, you falsely told your guests that you had been diagnosed with cancer and sought their advice as to whether, and how, you should break the news to your children that you had a life-threatening illness. Not long after this conversation started, your son and his friend who had gone to a movie, returned home. The conversation about cancer ceased, but not before all your lunch guests, at Ian's suggestion, prayed for your health. Soon after they left.

27 Around midnight to 1am on Sunday 30 July 2023, all of your lunch guests fell seriously ill, suffering repeated vomiting and diarrhoea. On Sunday morning, Gail and Don informed Simon of their conditions and called an ambulance which took them to nearby Korumburra Hospital.

28 Simon attended the Wilkinsons' home to find that Heather and Ian were similarly unwell. He took them first to Korumburra Hospital but was redirected to Leongatha Hospital because of limited resources.

29 By way of contrast, you made a round trip of approximately two hours on Sunday afternoon to take your son to a flying lesson at Tyabb.²⁹

30 By the Sunday evening, Don and Gail had been transferred to Dandenong Hospital.

²⁶ As well as mashed potato and green beans.

²⁷ The recipe you used (see trial exhibit 62) was for a Beef Wellington log, not individual Beef Wellingtons.

²⁸ See trial transcript, 2380.

²⁹ The lesson was cancelled by the instructor at the last moment because of bad weather.

- 31 On the morning of Monday 31 July 2023, Ian and Heather were also transferred to Dandenong Hospital.
- 32 Later that day, Gail and Don were transferred to the Austin Hospital, as were Heather and Ian on Tuesday 1 August 2023. All of them were experiencing advanced multiple organ failure.
- 33 Having learnt from Simon on the Sunday that your parents-in-law had been hospitalised, you attended Leongatha Hospital on the Monday, complaining of diarrhoea. You did not stay long.³⁰ Shortly after a doctor indicated to you that death cap mushroom poisoning was suspected, you left, despite warnings by another doctor and nurse that your life was in danger. You returned over an hour and a half later.
- 34 When you returned, you showed reluctance to receive treatment for suspected death cap mushroom poisoning and to organise a medical assessment for your children, who were at school. Medical staff were urging you to have the children assessed because you claimed, falsely, that on the Sunday night you fed them the leftovers of the Beef Wellingtons,³¹ with the pastry and mushrooms scraped off. Eventually, you arranged with Simon to collect the children and bring them to hospital.

³⁰ About 14 minutes.

³¹ The jury found that you deliberately served poisoned Beef Wellingtons to your lunch guests. Consistent with that finding, I reject your claim that you served the children the Beef Wellington leftovers on the Sunday night. You would not have taken the risk that your children might also be poisoned. The story about feeding the children the leftovers was a ruse to make others think you were ignorant of the presence of the death cap mushrooms in the fatal meals.

- 35 On the Monday morning, police recovered Beef Wellington remains from a bin outside your home which were later found to contain death cap mushroom toxins.
- 36 On the Monday afternoon, you were transferred to Monash Medical Centre in Clayton. Simon brought the children there. You and the children were kept in hospital overnight for observation.
- 37 At both Leongatha Hospital and Monash Medical Centre, you were asked by various people - including doctors and representatives of the Health Department and the Child Protection Service - where you had sourced the mushrooms for the Beef Wellingtons. You said you had purchased some fresh mushrooms at Woolworths and some dried mushrooms from an Asian grocery. You were vague about the location of the Asian grocery, claiming you had purchased the dried mushrooms several months before and that the shop could have been in one of a number of suburbs that fall within the boundaries of the City of Monash. You denied having foraged for mushrooms, a lie repeated in your recorded police interview on 5 August 2023.
- 38 At your trial, you maintained the story about having sourced some of the mushrooms from an Asian grocery but testified that, in May and June of 2023, you had foraged for edible mushrooms in various places including the Korumburra Botanical Gardens. You testified that you had dehydrated these mushrooms and put them in a container which contained the dried mushrooms from the Asian grocery and that you used the dried mushrooms in that container, along with the fresh mushrooms from Woolworths, in the Beef Wellingtons. You testified that in this way, death cap mushrooms must have accidentally found their way into the meals served to your lunch guests. The jury rejected this elaborate explanation; they found that you deliberately poisoned the meals of your lunch guests.
- 39 I am satisfied that your vague story about the Asian grocery was a lie. When you realised that the lie would not work – because death cap mushrooms cannot be

cultivated commercially and there were no other reports of people falling ill from mushrooms purchased at Asian groceries — you changed tack: you concocted the story you told the jury about foraged mushrooms ending up in the container with the Asian grocery mushrooms and then, accidentally, ending up in the Beef Wellingtons.

40 On the afternoon of Tuesday 1 August 2023, you and the children were discharged from Monash Hospital.

41 On the morning of 2 August 2023, you disposed of your dehydrator at a local tip, the Koonwarra Transfer Station.

42 On 4 August 2023, investigators recovered your dehydrator from the tip. Forensic examination revealed that the dehydrator contained traces of death cap mushrooms.

43 That same day, 4 August 2023, Heather Wilkinson, aged 66, and Gail Patterson, aged 70, died from death cap mushroom poisoning and Don Patterson, who was desperately ill, was given a liver transplant.

44 On 5 August 2023, the police executed a search warrant at your home. You handed over a dummy phone. It was not the phone that you had been using throughout most of 2023, the phone which on 28 April 2023 had connected to certain cell towers, indicating a possible visit to Loch, and which, on 22 May 2023, had connected to certain cells towers, indicating possible visits to Loch and Outtrim.

45 In your recorded interview following the search, you denied having foraged for mushrooms and denied owning a dehydrator.

46 Late on 5 August 2023, Don Patterson, aged 70, died from death cap mushroom poisoning.

47 Ian Wilkinson very nearly died, but gradually his condition improved. On 21 August 2023, he was discharged from the intensive care unit to a ward at the Austin Hospital. On 11 September 2023, he was moved to the Heidelberg Repatriation Hospital. On 21 September 2023, he was discharged home. He has not fully recovered: he has *'reduced kidney function, ongoing respiratory issues and reduced energy.'*³²

48 On 2 November 2023, the police executed another search warrant at your home, seizing more electrical devices. You were arrested and charged. You have been in custody ever since.

Summary of aggravating circumstances

49 Let me now summarise the aggravating circumstances of your offending.

Substantial premeditation

50 Your offending, which resulted in the death of three people and near death of another, involved substantial premeditation. I am satisfied that by 16 July 2023, when you unusually invited Simon, his parents and his aunt and uncle to a lunch without the children to discuss your non-existent medical issues, you did so with the intention of killing them all. The dehydrator which you purchased in late April 2023 enabled you to preserve death cap mushrooms, which you put into the individual Beef Wellingtons served to your guests. Whether those death cap mushrooms came from Loch on 28 April 2023,³³ or from Loch or Outtrim on 22 May 2023, or from

³² Ian Wilkinson's victim impact statement, 2.

³³ The prosecution submitted that based on these events, I should be satisfied beyond reasonable doubt that you sourced the death cap mushrooms on 28 April 2023, the same day that you purchased the dehydrator. Whilst that is probably the case, there are at least five difficulties with reaching that conclusion beyond reasonable doubt. First, there is no direct evidence that you accessed Christine McKenzie's post on the iNaturalist website. Second, Christine McKenzie said she disposed of all the death cap mushrooms she could find on 18 April 2023. Even assuming you accessed her iNaturalist post and attended Loch on 28 April 2023 in search of death cap mushrooms, it is speculative whether there were any still there for you to pick. Third, Dr May did not say the wild mushrooms photographed in your dehydrator between 28 April and 4 May 2023 were death cap mushrooms, only that they were consistent with death cap mushrooms. He added that they could possibly be another species. Fourth, Dr Sorrell's heavily qualified evidence that your phone was connecting to base stations serving the Loch area was consistent only with a *possible* visit to Loch on 28 April 2023. Fifth,

another location in May or June of 2023 (as you suggested in your testimony)³⁴ is, in my view, of no great moment.

Pitiless behaviour post offending

51 After learning from Simon on Sunday 30 July 2023 that some or all of your lunch guests had been hospitalised,³⁵ you showed no pity for your victims. Instead of informing those treating the Pattersons and Wilkinsons that you had used foraged mushrooms (which you could have done without having to admit that you had deliberately poisoned their meals) you repeatedly denied foraging, insisting that the mushrooms for the Beef Wellingtons were sourced solely from Woolworths and an Asian grocery. We will never know whether revealing the use of foraged mushrooms would have made a difference. But the administration of the drug Silibinin – which is a specific antidote for death cap mushroom poisoning – was not commenced on 30 July 2023 because, at that stage, the evidence regarding the type of toxin was inconclusive.³⁶ Similarly, the administration of NAC,³⁷ to preserve the victims' livers from toxins, was not commenced until almost midnight on 30 July 2023 for Don Patterson and on 31 July 2023 for the others.³⁸ The prosecution submitted that I should infer from your pitiless behaviour that your intention to kill was ongoing, and that this constitutes an additional aggravating circumstance. I

the prosecution submitted that I should find that you accessed Dr May's post of 21 May 2023 and visited Loch and Outtrim on 22 May 2023 in search of death cap mushrooms. That argument, itself, casts doubt on the prosecution's contention that you were successful in sourcing death cap mushrooms on 28 April 2023 in Loch. However, what is clear, based on the forensic analysis of the dehydrator, is that, in preparation for the lunch, you sourced and dehydrated death cap mushrooms which you used in the Beef Wellingtons served to your lunch guests on 29 July 2023.

³⁴ See, for example, trial transcript, 2247–2253.

³⁵ Simon called you twice on the Sunday, first at 1108 and again at 1423 (Exhibit 77, p49). In his evidence in chief, he said he told you in a phone call on the Sunday that all your lunch guests were hospitalised (trial transcript, 202) but, in cross-examination, he conceded that he may have only mentioned that his parents were hospitalised (trial transcript, 272).

³⁶ See trial transcript, 501, 506, 524, 527.

³⁷ N-acetylcysteine.

³⁸ The administration of NAC was commenced: for Donald Patterson, at approximately 2330 on 30 July 2023 (depositions 347-349; trial transcript, 526-527); for Gail Patterson, at approximately 0100 on 31 July (depositions 347-349; trial transcript, 526-527); for Ian Wilkinson, at approximately at 0630 on 31 July 2023 (depositions 338, 347-349; trial transcript, 639; and for Heather Wilkinson, at approximately 0630 on 31 July 2023 (depositions 338, 347-349; trial transcript, 639).

accept that submission. As the Wilkinsons' daughter, Ruth Dubois, remarked in her victim impact statement, you '*follow[ed] through*' on your lethal plan.

Direct victims' suffering

52 Your lunch guests each suffered severe gastro intestinal illness on the Sunday and Monday prior to being sedated and mechanically ventilated.³⁹ Their suffering was protracted. And Ian Wilkinson suffers ongoing health issues. This aggravates your offending. The prosecution submitted that you must have anticipated that your victims would suffer in the way they did. I am satisfied of that beyond reasonable doubt: it is implausible that you would have selected death cap mushrooms without ascertaining how they would work upon your victims.

Indirect victims' suffering

53 Further, the devastating impact of your crimes is not limited to your direct victims. Your crimes have harmed a great many people. I will expand on this aggravating circumstance when I turn to the victim impact statements.

Elaborate cover-up

54 In addition to denying the use of foraged mushrooms, you engaged in an elaborate cover-up of your guilt. I find that you disposed of the four grey plates on which you served the poisoned Beef Wellingtons. You falsely made out that you had fed your children leftover Beef Wellingtons with the pastry and mushrooms scraped off. You feigned illness. You disposed of the dehydrator soon after you were released from hospital. You maintained the vague story about sourcing dried mushrooms at an Asian grocery and had the gall to tell police in your recorded police interview that you had been very, very helpful to the Health Department in its investigation of the

³⁹ Regarding Don and Gail Patterson, see depositions, 348, 354 & 357. Regarding Ian and Heather Wilkinson, see depositions, 360 & 363.

incident. You disposed of your phone and provided police with a dummy phone. You lied to the police in your recorded police interview about various matters.

Betrayal of trust

55 Finally, and most importantly, your offending involved an enormous betrayal of trust. Your victims were all your relatives by marriage. More than that, they had all been good to you and your children over many years, as you acknowledged in your testimony. Not only did you cut short three lives and cause lasting damage to Ian Wilkinson's health, thereby devastating the extended Patterson and Wilkinson families, you inflicted untold suffering on your own children whom you robbed of their beloved grandparents.

Victim impact statements

56 The victim impact statements reveal the immense and ongoing anguish suffered by your many victims, direct and indirect. No summary could do justice to the individual and collective power of those statements. It is not my intention here to summarise or refer to every statement but rather to highlight some key aspects.⁴⁰

57 Four generations of the extended Patterson and Wilkinson families have been traumatised by your crimes, not to mention their friends. Don's mother, Martha Patterson, who is aged 100, made a victim impact statement. In it, she prayed for God's healing for her family. Gail and Heather's father, now deceased, also reached his 100th birthday in 2024 but, tragically, only one of his three daughters, Lyn Young, whose statement was read to the court, was alive to mark⁴¹ that milestone with him. And there are many references in the statements to the trauma experienced by the Patterson and Wilkinson grandchildren.

⁴⁰ There were 29 victim impact statements in all, including Ian Wilkinson's. Some victims did not wish to have their statements referenced in these sentencing reasons. Those who did not object were, in alphabetical order: Dorothy Dicker, Brad Dubois, Caitlyn Dubois, Ruth Dubois, Joseph Jin, Korumburra Baptist Church, Colin Patterson, Martha Patterson, Matthew Patterson, Merryn Patterson, Simon Patterson, Tanya Patterson, Tim Patterson, Anna Terrington, David Wilkinson, Ian Wilkinson, Jane Wilkinson, Luke Wilkinson and Lyn Young.

⁴¹ In the circumstances, I will not use the word 'celebrate.'

58 Many of your adult victims struggle not only with the loss of their loved ones, and the terrible way they died, but with the distress, even guilt, at their own seeming inability to ease the suffering of those close to them. They keenly feel their limitations, and, in particular, the impossibility of shielding the youngest from the incessant discussion of the case in the media, online, in public spaces, even in the schoolyard. Many also struggle to cope with work and studies. And many have experienced additional financial burdens.

59 There is, of course, great anger at the callousness of your actions. To take just one example, Ian Wilkinson's sister Dorothy Dicker questions *'how anyone could sit there and watch those four kind and caring people eat that meal.'*

60 Your failure to exhibit any remorse pours salt into all the victims' wounds.

61 The children of your direct victims speak of the distress of watching their parents suffer in hospital. For example, Don and Gail's son, Matthew, remarks:

Watching my parents suffer in hospital from severe poisoning caused shock, grief and lasting trauma.

62 Ian and Heather's son, David, remembers his mother being *'desperate for water'* (which she was not allowed by medical staff) and saying her *'insides were burning.'* David also mentions his father's tortured appearance – *'black lips, gaunt face, pained and serious expression.'*

63 At your plea hearing, Ian Wilkinson memorably read his victim impact statement to the court. Amongst other things, he humbly expressed his great admiration and love for his wife, Heather, and his concern for others, even you. He offered you forgiveness for what you did to him:

In regards to the many harms done to me, I make an offer of forgiveness to Erin. I say harms done to me advisedly – I have no power or responsibility to forgive harms done to others..However, I encourage Erin to receive my offer of forgiveness, for those harms done to me, with full confession and repentance. I bear her no ill will.

64 That offer of forgiveness present you with an opportunity. You would do well to embrace it in the manner he suggests.

65 In commenting on the unprecedented coverage of your case, Ian Wilkinson also made this point:

It's one of the distressing shortcomings of our society that so much attention is showered on those who do evil and so little on those who do good.⁴²

66 Your lunch guests undoubtedly belonged to that company of people among us '*who do good.*' The victim impact statements make it clear that each one of them, over many years, gave of themselves generously and made lasting contributions to many, many lives, and, in Ian's case, continues to make. All of them, inspired by their Christian faith, were deeply invested not only in their families but in their wider communities, as the statements from members of the Korumburra Baptist Church attest.

67 A word that is used again and again in the statements to describe your crimes is '*senseless.*'

68 But what also surfaces in the statements is hope, and gratitude for the care shown by others. Don and Gail's daughter, Anna Terrington, writes '*we have had to say goodbye for now⁴³ to ... Mum and Dad and Heather.*' Don's brother, Colin, writes '*as Christians they were people of hope, and sharing that hope, my loss is not one marked by despair.*' Ruth Dubois, expresses her great appreciation for the efforts made and compassion shown by the medical teams. Simon Patterson gives thanks '*for the incredibly strong, gentle, patient and caring support from friends, family, schools, our own church congregation, the wider church, colleagues, work clients, neighbours, police, government officers and our professional counsellors. We have experienced love in a special way since the murders.*'

⁴² Ian Wilkinson was restrained in his criticism of the media coverage. Other victims were scathing. However, you are not to be held responsible for the excesses of some sections of the media.

⁴³ Underlining added.

- 69 I will conclude my account of key aspects of the victim impact statements with what Don and Gail's son Matthew had to say about your betrayal of trust:

Erin was embraced as part of the Patterson family. She was welcomed and treated with genuine love and respect in a way she did not appear to experience from her own family. Her actions represent a profound and devastating betrayal of the trust and love extended to her.

Worst category offending

- 70 Having regard to the aggravating circumstances of your offending, and the victim impact statements, I have no hesitation in finding that your offending falls into the worst category for the offences of murder and attempted murder. As the case law makes clear, the fact that it is possible to imagine even worse instances of such offences does not refute that categorisation.⁴⁴ The gravity of your offending warrants the imposition of the maximum penalties for your crimes.

CIRCUMSTANCES OF OFFENDER

- 71 I turn then to your circumstances.
- 72 The information I was provided about your personal history was minimal. Your counsel simply relied on the personal history you provided in your trial testimony. There were no psychiatric or psychological reports provided.⁴⁵ No references from character witnesses. No doubt, that approach to your plea hearing was based on your instructions, but it means the account of your personal history that I am about to give is limited.

Personal history

- 73 You were born in Adelaide on 30 September 1974, making you 48 years old at the time of your offending and 50 now. Your maiden name was Scutter.

⁴⁴ See, for example, *R v Kilic* (2016) 259 CLR 256, 265-6, [18].

⁴⁵ Your counsel claimed that you have Asperger's Syndrome. That was based on your self-report to various people. There was no expert evidence to back up that claim. Given your 'credibility problem' (on your own admission, you have told numerous lies), I am not willing to accept your claim that you have Asperger's in the absence of corroborating expert evidence. In other words, I am not persuaded on the balance of probabilities that you have Asperger's Syndrome.

- 74 In 1977, your family relocated to Melbourne, residing in Hampton.
- 75 In 2004, you and Simon Patterson met whilst you were both employed at Monash City Council.⁴⁶ Simon told the jury that he was working there as a civil engineer and you were the RSPCA's representative on the Council.⁴⁷
- 76 By 2005, you and Simon were romantically involved.⁴⁸
- 77 In 2006, your grandmother died leaving you a substantial inheritance.⁴⁹ Moneys from her estate were distributed between 2007 and 2015.⁵⁰ During those years, you would be generous with your money to Simon's siblings, providing large, no-interest loans to them and their spouses so that they could purchase their own homes.
- 78 On 2 June 2007, you and Simon married.⁵¹ You told the jury that your parents did not attend the wedding; they were holidaying in Russia.
- 79 Soon after your marriage, you and Simon travelled around Australia and overseas for a few months before settling in Perth. Simon got a job working for an inner city shire council.⁵²
- 80 In 2009, when you were 34, your son was born.⁵³
- 81 In April 2009, you and Simon set off with the baby to explore the top end of Australia.⁵⁴ You reached Townsville in November 2009, at which point you parted company. You flew back to Perth; Simon drove back with the baby. You rented a

⁴⁶ Trial transcript, 2144.

⁴⁷ Trial transcript, 166.

⁴⁸ Trial transcript, 2144.

⁴⁹ Trial transcript, 2160.

⁵⁰ Trial transcript, 2160.

⁵¹ Trial transcript, 2149.

⁵² Trial transcript, 2150.

⁵³ Trial transcript, 2151.

⁵⁴ Trial transcript, 2152-3.

cottage for you and the baby. Simon rented an on-site caravan close by. This was the first of many, comparatively short-term, separations.⁵⁵ You reunited by the end of January 2010.⁵⁶

82 In 2011 your father died.⁵⁷ In that year you also opened a second-hand bookshop in Pemberton, Western Australia.⁵⁸

83 In 2013, when you were pregnant, you and Simon returned to Victoria with your son to live closer to Simon's family.⁵⁹

84 In 2014, your daughter was born.⁶⁰

85 In 2015, you and Simon separated permanently.⁶¹

86 In 2019, your mother died, leaving you an inheritance.⁶²

87 In June 2022, you and your children moved into a newly constructed home at 84 Gibson Street, Leongatha,⁶³ the home at which you served the fatal lunch on 29 July 2023.

No relevant criminal history

88 You have no relevant criminal history.⁶⁴

No remorse

89 You maintain your innocence. In other words, there is no evidence of remorse.

⁵⁵ Trial transcript, 2154.

⁵⁶ Trial transcript, 2154.

⁵⁷ Trial transcript, 2162.

⁵⁸ Trial transcript, 2162.

⁵⁹ Trial transcript, 2162-3.

⁶⁰ Trial transcript, 174, 2164.

⁶¹ Trial transcript, 2155, 2164.

⁶² Trial transcript, 2162.

⁶³ Trial transcript, 2141.

⁶⁴ There were some traffic matters prior to your marriage but, as mentioned, they are not relevant.

Conditions of imprisonment

90 I turn now to the conditions of your imprisonment. As mentioned, you have been in custody since 2 November 2023.

Current conditions

91 There were two affidavits tendered relating to your conditions of imprisonment. The first was sworn by a solicitor, who acts for you, and was based largely on your instructions.⁶⁵ The second affidavit was sworn by Jennifer Hosking, Assistant Commissioner, Sentence Management Division at Corrections Victoria, who also testified at your plea hearing.⁶⁶

92 Ms Hosking's evidence included confirmation of the following matters:

- You have a '*maximum security rating*' and '*major offender status*';⁶⁷
- Because of the nature of your crimes and your notoriety, you have been assessed as being at significant risk from other prisoners;⁶⁸
- You have not been assessed as posing a risk to other prisoners;⁶⁹
- You have spent approximately 16 months of your 22 months at Dame Phyllis Frost Centre in a management unit called the Gordon Unit and the rest of the time in a protection unit called the Murray Unit;⁷⁰
- A management unit is more restrictive than a protection unit;⁷¹
- You have been in the Gordon Unit continuously for the last 15 months;⁷²
- The Gordon Unit has about 20 cells;⁷³

⁶⁵ The affidavit of Ophelia Hollway of Doogue + George, solicitors, dated 18 August 2025, indicates, amongst other things that, for the last 15 months, you have been kept in a solitary cell for upwards of 22 hours per day. Your cell is approximately 4 metres by 2.5 metres. Your meals and medicine are currently delivered through a flap in the cell door. There is a 2 metre by 2 metre concrete yard which adjoins your cell and by which you can access fresh air, but you require permission to use it. You also require permission to communicate with any other prisoners in the Gordon Unit. You have supervised in-person contact with your children once per month and, usually, Zoom contact with them on Tuesdays and Saturdays but not if you have had, or are having, in-person contact with them within a couple of days.

⁶⁶ Affidavit of Jennifer Ann Hosking, dated 22 August 2025 ('Hosking Affidavit').

⁶⁷ Hosking Affidavit, [16] - [17].

⁶⁸ Hosking Affidavit, [16].

⁶⁹ Plea transcript, 52.

⁷⁰ A chronology of your placements at Dame Phyllis Frost Prison is as follows: the Gordon Unit from 3 November to 14 December 2023; the Murray Unit from 14 December 2023 to 9 March 2024; the Gordon Unit from 9 March to 15 March 2024; the Murray Unit from 15 March to 9 June 2024; the Gordon Unit since 9 June 2024.

⁷¹ Plea transcript, 29.

⁷² Hosking Affidavit, [20].

- You are not permitted to mix with other women in the Gordon Unit;⁷⁴
- You have spent at least 22 hours in your cell every day that you have been in the Gordon Unit;⁷⁵
- There have been 16 days since November 2024 where, because of lockdowns, you have been confined to your cell for the entire 24 hours per day;⁷⁶
- The maximum period that a prisoner in the Gordon Unit could have out of their cell on any given day is four hours but '*that wouldn't happen very often*';⁷⁷
- Your meals and medicine are currently delivered through a flap in your cell door;⁷⁸
- There is a small concrete yard (approximately 2 metres by 1.5 metres) which adjoins your cell which, with permission, you may access for fresh air. If prisoners are using the larger exercise yard which abuts your exercise yard, you may not use your small yard;
- During your time in the Gordon Unit, you have barely had any contact with other individuals;⁷⁹
- Permission is required for you to communicate with any other prisoner which, according to your counsel, is complicated by the fact that you are not informed of the identities of the other prisoners in the Gordon Unit;
- You currently have approval to communicate with one other prisoner in the Gordon Unit through a wire mesh when the two of you are permitted to use your respective adjoining exercise yards.⁸⁰ That other prisoner is undergoing a lengthy sentence for terrorism offences and has attacked other prisoners.⁸¹ You did not ask to communicate with that person and have not communicated with her. The suggestion that you should communicate with her was made by a corrections officer;
- There is an intercom in your cell which, if permission is granted, you may use to communicate with one other prisoner in the unit at a time,⁸² but you have not done so;⁸³

⁷³ Plea transcript, 29.

⁷⁴ Plea transcript, 44.

⁷⁵ Plea transcript, 42.

⁷⁶ Plea transcript, 42. Ms Hosking indicated that staff shortages since Covid have contributed to lockdowns and other restrictions on prisoners in the Gordon Unit. She expects staff numbers to reach satisfactory levels again by late 2025 or early 2026. Ms Hosking also stated that your placement at the prison will not turn on staff numbers but risk assessment: plea transcript, 50.

⁷⁷ Plea transcript, 42.

⁷⁸ Plea transcript, 35.

⁷⁹ Plea transcript, 37.

⁸⁰ See Hosking Affidavit at [15].

⁸¹ Plea transcript, 45.

⁸² Plea transcript, 46.

⁸³ Hosking Affidavit, [25]. See also plea transcript, 46. As mentioned, one difficulty with you seeking permission to communicate with another prisoner in the unit, according to your counsel, is that you are not made aware of who are the other occupants of the Gordon Unit.

- In order to attend any other part of the prison – for example, the visitors centre or the library – you are driven there, escorted by two correction officers;
- Whilst, theoretically, prisoners in the Gordon Unit are able to access the prison library twice per week (for 20 minutes at a time), you have not been able to do so because of staff shortages and a rule that you may not access the library if another is doing so. Consequently, you have only been able to access the library a handful of times during your time in the Gordon Unit;⁸⁴
- United Nations Guidelines known as the Bangkok Rules provide that a prisoner should not be in ‘separation’ for more than 15 days at a time, but you have now been in separation continuously for 15 months;⁸⁵
- There are two prisoners in the Gordon Unit who have been there in excess of three years;⁸⁶ and
- Whilst the primary principle in the placement of prisoners is to manage and place them in the least restrictive environment necessary to ensure the safety and security of the individual prisoner and other prisoners,⁸⁷ the least restrictive environment can be very restrictive.⁸⁸

Likely future conditions of imprisonment

93 As for your future conditions of imprisonment, whilst your placement in the Gordon Unit is reviewed monthly,⁸⁹ Ms Hosking was unable to say whether you would ever be moved from the Gordon Unit.⁹⁰

94 I infer that, given the unprecedented media coverage of your case, and the books, documentaries and TV series about you which are all in the pipeline, you are likely to remain a notorious prisoner for many years to come, and, as such, remain at significant risk from other prisoners.

SENTENCING LAW

95 I turn then to a number of relevant sentencing principles and rules.

⁸⁴ Plea transcript, 48–49.

⁸⁵ Plea transcript, 40.

⁸⁶ Plea transcript, 44.

⁸⁷ Hosking Affidavit, [6].

⁸⁸ Plea transcript, 43.

⁸⁹ Plea transcript, 38.

⁹⁰ Plea transcript, 51.

Purposes of sentencing

96 Section 5 of the *Sentencing Act 1991* (Vic) declares that the only purposes for which sentences may be imposed are:

- Just punishment;
- Specific and general deterrence;
- Rehabilitation;
- Denunciation; and
- Protection of the community.

97 I have had regard to all of these sentencing purposes in formulating my sentences but rehabilitation has taken a backseat because of the gravity of your offending.

98 Other provisions of the *Sentencing Act 1991* (Vic) that are of particular relevance to your case are as follows.⁹¹

Serious violent offender

99 Under ss 6A to 6F, you fall to be sentenced as a serious violent offender in respect of the three murders, meaning that the protection of the community is the principal purpose for which the sentences on those counts must be imposed. Under s 6F, your status as a serious violent offender must be entered in the court records.

100 Section 11(1) provides, relevantly, that if a court sentences an offender to be imprisoned for the term of her natural life the court must, as part of the sentence, fix a period during which the offender is not eligible to be released on parole unless it considers that the nature of the offence makes the fixing of such a period inappropriate.

⁹¹ For the avoidance of doubt, these are not the only provisions of the *Sentencing Act 1991* (Vic) to which I have had regard. I also note that a sentencer is obliged to have regard to current sentencing practices by s 5(2)(b) of the *Sentencing Act 1991* (Vic). But where a sentencer is dealing with a standard sentence offence – relevantly, murder committed on or after 20 March 2017 – the sentencer must not have regard to current sentencing practices for sentences previously imposed where the standard sentencing provisions did not apply: s 5B(2)(b) of the *Sentencing Act 1991* (Vic). I accept the prosecution's written submission that '[a]pplying that criterion, there are no post-standard sentence cases that are comparable to the present case. In any event, given the highly unusual circumstances and extreme seriousness of the offending in this case, it is submitted that current sentencing practices would not provide much if any meaningful guidance for the sentence task.'

101 Section 11A(4)(a) provides that where an offender is sentenced to life imprisonment, the sentencer must fix a non-parole period of at least 30 years unless it is not in the interests of justice to do so.

Harsher than usual conditions of imprisonment

102 Is it inappropriate to fix a non-parole period? Would fixing a non-parole period be contrary to the interests of justice? As mentioned above, this is the main dispute that I have to determine.

103 Sentencing case law establishes that, as a general rule, harsher than normal conditions of imprisonment will warrant mitigation of penalty.⁹² There is nothing about your conduct whilst in custody which might cast doubt on the application of that general rule: as Ms Hosking indicated, you are in a management unit to protect you from other prisoners, not vice versa. Nor do you have any relevant criminal history.

104 In their written submissions,⁹³ the prosecution conceded that your conditions of imprisonment are more burdensome than for a mainstream prisoner and that they are likely to remain so for the foreseeable future. The prosecution submitted that this is a '*relevant consideration for sentence*.' In oral submissions, the prosecution conceded that this consideration was not just relevant but '*important*'⁹⁴ and '*weighty*',⁹⁵ whilst still pressing for life imprisonment with no possibility of parole.

105 You have effectively been held in continuous solitary confinement for the last 15 months and, at the very least, there is a substantial chance that, for your protection,

⁹² See, for example, *Yat v The King* [2024] VSCA 93 and *The Queen v Males* [2007] VSCA 302. In *Yat*, the Court of Appeal held that it was a significant mitigating consideration that a young offender had been held in a management unit for over three years during which he was confined alone to his cell for 22–23 hours every day. His time out of his cell 'involved a period for exercise in a small caged area around 12 square metres in size.' I note that Yat's small caged exercise area was approximately three times the size of your exercise yard.

⁹³ Prosecution written submissions, [56].

⁹⁴ Plea transcript, 82–83.

⁹⁵ Plea transcript, 84.

you will continue to be held in solitary confinement for years to come. The Court of Appeal in *Yat v The King* referred without criticism to the observation that ‘*the adverse health effects of solitary confinement are well established.*’⁹⁶ I note too that Ms Hosking stated at the plea hearing that ‘*being separated has negative outcomes for people ... we're very aware of that.*’⁹⁷

106 The harsh prison conditions that you have experienced already and the likely prospect of solitary confinement for the foreseeable future are important and weighty considerations which should count for something in the sentencing exercise. In my view, the only scope for making them count is by the fixing of a non-parole period.

107 In opposing the imposition of a non-parole period, the prosecution relied on *The Queen v Coulston*⁹⁸ where the offender was sentenced to life imprisonment without a non-parole period for the savage murders of three people. But that case makes clear that “*where there is a substantial factor pointing towards clemency*”⁹⁹ (as I consider your present and likely future conditions of imprisonment to be) the fixing of a non-parole period may be appropriate, even for an offender who has committed multiple murders.

108 Fixing a non-parole period is not to undervalue the horrendous nature of your offending. Your total effective sentence will be life imprisonment and the period during which you will be ineligible for parole will be a very substantial one.¹⁰⁰

SENTENCES

109 Please stand.

⁹⁶ *Yat v The King* [2024] VSCA 93, [81].

⁹⁷ Plea transcript, 40.

⁹⁸ *The Queen v Coulston* (1997) 2 VR 446.

⁹⁹ *Ibid*, 463.

¹⁰⁰ I note too that parole is not automatic.

- 110 For the attempted murder of Ian Wilkinson, I sentence you to 25 years' imprisonment.
- 111 For the murder of Heather Wilkinson, I sentence you to life imprisonment.¹⁰¹
- 112 For the murder of Gail Patterson, I sentence you to life imprisonment.¹⁰²
- 113 For the murder of Don Patterson, I sentence you to life imprisonment.¹⁰³
- 114 All sentences are to be served concurrently. The total effective sentence is life imprisonment and I fix a non-parole period of 33 years.
- 115 I declare that you have served 676 days by way of pre-sentence detention.
- 116 Finally, and by consent, I make the Disposal Order sought by the prosecution.

¹⁰¹ In compliance with s5B(4) of the *Sentencing Act 1991* (Vic), I declare that I have had regard to the standard sentence for murder and am satisfied for, the reasons given above, that life imprisonment is the appropriate sentence for the murder of Heather Wilkinson.

¹⁰² In compliance with s5B(4) of the *Sentencing Act 1991* (Vic), I declare that I have had regard to the standard sentence for murder and am satisfied for, the reasons given above, that life imprisonment is the appropriate sentence for the murder of Gail Patterson.

¹⁰³ In compliance with s5B(4) of the *Sentencing Act 1991* (Vic), I declare that I have had regard to the standard sentence for murder and am satisfied for, the reasons given above, that life imprisonment is the appropriate sentence for the murder of Don Patterson.