
SOUTH AFRICA / JUDGMENT

Brouw v S (K/S 4/2016) [2022] ZANCHC 65 (28 October 2022)

[2022] ZANCHC 65

COURT

Northern Cape High Court, Kimberley

BEFORE

Williams

CASE / FILE NUMBER

K/S 4/2016

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IN THE HIGH COURT OF SOUTH AFRICA

(NORTHERN CAPE DIVISION, KIMBERLEY)

CASE NO.: K/S 4/2016

Date delivered: 28-10-2022

Reportable: Yes/No

Circulate to Judges: Yes/No

Circulate to Magistrates: Yes/No

In the matter between:

Gert Brouw

Applicant

And

The State

Respondent

CORAM: WILLIAMS J:

J U D G M E N T

WILLIAMS J:

1. This is an application for leave to appeal against the sentence of life imprisonment which I imposed on the applicant after he was convicted in the Circuit Court held at Upington on a charge of murder.
2. The applicant was sentenced on 11 August 2016 and his application was only filed on 29 August 2022, thus almost 6 years late. In his application for condonation filed simultaneously with his application for leave to appeal, he states that he had been transferred to Mangaung Correctional Centre after he was sentenced and could not make contact with his legal representative. He eventually applied afresh for legal aid, which was afforded him during 2019. However further delays were occasioned by the total lockdown of prisons as a result of COVID 19 and difficulties in obtaining the transcribed judgments on the merits and sentence.
3. Mr Rosenberg for the respondent conceded the difficulties faced by the applicant and therefore condonation is hereby granted.
4. As far as the sentence imposed is concerned I took into account that the applicant was 27 years old, a first offender and under the influence of alcohol when the offence was committed. However the aggravating circumstances far outweigh the mitigating circumstances mentioned above.
5. The evidence had shown that the applicant had with the direct intent and premeditation, stabbed the deceased 37 times. She was 24 weeks pregnant with the applicant's child and 4 of these stab wounds were to the abdomen of the deceased. One of these stab wounds penetrated into the uterus and through the upper right leg and abdomen of the unborn child, resulting in the death of the unborn child as well.
6. In court the applicant presented a guilty plea which watered down his actions and painted a picture of provocation. The evidence presented by the State after rejecting his guilty plea painted a different picture. I found as a result that the applicant showed no remorse for his deeds. The attack on the deceased was sustained and he resisted being pulled away from the deceased. He showed such utter contempt and disrespect for the deceased that he in fact turned back and kicked the deceased while she was dying.
7. In the circumstances I was of the view that there were no substantial and compelling circumstances which justified a deviation from the prescribed life imprisonment. I am further of the view that a court of appeal would not come to a different conclusion.

In the circumstances the the application for leave to appeal is dismissed.

CC WILLIAMS

JUDGE

For Applicant: Mr

P Fourie

Legal Aid South Africa

For Respondent: Adv.

J Rosenberg

Office of the DPP

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