

SOUTH AFRICA / JUDGMENT

S v B.C.W and Another (Sentence) (CC74/2021) [2025] ZAWCHC 255 (19 June 2025) [2025] ZAWCHC 255

COURT

Western Cape High Court, Cape Town

BEFORE

Da Silva Salie

CASE / FILE NUMBER

CC74/2021

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IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

Case number: CC74/2021

In the matter between:

THE STATE

versus

B[...] C[...] W[...]

Accused 1

REAGAN DAVIDS

Accused 2

Coram

:

Da Silva Salie, J

Written Judgment delivered

:

19 June 2025

Counsel for the State

:

Adv. Evadne Kortje

Counsel for Accused 1

:

Adv. Arnold Nel

Counsel for Accused 2

:

Adv Omar Arend

JUDGMENT DELIVERED ON THURSDAY, 19 JUNE 2025

DA SILVA SALIE, J

- [1] Mr Reagan Davids, presently 35 years old, stands before this Court for the imposition of appropriate sentences in respect of the 5 counts of which he had been convicted, that being: housebreaking with intent to commit murder, robbery with aggravating circumstances, attempted murder (x2), and murder.
- [2] These crimes were committed in the early hours of 31 January 2020 in concert with accused 1, the son in law of the Mr and Mrs D[...] and husband of their daughter, Ms. I[...] D[...] (Ms. I[...]) as well as another unknown male person. Mr B[...] W[...], the son in law of the D[...] couple and husband of Ms. I[...] passed away during this trial. He did not dispute that he had hired hitmen to invade the home on the day in question. He confirmed that he was the driver of his bakkie captured on the CCTV footage in and around the area where he dropped off and picked up the two assailants in the early hours of the morning around the residence where the fateful events took place. They acted in a premeditated and coordinated manner, invading the home and targeting the elderly D[...] couple.
- [3] The facts reveal that the accused, Mr Davids, and the second intruder entered the home during the early morning Muslim sunrise prayer, fully aware the couple would be engaged in worship with their sliding door routinely opened. The fatal attack on Mr. D[...] (aged 75) resulted in nine deep perforating stab wounds to his upper body. Mrs D[...], aged 70, was violently assaulted with a firearm whilst praying, suffering various injuries, including a fractured sternum

and head injuries. Their daughter, Ms. I[...], narrowly escaped death by slamming the sliding door to the main house and stopping the accused from murdering her. Behind her were her minor children coming from their bedroom in frantic search for their mother.

[4] These offences are marked by exceptional brutality, targeting vulnerable elderly victims in a sanctified setting. The level of violence, disregard for human life, and the psychological terror inflicted upon the surviving victims and so too the surrounding community, warrant the imposition of a long period of direct imprisonment. In addressing me on whether an appropriate sentence ought to deviate from the prescribed period of life imprisonment or sentencing the accused to life sentences in respect of the murder of Mr. D[...] and the attempted murder of his wife, Mrs. D[...], submissions were made to Court by both counsel for the accused and the State and ventilated in full during the pre-sentencing proceedings. I proceed to deal with those arguments succinctly hereafter and discuss the submissions so made.

Submissions in mitigation of sentence:

[5] Counsel for Mr. Davids pointed out that the accused had experienced childhood trauma, having been raised without a father, exposed to a violent and abusing stepfather and at 13 was in a motor vehicle accident where all his co-passengers and friends had been fatally injured. These combined traumas were argued to have had an indelible effect on his life. It was also argued that although his mother was a strong and stable figure in his life, she died when he was still a young adult leaving him to take care of his younger brother, now an adult.

[6] It was a prominent feature of counsel's submissions that the accused would be able to rehabilitate himself in prison and when he seeks parole, the family of the deceased and affected victims would have an opportunity to make input. In my view, the submission by counsel as to what could happen at a parole hearing in the distant future is somewhat problematic, particularly as it was accepted for the accused that a long period of direct imprisonment is clearly justified. The

emphasis that the accused could be rehabilitated by the time he applies for parole and that the deceased family could object to his release on parole is so premature and based on a hypothesis, that not much can be made of it in my present consideration of an appropriate sentence.

[7] In any event, whilst as a sentencing Court, I must be mindful of the objectives of sentencing, that being, deterrence, prevention, retribution and rehabilitation, the rehabilitation objective of the accused recedes into the background when dealing with such serious offences as it includes offences which attracts a prescribed sentence of life.

[8] Notably, the accused had not at any stage during the pre-sentencing proceedings or during his interview for the pre-sentencing report compiled by Ms. Frans expressed remorse or contrition for his actions. He continues to profess his innocence. Whilst the absence of contrition does not amount to an aggravating factor and in respect of which this Court could

impose a harsher sentence, it is so though that had the accused expressed true remorse for his unlawful actions and the suffering caused, it would have been considered as a factor in mitigation. Mr. Davids had, however, not availed himself of that

opportunity, refusing accountability for these unlawful actions, rendering it hard to even predicate or consider his reformation

prospects.

- [9] During the trial he testified that he has no children. However, in his interview with Ms Frans he claims to have a minor child who requires his care and financial support in her upbringing. It is upon the tenacity of Ms Frans to provide this Court with a duly considered and reliable pre-sentencing report, that she followed up with her interview with the accused with a thorough search for the minor child and her biological mother as claimed by the accused. She contacted the schools in the area, attended at the address provided by the accused as well as the workplace of the alleged biological mother.

She could not find from her investigations that such a minor child and mother exists.

- [10] Counsel for the accused did not use the opportunity during argument or when he called Ms Frans as a witness to challenge or correct her findings in her report on this issue. In the premise, I accept (without anything from the accused to gainsay her report) that he was lying in that regard to compel this Court to consider a reduced sentence.
- [11] The Court also noted during the pre-sentencing proceedings and with the members of the deceased in full view expressing their distress caused by the violent murder and loss of their father and husband, the accused continuously yawned loudly. I enquired from him if he could follow the proceedings given his repeated loud yawnings and as to his state of health. He replied to the enquiry that he was fine and all in order. The conduct of the accused during the incident and his manner during these proceedings is indicative that the accused has no respect for human life, dignity and conscience.

Submissions in aggravation of sentence:

- [12] In aggravation of sentence, counsel for the State argued that the murder was committed with direct intent, excessive force, and in the context of a housebreaking and robbery with the conspiracy to commit murder at the behest of the son-in-law as a “contract killing”. The proceeds of the crime, some R1000, were used to acquire a pair of sneakers for the accused, Mr Davids.
- [13] The attempted murder of Mrs D[...] involved sadistic violence against a vulnerable and elderly woman at peace during a prayer in the bedroom of her home.
- [14] The daughter, Ms. I[...] D[...] narrowly escaped death, whilst her minor children would no doubt be forever plagued by the sounds as their grandfather was being slain to death in the adjacent room, their grandmother badly injured and their own mother fighting to protect them. They saw their grandmother engaging with the attending police at their front door,

visibly shocked, injured and bleeding. Both children got sick as the events unfolded, hiding in the bedroom during the gruesome attack whilst their mother sought help by cellphone not only from family members and police but also their own father, who was in fact the person who hired the two intruders.

Discussion:

[15] The proverbial saying that fact is stranger than fiction is a startling and disturbing feature of the events which took place in the early morning hours of Friday, 31 January 2020 and at the home of the victims. This Court is mindful of the horrors which would have gone through the young minds of the two minor children and the gruesome events which will forever be etched in their memories.

[16] The plot to murder the parents in law of (the now deceased) accused 1 and the attempted murder of Ms I[...] is yet another act of domestic violence and gender-based crime. South Africa has been recorded as having one of the highest rates of domestic violence in the world. The convictions in this matter touch on so many disturbing and prevailing features of crime in our society: domestic violence, gender-based violence and murders, exposure of children to violence and harm, violence and murder of elderly people to mention a few.

[17] The victims' family, particularly Mrs. D[...] and Ms. I[...], continue to suffer acute trauma caused by this violent home invasion and death. The family and the community have lost a true gentleman, a carer and a man who uplifted his community and those who needed help. The daughter of the deceased and Mrs. D[...], Ms. W[...] A[...], testified as to the kind nature of her father and the pillar of strength he was to his family and community. A man of faith, strong morals and devoted to the care of his family and grandchildren. He was ripped away in a most brutal and cruel manner. Mrs. D[...] was violently beaten, aged 70 and attacked from behind in her bedroom whilst performing prayers. She was defenceless. As she fell to the ground she hailed to God for help and with her prayer scarf falling over her face, she pretended to be dead. Notwithstanding being severely injured, she lay quietly until the intruders left. She was hospitalized for her injuries, waking up to a grieving family and the realization that her last moments of her husband and best friend of 50 years captured him

lying dead in a pool of blood. Given her injuries and hospitalization, she was unable to attend her husband's burial

according to Islamic Rites later that day.

[18] The accused has a prior criminal record including robbery, assault, and drug trafficking. He stands before this Court not as a first offender and has a clear propensity to commit crimes of violence. I need to add that the period of 5 years during which the accused had been awaiting trial is not a factor which on its own in these circumstances be considered as a basis to justify departure of the prescribed sentences. To do so would amount to departing for a flimsy reason and amount to an unjust sentence. On the totality of the evidence before me, I cannot find any factors before me which can be considered substantial and compelling

which would otherwise have warranted a departure of the prescribed sentences. (See *S v Malgas* 2001 SACR (1) 469 (SCA))

Legal Framework:

- [19] Section 51(1) of the Criminal Law Amendment Act 105 of 1997 prescribes life imprisonment for the murder of Mr. D[...].
- [20] The Court is also empowered to impose life imprisonment for attempted murder under its inherent jurisdiction. Given the gratuitous nature of the violence with which Mrs. D[...] was attacked, moreover that she is vulnerable and an elder as defined in the Older Persons Act, she was also in the sacred space of her own home, defenceless and practicing her religion, the imposition of life imprisonment is justified and appropriate.
- [21] In the oft quoted decision *S v Zinn* 1969(2) SA 537 (A), the Court established the principle that while considering an appropriate sentence/s three key aspects must be considered: the personal circumstances of the accused, the nature and seriousness of the crime/s and the interests of society. Each consideration must be given appropriate weight given the totality of the matter in concluding a just and equitable sentence so that the punishment fits both the crime and the criminal.
- [22] For the reasons set out above, and taking into account all the relevant facts which have been placed before me in determining an appropriate and just punishment, I sentence Mr. Reagan Davids, the accused before this Court, as follows:

Sentence:

- [i] Count 1 – Housebreaking with intent to commit murder: 15 years’ imprisonment
- [ii] Count 2 – Robbery with aggravating circumstances: 15 years’ imprisonment
- [iii] Count 3 – Attempted murder of Mrs D[...]: Life imprisonment
- [iv] Count 4 – Attempted murder of I[...] D[...]: 10 years’ imprisonment
- [v] Count 5 – Murder of Mr D[...]: Life imprisonment
- [vi] Sentences on Counts 1, 2, and 4 will run concurrently. By operation of law, ex lege, the sentences will run concurrently with the two life sentences. The effective sentence is thus:

Two life sentences plus 15 years imprisonment

- [23] The accused is declared unfit to possess a firearm in terms of section 103 (1) of the Firearms Control Act 60 of 2000.

DA SILVA SALIE, J

JUDGE OF THE HIGH COURT

WESTERN CAPE

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