

SOUTH AFRICA / JUDGMENT

S v Cramford (Sentence) (CC 69/2024) [2025] ZAECMKHC 13 (7 February 2025)

[2025] ZAECMKHC 13

COURT

Eastern Cape High Court, Makhanda

BEFORE

Govindjee

CASE / FILE NUMBER

CC 69/2024

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IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION, MAKHANDA)

NOT REPORTABLE

Case no: CC69/2024

In the matter between

THE STATE

and

NEIL CRAMFORD

ACCUSED

SENTENCE

GOVINDJEE, J

Background

- [1] Mr Cramford pleaded guilty and was convicted of two counts of rape in contravention of section 3, read with various sections of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.[1]
- [2] The Director of Public Prosecutions relied on s 51(1), read with Part I of Schedule 2 of the Criminal Law Amendment Act, 1997[2] ('the Minimum Sentences Act') in seeking life imprisonment for the rape convictions in respect of both, on the basis that the incidents involved a victim under the age of 16.

[3] Section 276 of the Criminal Procedure Act, 1977[3] provides for the sentences which courts can impose. The imposition of sentence is pre-eminently a matter for the discretion of the trial court, which is free to impose whatever sentence it deems appropriate provided it exercises its discretion judicially and properly. The general purpose of imposing a sentence is fourfold: retributive, preventative, rehabilitative (reformatory) and to act as a general deterrent.[4]

[4] This court has often had occasion to remark that a sentencing court must attempt to achieve a balance in its sentence, and not approach its task in a spirit of anger, but in one of equity. While the retributive aspect tends to dominate, courts are enjoined to temper

the punishment with a measure of mercy.[5] Hastiness, the striving after severity and misplaced pity are out of place, as are so-called exemplary sentences designed to use the crime to set an example for others in society.[6] Still, more serious cases clearly require severity, with a certain moderation of generosity, for the appropriate balance to be struck. The object of sentencing is not to satisfy public opinion, but to serve the public interest.[7]

[5] In the final analysis, the well-known triad of factors to be considered consists of the crime, the offender and the interests of society,[8] and these factors must be applied, in accordance with *S v Malgas*,[9] to consider whether substantial and compelling circumstances exist to deviate from the prescribed minimum sentences.[10]

Nature of the crimes and surrounding circumstances

[6] Mr Cramford and the complainant resided in the same area and were acquainted. During 2023, he called the complainant and asked her to clean his house. He locked the door once she had entered, took her to his room and undressed her before undressing himself. Despite the complainant's attempts to push him away, Mr Cramford raped her by inserting his penis into her vagina. After he had finished doing so, the accused instructed the complainant to dress and threatened to beat her if she reported what had occurred.

[7] Later that week, Mr Cramford again raped the complainant, in an almost identical manner. She was again threatened with a beating if she reported the incident. She was 10 years of age at the time.

[8] On 23 July 2024, approximately 15 months after the previous incidents, Mr Cramford came across the complainant, who was now 12 years of age, and asked her to accompany him. He undressed her near the swimming pool in Michausdal before raping her and repeating his previous threats.

[9] On this occasion Mr Cramford's conduct came to light and he was arrested the same day. A report on a medico-legal examination by a health care practitioner confirms that the child's hymen was broken and that semen was flowing out of her vaginal entrance. Redness was observed around the vulva / perianal region.

- [10] As part of consideration of an appropriate sentence, it is also important to consider the effect of the crimes on the victim, particularly in cases of gender-based violence.[11] A psychological assessment report, dated 23 January 2025, prepared by Ms Karen Andrews, and accepted into evidence, confirms that the complainant's behaviour was characterised by 'restricted behavioural functioning', meaning that she did not have a normal 'aliveness' of affect and mood. According to the clinical psychologist, her thought content and thought process were 'bland'. The emotional restriction observed was assessed as consistent with the presence of emotional trauma.
- [11] The complainant reported to the clinician that she suffered intrusive memories of the rapes. These 'flashbacks' happened whenever she tried to concentrate her mind and she was unable to prevent or inhibit these intrusive memories. This resulted in abnormal behaviour in the classroom, including hostility and episodes where the child isolated herself from her peers.
- [12] The clinical psychologist report linked the complainant's repeated sexual violation by an adult person known to the family to the concept of Sexual Abuse Accommodation Syndrome. Reporting the rape, after the third incident, was 'a moment of significant traumatic upheaval for a child aged 12'. To quote Ms Andrews:

'She felt violated and abused and 'guilty' at the same time. A child [her] age does not have the mental and emotional maturity to process these complex and conflicting emotions. This has a negative impact on normal personality and emotional functioning that would otherwise take place. Instead, personality and emotional functioning and growth became "restricted". This was observed in the Mental State Examination. Such "restriction" inhibits normal personality and emotional growth.'

- [13] The consequence is that the complainant will require further counselling / mental health services during adolescence and into adulthood.

According to the expert report, Mr Cramford's criminality and the sexual abuse perpetrated is 'highly associated with future personality problems, psychosexual developmental issues, and addiction issues in adulthood'.[12]

- [14] The complainant conveyed her sentiments towards Mr Cramford, during her interactions with Ms Andrews, as follows:

'Jy het my kinderdae weggevat (You have taken my childhood away). Hoekom het jy dit aan my gedoen? (Why did you do this to me?). Ek voel nie lekker nie. (I don't feel right). Jy het my baie seer gemaak. (You have hurt me very much). Dit is reg dat jy moet gevonniss word. (It is right that you must get punished).'

The accused's circumstances and interests

- [15] Mr Cramford testified in mitigation of sentence. He is a 46-year-old widower. Two of his three sons are adults. The youngest is 16 years of age and lives with his sister in Cradock. Mr Cramford was employed by the Department of Correctional Services for 23 years, holding the position of warrant officer prior to his arrest. He has no pending matters but admitted that he was convicted of assault with intent to do grievous bodily harm more than 10 years ago.[13]
- [16] Mr Cramford explained that he had pleaded guilty as a sign of remorse, and mindful that what he had done was wrong. He had decided to plead guilty on the day of his arrest and made a statement to that effect, immediately acknowledging that he had committed the offences. He knew the complainant's father well, having played rugby against him, and accepted that he had broken the trust placed in him by the complainant and her family. He conveyed an apology to them and asked for their forgiveness.
- [17] When asked what had driven him to commit the first offence, Mr Cramford replied that he could attribute his conduct to boredom. He testified that he realised that the offences were serious. He knew that raping the complainant on the first occasion was wrong but could not explain why he had done so again within a period of a week. He accepted that the child had tried to push him away on the first occasion and testified that he could not control himself. He also appeared to accept that the first two incidents were not on the spur of the moment: he had called the child on both occasions to clean his house, before locking the door and raping her each time. To make matters worse, he had then threatened her to remain silent, although he attempted to deny this aspect during his testimony.
- [18] As for the third incident, Mr Cramford suggested that he had negotiated to have sex with the child when he met her at a shebeen. This had not been his plan for the day, and she had simply been in the wrong place at the wrong time. He knew that his conduct was wrong. When asked why he had not reconsidered in between his discussion with the complainant and proceeding to the chosen location, he again explained that he had acted out of boredom. Such occurrences, he explained, happened unexpectedly and he regretted what had occurred. He also understood that the child and her mother would never forgive him or want to see him, and that the complainant would always carry the scar of his treachery.

The interests of society

- [19] Incidents of rape always evoke outrage and revulsion from the citizenry.[14] Courts have repeatedly reflected on the horrific nature of the offence of rape, given that it constitutes a humiliating, degrading

and brutal invasion of the privacy, dignity, and person of the victim.[15] In *S v Vilakazi*,[16] the Supreme Court of Appeal confirmed that rape is a repulsive crime. The Constitutional Court has also explained the link between rape, sexual entitlement, male power and control over women as part of the social construction of masculinity in South Africa.[17] Society expects that the scourge of gender-based violence must be addressed and must cease. In addition, children's rights are constitutionally protected, and rape of a child, let alone repeated rape, is by its nature one of the

worst kinds of offences imaginable.

[20] Society's opprobrium has translated into the Minimum Sentences Act, which by way of a prescribed, albeit discretionary minimum sentence regime, has drastically impacted upon the exercise of a court's discretion in imposing a sentence.[18] As the SCA has clarified, it is no longer business as usual. A court does not have a clean state to determine whatever sentence it deems fit. It must sentence fully conscious of the fact that the legislature has specified life imprisonment as the sentence which should ordinarily be imposed for this type of crime.[19] As the court held in *S v Ncheche*: [20]

'A woman's body is sacrosanct and anyone who violates it does so at his peril and our Legislature, and the community at large,

correctly expects of our courts to punish rapists severely.'

Count 1 analysis: is life imprisonment a proportionate punishment?

[21] A sentence of life imprisonment is the ultimate punishment and requires extremely careful consideration prior to imposition. The court has received sufficient evidence to undertake this difficult enquiry.[21] Mr Charles, representing Mr Cramford, argued that his personal circumstances, considered cumulatively, justified a departure from the prescribed

minimum sentences. Indeed, none of the considerations taken in isolation may be classified as 'substantial and compelling'

in my view.[22] The question remains whether the imposition of the minimum sentences are proportionate to the particular offences.[23] Courts are not vehicles for injustice and disproportionate sentences are not to be imposed.[24] In order to justify the deprivation of Mr Cramford's freedom for life, it must be shown that it is reasonably necessary to curb the offence and punish the offender, so that the length of punishment is proportionate to the offence.[25]

[22] It is important to consider the various circumstances cumulatively, and with specific focus on Mr Cramford's plea of guilty, expression of remorse, and treatment as a first offender. I have also considered the time spent in custody and his years spent in the public service, performing the work of rehabilitation and safekeeping of prison inmates. I consider each of these dimensions in further detail, below, before highlighting aspects of the other factors relevant to the enquiry.

[23] As for the admission of guilt and plea of guilty, it must be accepted that this is only a neutral factor when an accused person faces an 'open and shut' case, as in the present circumstances.[26] It is a factor in favour of Mr Cramford that his plea of guilty at least negated the need for the complainant to have to relive her ordeal by testifying and being subjected to cross-examination in court.

[24] The suggestion that Mr Cramford is genuinely remorseful requires more detailed consideration. As Ponnar JA held in *S v Matyityi*: [27]

‘There is, moreover, a chasm between regret and remorse. Many accused persons might well regret their conduct, but that does not without more translate to genuine remorse. Remorse is a gnawing pain of conscience for the plight of another. Thus genuine contrition can only come from an appreciation and acknowledgement of the extent of one’s error. Whether the offender is sincerely remorseful, and not simply feeling sorry for himself or herself at having been caught, is a factual question. It is to the surrounding actions of the accused, rather than what he says in court, that one should rather look. In order for the remorse to be a valid consideration,

the penitence must be sincere and the accused must take the court fully into his or her confidence. Until and unless that happens, the genuineness of the contrition alleged to exist cannot be determined. After all, before a court can find that an accused person is genuinely remorseful, it needs to have a proper appreciation of, *inter alia*: what motivated the accused to commit the deed; what has since provoked his or her change of heart; and whether he or she does indeed have a true appreciation of the consequences of those actions...’

[25] Mr Cramford’s explanation of what transpired was curt and bereft of detail, particularly in respect of the first two incidents. While he apologised and asked the complainant and her family for forgiveness, he failed to take the court fully into his confidence as to his state of mind at the time. His nonchalant explanation that he had violated the complainant, on the first occasion, out of boredom raises serious questions as to the genuineness of his contrition. There was also no correlation between the expressions of remorse and his conduct within a week after the first incident, Mr Cramford being unable to explain the repeated *modus operandi* leading to the complainant being raped for a second time. Given that this court is obliged to look at the surrounding actions of the accused, rather than only at what he says in court, to determine genuine remorse, this is particularly problematic for Mr Cramford. In addition, how he had reconciled his own behaviour towards the complainant and emerged repentant and remorseful was left unexplained. Mr Cramford also failed to demonstrate a true appreciation of the consequences of his actions, particularly in respect of the victim herself. His belated attempt during testimony to deny his threats of physical violence towards the complainant on both occasions, in the face of his plea explanation to the contrary, reflects negatively on his expression of remorse. Taken together, I am unable to conclude that the testimony in mitigation constitutes genuine remorse, rather than mere regret at the thought of his own plight. This impacts upon the prospects for rehabilitation.

[26] It stands in Mr Cramford’s favour that he is a first offender. The time spent in custody is not unusual or particularly lengthy and adds little to the analysis.[28] It is apparent from his occupation and rank that he cannot be said to be a marginalised individual and there is no suggestion that his socio-economic or family circumstances warrant special consideration. The stability suggested by his years in service is offset by the nature of his work and society’s expectation that persons in his position would not themselves cause such repeated harm to vulnerable children.

[27] Little more needs to be said about the nature of the crime. The aggravating features of the matter are undeniably severe. In *S v MM, Laing J*, reflecting on similar circumstances, described the offences committed as ‘nothing short of horrendous’, given that the accused had abused the complainant’s trust, taken complete advantage of her vulnerability and used her to meet his own needs.[29] This includes the fact that the complainant, a vulnerable child aged 10, was raped twice within the space of a week by a person known to her as a trusted friend of the family. To make matters worse, the behaviour was, at least to some extent, calculated. Mr Cramford identified the child, who was well-known to him as the daughter of a friend and lived near him. He lured her under the pretence that he required her to clean his home. He then locked the door behind her to prevent her escape and proceeded to rape her. The violence associated with the violation of the complainant’s dignity, bodily integrity and rights as a child, through rape, was compounded by both the manner in which he overcame her attempt to push him away and by the threat of further violence in the event that she gave expression to her ordeal, which I accept on the evidence is what occurred. And then, within a week, he did precisely the same again, taking advantage of her vulnerability as a child to repeat the pain and suffering already

inflicted for his own benefit, and with no consideration of the impact of his conduct on the victim and her family.[30]

[28] The legislature has directed that, when imposing a sentence in respect of rape, an apparent lack of physical injury to a complainant cannot constitute substantial and compelling circumstances justifying the imposition of a lesser sentence.[31] Although there is no medical report to explain the physical impact of those actions, the psychological implications have been detailed. The course of the complainant’s life has been altered by Mr Cramford’s actions, and the impact will continue to be felt by her and her family in the years to come. Every child is meant to enjoy the constitutional rights to be protected from maltreatment,

abuse and degradation, to freedom and security, which includes the right to be free from all forms of violence and to have their privacy and dignity respected and protected.[32] The reasons for the high premium placed on the rights of children by society is apparent from the significant adverse effects already

experienced by the complainant, and by the reality that her future will be marred by her experiences at the hands of Mr Cramford.

Count 2

[29] There is little to add in respect of the circumstances in count 2. If anything, and as is apparent from the photo album accepted into evidence, the crime was even more brazen given its public location and proximity to nearby homes. Mr Cramford's failure to accept responsibility for his conduct was apparent from his evidence regarding what had transpired. Contrary to his plea explanation, he now attempted to place some distance between his conduct and the complainant's age and inability to consent to sexual

intercourse, now alluding to her conduct to explain what had transpired. The suggestion that the complainant had given him some

sort of ultimatum to meet her at the location for the rape that followed must be rejected, bearing in mind that the complainant was now still only 12 years of age. This attempt to place blame on the complainant again reflects an absence of any genuine remorse for his conduct or proper reflection as to its impact. Coupled with this, what is apparent is that, despite the passage of time, Mr Cramford had continued with life as normal following the first two incidents. When the opportunity arose, he again picked on a vulnerable child whom he had previously forced into submission, raped her again, seemingly, given the medical report, without a condom, this time in a public space, and again followed this by threatening to beat her to ensure that she did not report the incident.[33] That he again suggested that he did so out of boredom beggars belief.

Conclusion

[30] The prescribed minimum sentence may only be departed from if, having regard to all the factors that play a role in determining a just sentence, the court concludes that the imposition of the prescribed minimum would in the particular case constitute an injustice or would be 'disproportionate to the crime, the criminal and the interests of society...'. [34] In *S v Matyityi*, [35] Ponnann JA held that Parliament:

'...has ordained minimum sentences for certain specified offences. Courts are obliged to impose those sentences unless there are truly convincing reasons for departing from them. Courts are not free to subvert the will of the legislature by resort to vague, ill-defined concepts...and ill-founded hypotheses that appear to fit the particular sentencing officer's personal notion of fairness. Predictable outcomes, not outcomes based on the whim of an individual judicial officer, [are] foundational to the rule of law which lies at the heart of our constitutional order'.

[31] That said, I am also cognisant that a finding of an absence of substantial and compelling circumstances will result in the gravest of sentences being passed and that the consequences of this run deep, effectively removing an individual from society.[36] It requires a meticulous weighing of all relevant factors before a decision to impose it can be justified.[37] And, as held in *Vilakazi*, custodial sentences are not merely numbers and familiarity with the sentence of life imprisonment 'must never blunt one to the fact that its consequences are profound'. [38]

[32] Mr Cramford's conduct, in respect of both counts, has been found to fall within the purview of this Act. A court should not lightly, or for 'flimsy reasons' and 'speculative hypotheses favourable to the offender' deviate from the minimum sentence prescribed, or apply their personal notion of fairness.[39] There is no place for 'maudlin sympathy' or aversion to imprisoning first offenders for life as part of the proper

approach.[40] In the final analysis, I am obliged to impose the minimum sentence prescribed by the legislature unless there are truly convincing reasons for departure.[41] Courts will not shirk this responsibility, however agonising it may be to do so, and even though the result will have a tremendous impact on the rest of Mr Cramford's life.[42] In all the circumstances, I must conclude that there is an absence of substantial and compelling reasons or weighty justification for a departure from the prescribed minimum in respect of either of the counts. The few considerations in favour of Mr Cramford, described above, are wholly outweighed by the various factors that, in the circumstances, demand the strictest sanction possible. The ultimate result is that sentences of life imprisonment for the offences in counts 1 and 2 are proportionate and justified, and, as Mr Mtsila argued, the only suitable punishment for what has transpired. I am constrained to agree that a more merciful sentence would be misplaced considering all the circumstances. Given the nature of the offences, various other consequences emanating from legislation follow.[43] These have been included as part of the order to follow.

Order

[33] The following sentence is imposed:

1. The accused, Neil Cramford, is sentenced to life imprisonment in respect of the convictions of rape for both counts 1 (rape of a 10-year-old girl) and 2 (rape of a 12-year-old girl).
2. In terms of section 50(2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, the particulars of the accused, as a convicted sexual offender, must be included in the National Register for Sex Offenders.
3. In terms of section 120(4) of the Children's Act 38 of 2005 and section 41 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, the accused is declared to be unsuitable to work with children, and it is directed that his particulars be entered in Part B of the National Child Protection Register.

A. GOVINDJEE

JUDGE OF THE HIGH COURT

Heard: 3 and 4 February 2025

Delivered: 7 February 2025

Appearances:

Counsel for the State: Adv S Mtsila

Director of Public Prosecutions

Makhanda

046 602 3000

Attorney for Accused: Mr H Charles

Legal Aid of South Africa

046 622 9350

[1] Act 32 of 2007 ('the Act').

[2] Act 105 of 1997 ('the Minimum Sentences Act'). In terms of s 51(3)(a) of the Minimum Sentences Act, a court that is satisfied that substantial and compelling circumstances exist to justify the imposition of a lesser sentence than that prescribed by the Minimum Sentences Act must impose a lesser sentence, entering the relevant circumstances on the record of proceedings. In terms of Part I of Schedule 2, a prescribed minimum sentence of life imprisonment is also triggered when rape is committed by an accused who 'has been convicted by the trial court of two or more offences of rape...'.

[3] Act 51 of 1977 ('the CPA').

[4] S v Rabie 1975 (4) SA 855 (A).

[5] Ibid at 862G-H.

[6] See S v Khulu 1975 (2) SA 518 (N) 521-522.

[7] S v Mhlakhaza and Another

[1997] 2 All SA 185 (A) at 189. Also see S v M (Centre for Child Law as amicus curiae) 2007 (2) SACR 539 (CC).

[8] S v Zinn

[1969] 3 All SA 57 (A) at 540G-H.

[9] S v Malgas 2001

(1) SACR 469 (SCA); 2001 (2) SA 1222; [2001] 3 All SA 220; [2001] ZASCA 30 (Malgas).

[10] See Radebe v The State

[2019] ZAGPPHC 406; [2019] 3 All SA 938 (GP); 2019 (2) SACR 381 (GP) ('Radebe') para 12.

[11] See A Spies 'The judicial relevance and impact of victim impact statements in the sentencing of rape offenders' (2018) SACJ 212 at 231 as cited in S v Dyonase

[2020] ZAWCHC 137 para 21. Also see Radebe above n 10 para 10 and the authorities cited there.

[12] Also see Director of Public Prosecutions, Free State v Mashune

[2018] ZASCA 60 paras 17–18.

[13] Mr Cramford was fined R3000 or, in default of payment, to undergo six months imprisonment half of which was suspended for the period of five years on condition that he was not convicted of another offence committed during the period of suspension. He was declared ‘not unfit to possess a firearm’ in terms of the relevant legislation.

[14] Director of Public Prosecutions Eastern Cape v Coko 2024 (2) SACR 113 (SCA) para 6.

[15] See, for example, Director of Public Prosecutions, KwaZulu-Natal v Ndlovu 2024 (1) SACR 561 (SCA) para 73. Some recent statistics are contained in R Matlala ‘Rape myths and the language of the law: The need for a feminist jurisprudential approach’ Constitutional Court Review

(2024) vol 14, 137–152.

[16] S v Vilakazi 2012

(6) SA 353 (SCA); [2008] 4 All SA 396; [2008] ZASCA 87 2009 (1) SACR 552 (SCA) (Vilakazi) at 555h.

[17] S v Tshabalala and Another 2020

(2) SACR 38 (CC) para 1; Masiya v Director of Public Prosecution, Pretoria and Another (Centre for Applied Legal Studies and Another; Amici Curiae) 2007

(2) SACR 435 (CC); 2007 (8 BCLR 827; [2007] ZACC 9. Also see Matlala above n 15 at 140.

[18] S v September

[2014] ZAECGHC 38 para 8.

[19] Malgas above n 9 paras 7–9.

[20] S v Ncheche [2005] ZAGPHC 21; 2005

(2) SACR 386 (WLD) para 35. S v Chapman

[1997] ZASCA 45; 1997 (2) SACR 3 (SCA) at 5B. In Vilakazi above n 16 para 54, Nugent JA noted that ‘there comes a stage at which the maximum sentence is proportionate to an offence and the fact that the same sentence will be attracted by an even greater horror means only that the law can offer nothing more.’

[21] See s 274 of the CPA. I have specifically considered whether a probation officer’s report might aid the enquiry and determined that this is unnecessary in the circumstances. Also see S v EN 2014

(1) SACR 198 (SCA); [2012] ZASCA 148.

[22] See S v MM 2023 (1) SACR 415 (MM) para 14.

[23] S v Vilakazi above n 16 para 15; S v Dodo 2001 (1) SACR 594 (CC); 2001 (3) SA 382; 2001 (5) BCLR 423; [2001] ZACC 16 paras 37–38.

[24] Vilakazi above n 16 para 18.

[25] S v Dodo above n 23 para 37.

[26] S v Barnard 2004

(1) SACR 191 (SCA) at 197.

[27] S v Matyityi 2011

(1) SACR 40 (SCA) (Matyityi) para 13 (footnotes omitted).

[28] See S v Ngcobo 2018

(1) SACR 40 (SCA) para 14.

[29] S v MM above n 22 para 16.

[30] On the expected pause and reflection in respect of incidents a few days apart, see Matyityi above n 27 para 19.

[31] S 51(3)(a A)(ii) and (iv) of the Minimum Sentences Act. See S Estrich ‘Rape’ 95 Yale Law Journal

(1986) 1087 as cited in D Smythe et al Sexual Offences Commentary: Act 32 of 2007 (Revision Service 4) (2022) ch20-10.

[32] Ss 28(1)(d), 12(1)(c) 14 and 10 of the Constitution of the Republic of South Africa, 1996.

[33] Failure to use a condom is an aggravating factor: see S v PB 2011

(1) SACR 448 (SCA) para 20.

[34] See MM above n 22 para 13, citing S v GN 2010 (1) SACR 93 (T) para 6.

[35] Matyityi above n 27 para 23. Also see Malgas above n 9 para 10, in respect of the prescribed period of imprisonment in the Minimum Sentences Act ordinarily being imposed

for the commission of the listed crimes in the specified circumstances, in the absence of weighty justification, as quoted in

Otto v S [2017] ZASCA 114 para 21.

[36] S v Bull 2001

(2) SACR 681 (SCA) para 21.

[37] S v Dodo 2001 (1) SACR 301 (E).

[38] Vilakazi above n 16 para 21.

[39] See, for example, *Rammoko v Director of Public Prosecutions* 2003 (1) SACR 200 (SCA); [2002] 4 All SA 731; [2002] ZASCA 122 para 13.

[40] *Malgas* above n 9 paras 7–9. Also see *PB* above n 33 para 21; *Matyityi* above n 27 para 23.

[41] *Matyityi* above n 27 para 23.

[42] *S v Zitha* 1999

(2) SACR 404 (WLD) at 418h-i.

[43] In terms of s 103(1) of the Firearms Control Act 60 of 2000, the accused is automatically considered unfit to possess a firearm.

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