

SOUTH AFRICA / JUDGMENT

# S v Marais (CC56/2024) [2024] ZAGPPHC 1214 (12 November 2024)

**[2024] ZAGPPHC 1214**

## COURT

North Gauteng High Court, Pretoria

## BEFORE

Mosopa

## CASE / FILE NUMBER

CC56/2024

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: CC56/2024

DATE: 12-11-2024

In the matter between

THE STATE

and

JOHAN MARAIS

Accused

## J U D G M E N T

MOSOPA, J: The accused, Mr Johan Marais, who according to the indictment is a 62 years old, South African citizen, currently residing at house number 7[...] V[...] G[...] Road, Casseldale, Springs, he is arraigned in this matter on one count of murder which is alleged to have been committed on 24 August 1987 at Daveyton when the accused together with his accomplice acted in common purpose and killed Caiphus Nyoka (the deceased).

Accused pleaded guilty to the count of murder levelled against him. Accused is legally represented by Ms Simpson from the Legal Aid South Africa.

The statement in terms of section 112(2) of Act 51 of 1977 (Act) was prepared on behalf of the accused, by his legal representative wherein the accused made the following admissions:

*“1. That he was employed by the South African Police in 1976 when he was 17 years old, and he was attached to different units in the police during his employment with the South African Police.*

2. The deceased was a student activist and a member of the Congress of South African Students (COSAS) and also at the time of his death a member of the South African Youth Congress (SAYCO), organiser of the Transvaal Students' Congress (TRASCO) and president of the Students' Representative Council (SRC) at Mabuya High School in Daveyton, Benoni. Through his membership in the organisation mentioned supra, he was opposed to the apartheid government, and he frequently challenged the apartheid regime and its discriminatory policies in public and was identified as a threat to the regime.
3. That on 23 August 1987 he was summoned to the Daveyton Police Station and was briefed by Sergeant Stander about the joint operation that they had to execute, and the purpose was to arrest the deceased. The police officers who participated in the planning of the operation was himself, Sergeant Stander, Major Van den Berg, Sergeant Engelbrecht and Sergeant Venter, all attached to the Security Branch Unit of the police.
4. At 02:30 AM on 24 August 1987 all the police officers mentioned supra and other members of the Security Branch, Reaction Unit, Daveyton Municipal Police and himself descended to the residential address of the deceased. The accused, Sergeant Stander and Sergeant Engelbrecht entered the deceased's room by kicking open the steel door of the room and found the deceased lying on the bed with another person. Inside that room on a separate bed from where the deceased was lying, there were two other unknown people lying there.
5. Sergeant Engelbrecht identified the deceased by shining a torch on his face while lying on his bed and he was at that stage positioned at the foot of the deceased's bed at a distance of approximately a metre away. Sergeant Stander was standing next to him facing the two unknown males. Sergeant Engelbrecht removed the three unknown males from the deceased's room and Sergeant Stander turned to face the deceased. He then fired four consecutive shots at the deceased and simultaneously Sergeant Stander fired five consecutive shots at the deceased. All the nine shots fired by them consequently killed the deceased.
6. At the time of shooting of the deceased he did not pose any threat to them and was shot with the necessary intention to be killed. He admits that the intentional killing of the deceased was illegal. The deceased did not have any weapon or weapons on him at the time of this murder. He further admits that the instruction to kill the deceased was an unlawful instruction.”

The accused then confirmed the facts stated in his statement as correct. The state did not lead any evidence either to contradict the facts set out in the guilty plea statement or to confirm such, however, the state accepted the facts as stated in the statement in terms of section 112(2) of the Act.

It can therefore be safely accepted that the plea is in line with the state's case as provided for in the police docket.

The accused further confirmed that he was fully appraised of his constitutional rights and he understood such rights as explained to him when making the statement. That he is not compelled or is coerced into making the guilty plea statement and such was made voluntarily whilst in his sound and sober senses.

I am therefore satisfied that the accused admitted all the elements for the commission of the crime he is charged with and that he must be found guilty on the strength of his guilty plea.

In the consequence the following verdict is hereby returned:

1. Count 1: Murder, Accused is found guilty as charged.

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MOSOPA, J

JUDGE OF THE HIGH COURT

DATE: .....

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