

SOUTH AFRICA / JUDGMENT

S v Mudyiwayana (CC17/2020) [2022] ZAWCHC 23 (2 March 2022)

[2022] ZAWCHC 23

COURT

Western Cape High Court, Cape Town

BEFORE

Wille

CASE / FILE NUMBER

CC17/2020

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IN THE HIGH COURT OF
SOUTH AFRICA
(SOUTHERN CIRCUIT,
LOCAL DIVISION)

Case Number: CC

17 / 2020

In the matter between:

THE
STATE
and
BRIAN
MUDYIWAYANA
Coram: Wille, J
Argument: 28th
of February 2022
Delivered: 2nd
of March 2022

JUDGMENT

ON SENTENCE

WILLE, J:

INTRODUCTION

[1] Sentencing often requires more thought and consideration than is

traditionally given to this very difficult process. Sentencing involves a very delicate balancing act, taking into account, inter alia, the seriousness of the offences perpetrated by the offender, the offender's personal circumstances and the vested interests of society. This is often referred to as the triad in Zinn[1]. The imposing of sentence on an offender, therefore of necessity, requires an evaluative and objective analysis of a number

of difficult and differing factors.

[2] A balanced approach to sentencing must always be adopted, with reference to the specific facts of each case. Deterrence and rehabilitation are important factors that fall to be considered in evaluating the appropriate sentence to be imposed upon an offender. At the same time, a court must be mindful of the crimes upon which the offender stands convicted.

[3] Every crime that has been committed has its own set of facts and

factors, that aggravate or mitigate that specific crime. By way of example, when violent crime is committed, the degree and extent of the violence used[2], coupled with the cruelty of the attack must be taken into consideration. This, in turn, must again be considered in the correct context, taking into account, inter alia, the character of the victim or victims.[3]

[4] The 'after effects' of a crime must also be taken into account, particularly so when the offender's actions have a ripple effect on the victims in the immediate community and his or her family.[4] In this case, this is a particularly important consideration and these ripple effects were set out in my judgment on conviction.

[5] A morally unacceptable motive may also be an aggravating factor in

connection with any sentence to be imposed. So too, the apparent 'vulnerability' of the victim of a crime may

also 'weigh-in' as an aggravating factor, worthy of consideration. The motive in these crimes was morally unacceptable.

THE NATURE OF THE CRIMES

[6] The offender has been convicted of (6) counts of murder, two counts

of contravening the Refugee Act[5] and a single count of robbery with aggravating circumstances as defined in the CPA.[6] Of the (6) convictions of murder, (4) of these fall squarely within the provisions of the minimum sentencing regime and carry with them a minimum sentence of life imprisonment[7], as they were planned or pre-meditated. Further, one of the murder convictions is connected with robbery with aggravating

circumstances and also is subject to the minimum sentencing regime. This, in accordance with my judgment on conviction.

[7] It goes without saying that the majority of these crimes are all very serious crimes. I have to find substantial and compelling circumstances in order to deviate from the minimum sentencing

regime.[8] I also have to find mitigating factors in order to avoid a harsh sentence in connection with count (10). This court is clothed with the jurisdiction to impose a life sentence on the offender (in connection with count (10)), in accordance with section 276 (1)(b) of the CPA.

[8] Most of the immediate family members of the victims have suffered emotionally and also psychologically and still so suffer. The lives of the families of these victims have been changed for the worst, and to some extent, forever.

THE 'INTERESTS' OF SOCIETY

[9] Crimes in general, but especially against woman offend against the aspirations and ethos of all South Africans. Some of the victims in this case were young woman and were a soft target for the offender. Not only do crimes against woman in this country amount to a serious invasion of the dignity of the victims, but these crimes do not contribute towards our claims that we live in a civilized society. However, at the same time 'the object of sentencing is not to satisfy public opinion, but to serve the public interest'[9]. The sentence to be imposed upon the offender, in these circumstances, must accordingly in some measure reflect a censure to this conduct and behaviour.

THE 'PERSONAL' CIRCUMSTANCES OF THE OFFENDER

[10] The relevant personal circumstances of the offender do not, in my view, in any manner come to his assistance in this matter. He is (38) years old, not married and seemingly has no dependents. Regrettably, he has only a very low level of education. He is the seventh born of nine children. He had a incompatible relationship with his father. The latter passed away when the offender was (12) years old. He received no counselling or help of any nature to assist him with this loss. Finally, he experienced a challenging childhood and started with the abuse of alcohol at a very early age.

[11] His record shows that he does have several previous convictions for, inter alia, assault with intent to commit grievous bodily harm, assault common and theft.[10] He also has a previous conviction for being in South Africa without a valid permit.[11]

'EVIDENCE' IN AGGRAVATION OF SENTENCE

MS MYBURGH

[12] The prosecution tendered the evidence of this witness in aggravation of sentence. She compiled an extensive report for the benefit of the court for which I am thankful. I set out in my judgment on conviction the impressive credentials of this expert witness and these accordingly do not need to be rehearsed in this judgment of sentence. I must however record that she is very highly qualified and regarded in her field of Investigative Psychology. She boasts a number of degrees and has some

(28) years of experience in Forensic Investigation and Investigative Psychology.

[13] I was encouraged to attach her entire report to my judgment on sentence.[12] Rather, I have decided to quote the most important portions of her report in this judgment as this, to some extent, may also be of assistance to the offender. What I deem to be the most important parts of her report are, inter alia, the following:

SERIAL MURDER

Serial murder is defined as being when an offender is motivated to murder two or more victims. The murders occur at different times and there is a cooling-off period between the murders. The motive is not primarily for financial gain, nor the elimination of witnesses to another crime.

RISK ASSESSMENT

Risk assessment is the process of gathering information about people to make decisions regarding their risk for perpetrating future violence. The approach used in this assessment is known as structured professional judgement which aims to systematically identify risk factors. The assessment of risk among violent offenders is based on the evidence of longitudinal studies which have identified factors which, when present in a history and offence behaviour, have been associated with an increased risk of re-offending, and factors present that are associated with a decrease in the risk of re-offending behaviour. It is important to note that it is also not simply the number of risk factors present that indicate overall risk for recidivism but the weight of these factors in terms of their relationship to re-offending.

CLASSIFICATION OF THE ACCUSED'S BEHAVIOUR

On 28 February 2022 the accused was found guilty of the following crimes:

- 2 x Contravening of the Refugees Act 130 of 1998
- 6 x Murder
- 1 x Robbery with aggravated circumstances.

The accused can therefore be classified as a serial murderer. This is a factual finding and is not based on psychological aspects or features of the accused. This is furthermore not a psychological reference to the accused's behaviour, but rather a behavioural classification, related to the type and number of murders for which he has been found guilty and is in line with international classification systems for these offences.

RISK FOR RE-OFFENDING

When discussing factors that may have an impact on the rehabilitation of an offender, one has to determine which positive and negative risk factors are applicable for the individual.

In this instance the following are factors that increase the accused's future risk for re-offending:

Nature of the offences

The accused is a serial murderer. He was found guilty of the murder of 6 victims, which falls within the definition of a serial murderer.

The motivating factor for serial murder is power and control. The accused exhibited the key elements of a serial murderer frequently displayed by such offenders in South Africa during the execution of his crimes, which are power, control and excitement. The crimes before the Court were premeditated and planned, well in advance. The victims were known to the accused. The crimes were therefore calculated and cold-blooded.

It must be noted that the classification as a serial murderer is considered one of the most significantly weighted risk factors when considering the risk for recidivism among violent offenders.

Denial of responsibility for the crimes

The accused did not take the Court into his confidence to explain what really occurred during the execution of the crimes. During the interview the author had with him, he indicated that he committed the crimes but vehemently denied that it was because of his own psychological motivations. He blamed the crimes on the muti he allegedly used that was supplied to him by the last victim in the series.

Denial is a cognitive distortion or a faulty thinking pattern. The purpose of a cognitive distortion is to manipulate a person's thought patterns in order for them to avoid taking responsibility for their behaviour, allowing the behaviour to continue, denying that any harm was done by them, and avoiding interventions. Logic tells us that anybody who has cognitive distortions regarding their offending behaviour is at risk for re-offending.

Cognitive distortions are considered dynamic risk factors. Until the offender is able to take full responsibility for the offences, accept that he has committed the crimes, acknowledge the harm he has done to the victims and seek out ways of understanding and preventing future offending, he remains a risk to re-offend.

Lack of insight

Insight is the reasonable understanding and evaluation of a person's own mental processes, reactions, self-knowledge and possible violent potential. In effect this indicates to what degree a person understands their mental or personality disorder, their aggressiveness and their need for treatment.

The accused lacks insight into his own responsibility for the crimes. He rationalises it by convincing himself that it was the mutu that made him do it. He does not have insight into his violence risk or his potential to engage in violent behaviour.

Lack of insight is a valid predictor of poor treatment outcome, perhaps because it predisposes an individual to noncompliance with attempts at remediation. Such people may lack motivation to change, may be unwilling to comply with therapy or refuse to follow rules.

Lack of remorse

The accused has never shown any remorse for the crimes. As a result, he shows no empathy towards the victims nor their families, and has no remorse for his actions.

An offender who shows sincere remorse for the crimes they have committed can be seen in that they will be able to acknowledge that they acted wrongfully, are able to verbalise and understand the impact of their actions on their victims, take responsibility for their actions and want to change their behaviour. These are positive indicators of remorse. Such behaviour will inevitably be treated with more empathy, as it indicates that there is the potential for the person to reform and improve themselves. Remorse is also a motivator to change.

Lack of deterrence

It is clear that mechanisms of controlling criminal behaviour, such as the prospect of arrest and incarceration, had little effect on controlling the accused to commit the crimes. Prior arrests and periods of incarceration did not deter, nor prevent him from engaging in criminal behaviour.

Use of violence

Research indicates that violence of different severities and forms are correlated with one another, suggesting that a person who is at elevated risk for violence generally will be at elevated risk for more serious forms of violence as well. The probability of future crime increases with each prior criminal act.

In all of the cases before the court the deaths of the victims were caused by violence. This display of violence gives a strong indication that it would continue if there are to be any further victims.

Warning behaviours

The author observed certain concerning warning signs in the behaviour of the accused. During the interview with the author, the accused showed no emotion when he spoke about the crimes he has committed. He is unwilling to accept responsibility for the crimes but blamed it on other entities such as the mutu he allegedly used which made him commit the crimes. He exhibited no empathy towards the victims and lacked remorse or guilt for his actions. His demeanour can be described as arrogant and dismissive – he showed no concern for his current legal situation. The author found him to be manipulative and deceitful, and lying comes easy to him.

These warning behaviours need to be borne in mind by professionals who will treat the accused during his incarceration.

FACTORS THAT MAY DECREASE THE ACCUSED'S RISK FOR RE-OFFENDING

No history of major mental disorder

After a period of observation by a multidisciplinary panel of experts from the Valkenberg Psychiatric Hospital, the accused was found not mentally impaired. He doesn't suffer from any symptoms such as hallucinations, delusions, disorganised thoughts, intellectual or cognitive functioning.

REHABILITATION PROSPECTS OF VIOLENT SERIAL OFFENDERS

The accused didn't provide the Court with a reasonable motivation why he committed the offences. If a person doesn't accept, acknowledge and understand their own mental processes, reactions and self-knowledge, they will never appreciate the social consequences of their past actions or the possible violent potential they may possess.

Until the accused is able to take full responsibility for the offences, accept that he has committed the crimes, acknowledge the harm he has done and seek out ways of understanding and preventing future offending, the question will remain whether he would feel the need to change or be rehabilitated. However, if he doesn't accept full responsibility for the offences, he is unlikely to ever benefit from any programs or interventions that might be available to him.

International literature indicates that serial offenders, and in particular serial murderers, cannot be rehabilitated and that there are no specific nor widely accepted, successful rehabilitation programs for serial offenders. As a result, numerous examples exist of offenders who, when released from prison, continue to re-offend. The accused's history of manipulation, denial of responsibility and lack of insight reduces his rehabilitation prospects and the possibility that he can benefit from interventions at this time.

CONCLUSION

Based on the information as set out in this report, the author is of the opinion that the accused poses a high risk of committing further acts of violence in future. Currently there are no rehabilitation programmes for serial murderers, but it is recommended that the accused participate in the available violent offender programmes offered by the Department of Correctional Services. Psychotherapy with a clinical psychologist is recommended, as is participation in other available programs during incarceration. It is further recommended that a copy of this report accompany the accused to prison and be placed on his file. The Department of Correctional Services would need to keep this in mind when developing his sentence plan, and professionals will need to assess the accused in future.

While this may appear contrary to the statement that serial murderers cannot be rehabilitated, the reality is that at some point in the future the accused will become eligible for parole and any intervention, no matter how unlikely, might delay him re-offending upon release, thus sparing some potential victims.

However, as discussed above, the accused has proven that he has a very poor prognosis for rehabilitation and will most likely remain a significant threat to society for the remainder of his lifetime.

[14] In addition, she opined that had the offender not been arrested (when he was), he may very well have continued with his crime spree. Further, the fact that most of his victims were abandoned in a naked or a semi-naked condition did not, in her view, necessarily relate to a sexual motive and may very well just have been a method of the offender exhibiting power or control over his victims.

MR MAKUTA

[15] He testified in the main trial. He is distantly related to the deceased victim in count (6), Ms Gwengwe. Her family in Zimbabwe has suffered tremendously due to her demise. She went missing, was murdered and her body was only recovered about

(3) years later. He testified that he hardly slept during this period due to worry and concern for Ms Gwengwe. This victim's remaining family in Zimbabwe are completely shattered and request the court to impose a sentence of life imprisonment upon the offender. The offender has not apologized and has exhibited no remorse at all.

MS DANGATYE

[16] She is the eldest daughter of the deceased in count (10). She also has two younger sisters. Their entire nuclear family has now been split up and she in turn is living with her aunt. Her late mother was employed by the Department of Education and the deceased's pension has still not been processed and paid out with the accompanying financial hardship. She broke down while tendering evidence and opined that she was unable to explain her incredible pain due to the tragic death of her mother. She requested the court to order the offender to remain incarcerated as if he was to be released he would merely offend once again.

VICTIM IMPACT STATEMENT

[17] By consent, the original of a victim impact statement by the sister of the victim in count (3) was introduced into the record and marked as an exhibit.[13] The victim in this case was survived by her (3) year old daughter. This young girl keeps asking as to the whereabouts of her mother. They have suffered traumatically as a family and in addition it cost them over R10 000,00 to repatriate the body of the deceased back to Lesotho so that she could be buried. She too, requests a life sentence to be imposed upon the offender.

THE 'SUBMISSIONS' ON BEHALF OF THE OFFENDER

[18] The offender elected not to testify in mitigation of sentence and elected not to call any witnesses in mitigation on his behalf. Rather, he relied on submissions made on his behalf by his counsel. In summary, these are the following: that the offender did not have a happy childhood; that his father died when he was (12) years old; that the death of his father was traumatic to him; that he never had the benefit of counselling to deal with this trauma; that he started stealing at a young age as he had to fend for himself; that he was bullied at school; that he shouldered the blame for many of his

elder brother's misdemeanours; that he had to be a responsible breadwinner at a very young age and that he was physically beaten as a child.

[19] It is advanced that he will indeed be able to be rehabilitated and that despite these crimes he is entitled to human dignity. It is conceded that his personal circumstances do not 'weigh in' when compared to the crimes that he has committed. It is also conceded that the murder which he committed in count (10) was pre-meditated and brutal and that he is a serial murderer. Nevertheless, he requests that fair sentences be imposed upon him.

THE 'SUBMISSIONS' ON BEHALF OF THE PROSECUTION

[20] The victims' families have all indicated that they were badly affected and traumatized by the crimes perpetrated upon them in a variety of ways. The victims' families all suffered, inter alia, from shock, fear, grief and stress. Professional counselling is also limited in view of their poor socio-economic circumstances. They are also suffering financial hardship. This appears more fully from their viva voce evidence elicited during their testimony at the trial.

[21] It is submitted that the offender continued with his - crime spree

- until he was arrested and that had he not been arrested, then in that event, more victims would have fallen prey to his criminal behaviour. This is so because had it not been for the efforts of the investigating officer in linking the various crimes together by way of her 'profiling' the offender may never have been arrested.

[22] Further, it is advanced that there are no substantial and compelling circumstances present which would permit the court to deviate from the ordained prescribed minimum sentences and that the offender should be sentenced to life imprisonment in respect of each and every conviction of murder. Further, that I impose upon the offender a period of direct imprisonment in respect of the other offences upon which he stands convicted.

[23] In connection with count (3), the deceased was about to turn (24) years old. She was unemployed and vulnerable. The offender told numerous untruths about her whereabouts and so prevented her body from being discovered. The loss to the immediate family and the ripple effect of this murder was immense as indicated in the victim impact statement.

- [24] In connection with count (4) the victim was an unselfish person who cared for both her children and her grandchildren. The post mortem report indicated that a high degree of violence was used to murder her. Thereafter, the offender attempted to extort money from her family by falsely stating that she was arrested at the border post to Zimbabwe.
- [25] As far as count (5) was concerned, the victim too, was only (23) years old. She was vulnerable and unemployed. The offender after murdering her attempted to even unlawfully obtain more of her clothing and even wore her jacket. Also, he lied and said that she was working so that she could not be contacted.
- [26] The deceased in count (6) was only (22) years old. Mr Makuta testified that he was unable to sleep for about (3) years as he was worried as to her welfare and whereabouts. The offender lied on many occasions as to the whereabouts of the deceased. The deceased's family is saddened and destroyed by her murder.
- [27] Mr Pekaan was a father and a grandfather and he also financially supported one of his physically challenged grandchildren. These children also lost their mother a mere (4) months before he was brutally murdered. The offender unashamedly used personal information from the deceased's son's mobile phone in order to plan and murder this victim. He also, by way of deception, stole a number of goods from this victim, which goods were never recovered.
- [28] It is also advanced that the offender should be sentenced to life imprisonment in connection with count (10). This, because the murder of this victim was also pre-meditated. On this, I agree as the offender is a serial murderer. This is not disputed. Besides, the offender had murdered a number of victims prior to the murder of the deceased in count (10) as alluded to in this judgment on sentence.
- [29] At one stage during the proceedings, the offender stated that the deceased in count (10) - 'deserved to die' - for what she allegedly did to him. He later attempted to retract from this statement. However, the facts show that this murder was pre-meditated. It also cannot be disputed that this murder was extremely brutal. The deceased was left semi-naked on her bed with her hands tied behind her back.
- [30] The deceased's daughter described that she was and is overcome with grief when she thinks of her mother. She was inconsolable with grief. Her mother was a vulnerable woman who was simply not a match for the deceased. Her mother was brutally murdered and she was placed face down on her bed, in her own home, with her hands tied behind her back.

DISCUSSION

- [31] It is so that a balanced approach must be adopted to harsh prison sentences as prisons are - grim and hellish

- places. It is conceded that moral justification dictates that this offender deserves to be punished. However, it is advanced that punishment must also not be seen as revenge (although some would justify revenge in these circumstances). It is so, that prison conditions in our country are particularly dire and prisoners experience extreme overcrowding, including poor ventilation, lack of natural light, inadequate ablution facilities, lack of sanitation and privacy, insufficient supervision and poor healthcare provision.

[32] In terms of section 73(1)(b) of the Correctional Services Act,[14] a person sentenced to life imprisonment, theoretically remains in prison for the rest of his or her natural life. Life imprisonment, however is in practice, regarded as a sentence of (25) years of imprisonment. In this connection, the parole provisions that find application and that may become relevant are indicated as follows;

‘A person sentenced to life imprisonment may not be placed on parole until he or she has served at least twenty five (25) years of the sentence; but such a prisoner may, on reaching the age of sixty five (65) years, be placed on parole after he has served at least fifteen (15) years of the sentence’ [15]

[33] Therefore, it may be argued, that it does not matter at all, whether the sum total of the sentences imposed by this court, exceeds

the measure of the effective sentences that the prosecution has expressed to be desirable in these peculiar circumstances.

[34] This, therefore could mean, that the - practical effect - of imposing (6) life terms upon the offender in this case, would only be to the benefit of the public’s yearning for retribution,

prevention and deterrence for this type of crime. I disagree. I say this because the offender has not exhibited true remorse (or indeed any remorse), for his actions. He did not show - genuine remorse

- at any stage during the proceedings for his criminal behaviour.

[35] That having been said, to be fair to the offender, I must comment on his reaction to one of the charges preferred against him. In this specific case, when he was confronted by the son of the deceased, who testified on behalf of the prosecution, he did apologize to him for killing his mother. This notwithstanding, the offender thereafter nevertheless persisted with his denial that he killed this victim (Ms Ntondini).[16]

[36] Despite some anxious consideration, I am unable to find any redeeming factors in favour of the offender, in mitigation of sentence. I find only aggravating factors. The majority of his victims were all from strained socio-economic backgrounds, were poor and were vulnerable young woman. They were to some extent ‘stalked’ by the offender. This under the pretext of him providing them with gainful employment.

[37] I am expected to depart from the prescribed minimum sentence regime in the event that I am able to - find and identify - substantial and compelling circumstances to justify such a departure, to the benefit of the offender.

[38] It must be emphasized that my point of departure in connection with the imposition of an appropriate sentence upon the offender is

not a blind application of these provisions, but rather a balancing exercise, this with specific reference to the triad in Zinn.

[39] In addition, I am obliged to keep in the forefront of my mind that a - specified sentence - has been prescribed by law as the sentence that should be regarded as ordinarily appropriate in these circumstances. In my view, there are no facts which are either -substantial and compelling - to the benefit of the offender. This, when objectively evaluated against the manner in which the crimes were committed, or alternatively, why these crimes were committed.

[40] Further, some of the 'mitigation' that was offered up by the offender in this connection, bears further scrutiny. He

advanced that he was in a relationship with some of his victims. This is certainly not a mitigating factor in favour of the

offender. I find this rather to be - aggravating - to the detriment of the offender. I say this because he gained the trust of some of his victims.

[41] I accept that the socio-economic circumstances of the offender were not ideal and that absent from his childhood life, was a good

role model. While this is generally a factor that may be taken into account when imposing sentence, I do not find the mere existence of this position to be of sufficient weight to qualify as substantive and compelling, in these particular circumstances.

[42] When an offender has been incarcerated as an awaiting trial prisoner for a long period of time, this may be taken into account when an appropriate sentence is imposed. On a strict interpretation of the law, this does not amount to a 'substantive and compelling circumstance', but that having been said, nothing prevents this court, to take into account the period that the

offender has been incarcerated, pending his or her trial, for the purpose of imposing the appropriate sentence. However, this does not apply mechanically by way of an arithmetic calculation.

[43] In the present matter, it is so, that the offender has been an awaiting trial prisoner for a long period of time, since his arrest.

However, the arrest of the offender, in this case, effectively brought an end to his criminal activity. I have taken all these factors into account in order to attempt to achieve a sentence, which I believe to be proportionate in the circumstances.

[44] I find favour with the submissions advanced on behalf of the prosecution to the effect that public interest must be properly served in the sentencing of this particular offender, taking into account the nature of the crimes and the effects thereof, upon these vulnerable victims.

[45] Deterrence and retribution often tend to steer the severity of the proposed sentence in a certain direction. Rehabilitation, on the other hand, tends to pull the proposed sentence in another direction. The offender in this case is not a ‘fallen

angel’. By contrast, there is hardly any hope of reforming any offender with a deep-seated psychological problem and

who, at the same time, lacks insight into this problem. To focus on rehabilitation in this case, in my view, would lead to an unfair and inappropriate sentence, which will be disproportionate to that deserved by the offender for the crimes upon which he stands convicted.

[46] Gender based violence in our country has regrettably reached pandemic proportions. In my view, a clear and unambiguous message needs to be sent to the offenders who participate in gender based violence and crime. In my view, the circumstances of this

peculiar case demand, that the offender, for all practical purposes, falls to be permanently removed from society. Further, without rehabilitation, I do not envisage how parole would be appropriate in the circumstances of this case (This is however an issue for the prison authorities).

ORDER ON SENTENCE

[47] In the result, the order issued out in connection with the sentences imposed upon the offender, is as follows:

1. That in connection with counts (1) and (2) (taken together for the purposes of sentence), the offender is sentenced to (2) years direct imprisonment.
2. That in connection with the crimes of murder in counts (3), (4), (5) and (6) of the indictment, the offender is sentenced to life imprisonment on each count.
3. That in connection with the crime of robbery with aggravating circumstances in count (7) of the indictment, the offender is sentenced to (15) years direct imprisonment.
4. That in connection with the crime of murder in count (8) of the indictment, the offender is sentenced to life imprisonment.

5. That in connection with the crime of murder in count (10) of the indictment, the offender is sentenced to life imprisonment. (This sentence in terms of section 276 (1)(b) of the Criminal Procedure Act, 51 of 1977).

(In summary, the offender is sentenced to (6) terms of life imprisonment and to (17) years of direct imprisonment)

E. D. WILLE

Judge of the High Court

Cape Town

[1] S v Zinn 1969 (2) SA 537 (A).

[2] The violence used in these murders was significant.

[3] These victims were vulnerable victims.

[4] Again, in this case, the ‘ripple effect’ of these murders, was not insignificant.

[5] Act 130 of 1998.

[6] Act 51 of 1977.

[7] Section 51(1) of Act 105 of 1977 - read with Part 1 of Schedule 2 (the ‘CLAA’).

[8] S v Malgas 2001

(2) SA 1222 (SCA).

[9] S v Mhlakaza and Another 1997

(1) SACR 515, p 518

[10] He was sentenced for these on the 17th of October 2013.

[11] This, during 2017.

[12] Her report was entered into the record by consent and marked as exhibit SO 2.

[13] Exhibit SO 3.

[14] Act 111 of 1998 (the Act)

[15] S 73(6)(b)(iv) of the Act.

[16] With reference to count (4).

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