

THE STATE

Versus

THOBELANI MPOFU

IN THE HIGH COURT OF ZIMBABWE
MOYO J with Assessors Mr Ndlovu and Mr Maphosa
HWANGE 3 OCTOBER 2022

Criminal Trial

Mrs Gorerino, for the state
Ms J Change, for the accused

MOYO J: Accused faces a charge of murder it being alleged that on the 14th of December 2020 and at Stand 19 Village 4, Inyathi, he struck the deceased Francis Ndlovu with an axe once in the head and thereby killing him. The accused pleaded Not Guilty by reason of insanity. The state accepted the plea and the parties drew and tendered a statement of agreed facts which was marked Exhibit 1. It reads as follows:-

1. The accused was 25 years of age at the time this offence was committed.
2. The deceased was aged 23 years at the time she met her death.
3. The accused and deceased were cousin and they both resided at the same homestead Stand Number 19 village 24 Breamer, Inyathi.
4. On the 14th of December 2020 and at around 2000 hours, the deceased retired to bed in the company of Makhosi Mpofo and Mthabisi Ndlovu.
5. The accused then came to the bedroom hut armed with an axe and a torch.
6. The accused did not say anything, but proceeded to strike the deceased with the axe once on the left side of the neck. The deceased bled profusely leading to his death.

The psychiatrist's report was tendered and marked Exhibit 2 and confirms the mental challenge accused had at the time he committed the offence and also that he cannot be held

liable for his actions. The post-mortem report was tendered and duly marked. It gives the cause of death as:-

- 1) acute anaemia
- 2) laceration neck vessels
- 3) chop wound

State counsel also tendered the axe which was marked Exhibit 4. From the evidence before us, the accused person cannot be held criminally liable for his actions as he was mentally challenged at the relevant time. He however should be committed as per paragraph 5 of the psychiatrist report which states he is a danger to society.

- 1) Accused is found Not Guilty of murder by reason of insanity and is accordingly acquitted.
- 2) He shall be committed to Mlondolozhi Mental Institution as he is a danger to society.

National Prosecuting Authority, state's legal practitioners
Mvhiringi and Associates, accused's legal practitioners