

THE STATE

Versus

JABULANI MOYO

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

Criminal Trial

Mrs C. Garirano for the state
Ms J. Change for the accused

MOYO J: Accused faces a charge of murder, it being alleged that on 21st of August 2017, at Kate Ndlovu's homestead, Tsholotsho, accused struck the deceased Kate Ndlovu 3 times on the head with a knobkerrie and thereby killing her.

The accused pleaded not guilty by reason of insanity. The state accepted the plea and a statement of agreed facts was tendered into the court record. It was marked exhibit 1 and it reads:

- “1. The accused was 44 years of age at the time this offence was committed.
2. The deceased was aged 63 years at the time she met her death.
3. The accused and the deceased both resided at Kate Ndlovu's homestead, Kwali Line, Tsholotsho. Accused was deceased's son.
4. On the 21st of August 2017 and at around 20:00 hours and while at Kate Ndlovu's homestead, Kwali line, Tsholotsho, the accused woke up from his bedroom hut and proceeded to the kitchen hut where the deceased sleeping with Lubelihle Moyo her six year old granddaughter.
5. Whilst in the kitchen hut, the accused requested for some money which he had given the deceased for safe keeping and deceased told him to wait, she would give him.
6. The accused who was armed with a knobkerrie struck the deceased in the head three time using the knobkerrie. The accused left the deceased lying in her

blankets and proceeded out of Kate Ndlovu's homestead to his abandoned homestead where he spent the night.

7. On the 22nd of August 2017 and at around 1000 hours, Honest Moyo who is also deceased's son proceeded to deceased's homestead, where he found deceased lying on the floor covered in blankets up to the shoulders. Deceased had a deep cut on the head and the blanket she lay on was soaked with blood.
8. Isaac Moyo together with other villagers followed accused's shoe print leading to the arrest of accused at a road in Mhlabangubo Line in Tsholotsho.
9. At the scene accused made indications leading to the recovery of the knobkerrie."

State counsel tendered the psychiatrist's report it was marked exhibit 2. The psychiatrist concludes that the accused was mentally challenged at the material time and cannot be held criminally liable for his actions. In paragraph 5 she states that he is a danger to society.

The post mortem report gives the cause of death as:

1. brain damage
2. Multiple skull fractures
3. Head injury
4. Assault

From the evidence before us, the accused cannot be held criminally liable for his actions.

Sentence

1. The accused person is accordingly found not guilty of murder by reason of insanity.
2. He shall however be committed to Mlondolozu Mental Institution as he is a danger to society.