

THE STATE  
**versus**  
DOIT NDHLOVU

HIGH COURT OF ZIMBABWE  
MOYO J  
BUALWAYO 21-22 MAY 2015

Mr *T Hove* for the state  
Mr *B Masamvu* for the accused

### **Criminal Trial**

**MOYO J:** The accused person faces a charge of murder, it being alleged that on 25 July 2014 he assaulted the deceased, Frank Victim Manjokota resulting in deceased dying on the spot.

The accused person pleaded not guilty and instead tendered a limited plea to the charge of culpable. The state counsel accepted this limited plea. The following documents, exhibits were then tendered into the court record.

- 1) The statement of agreed facts whose material aspects read as follows:
  - 1) Accused and deceased were friends and used to pan for gold together in Filabusi.
  - 2) On 25 July 2014, accused and deceased were drinking beer at Filabusi kiosk at around 1300 hours.
  - 3) The accused bought some torch batteries and deceased took them and placed them in his pocket.
  - 4) At 2100 hours, the accused and deceased in the company of Solomon Ncube left the kiosk heading to Brumen Mine, Filabusi.
  - 5) On the way, a misunderstanding arose between the two over the torch batteries. The quarrel degenerated into a fist fight.

- 6) The accused armed himself with an iron bar intending to strike deceased but was disarmed by Solomon Ncube. Solomon Ncube tried to restrain the two from fighting but failed. He then left to seek help to stop the fight.
  - 7) Accused overpowered deceased and struck him on the head with a stone, deceased collapsed and died on the spot.
  - 8) Accused left in a drunken stupor and was later found by members of the public. The statement of agreed facts was marked Exhibit 1.
- 2) The postmortem report which gave the cause of death as follows:
- 1) Massive subarchnoid haemorrhage,
  - 2) Skull fractures
  - 3) blunt force trauma
  - 4) homicide

The postmortem report was marked Exhibit 2. The stone that was used to assault the deceased was marked Exhibit 3. It weighs 5,225 kg, its size is slightly bigger than a standard brick.

The state's concession to the limited plea is appropriate in our view. Accordingly the accused person is found not guilty of murder but is however found guilty of culpable homicide.

### Sentence

The accused person is sentenced to 15 years imprisonment.

*National Prosecuting Authority*, the state's legal practitioners  
*Dube-Tachiona and Tsvangirai*, accused's legal practitioners