

THE STATE
versus
REASON SIJORI

HIGH COURT OF ZIMBABWE
MAKONESEJ
GWERU 26 JANUARY 2016

Criminal Trial

T. Mpariwa for the state
H. Ndlovu for the accused

MAKONESE J: The accused who was aged 31 years at the time of the commission of this offence faces two counts of murder. The allegation being that on 28 October 2013 and at village Muzeziwa, Chief Mkoka, Gokwe South accused did wrongfully and unlawfully murder his brother and father, Siyesaba Sijori and Phineas Sijori by striking them on the head several times using a pick handle and hoe.

The accused pleaded not guilty to both counts and tendered a plea of not guilty by reason of insanity. The court entered a plea of not guilty. The agreed facts as summarized in the statement of Agreed Facts Exhibit 1 are as follows:

First and second deceased persons were accused's brother and father. They resided at the same homestead with accused. On 28 October 2013 and at around 1500 hours, the accused person ran from his homestead towards Muzeziwa village. He behaved like a possessed person. He was armed with a pick handle and a skei. The deceased persons followed the accused in a bid to restrain him. The accused proceeded to Muzeziwa's homestead where he threw away the skei and picked up a pick handle. The accused started breaking windows at Philip Washaya's homestead. The deceased attempted to subdue the accused but upon seeing them he turned his focus on them and struck first deceased on the head with a pick handle. The first deceased fell down bleeding profusely. Accused then struck the second deceased on the head with the hoe and he fell down bleeding profusely. One Gwisai Sijori tried to restrain the accused to no avail. Eventually accused was tied up with a rope but after a short while he managed to untie himself.

Accused went in search of the deceased and when he located them in some house he struck the pair who were already injured several times on the head. They both died instantly as a result of injuries sustained in the attack.

Exhibit 2 is the Post mortem report compiled by Dr Bondera on 31 October 2013. He examined the remains of Siyesabe Sijori and observed that his head was crushed and had multiple fractures. The cause of death is listed as severe head injury.

Exhibit 3 is the Post Mortem Report compiled by Dr Bondera on 31 October 2013. He examined the remains of Phenias Sijori. He observed that he had multiple fractures on the head involving the scalp and face. The cause of death is listed as:

- (i) Severe head injury

Exhibit 4 is the hoe. It weighs 0.049kg. Its measured length is 74cm. Its blade is 10cm long x 11cm wide.

Exhibit 5 is the pick handle. It weighs 1.083kg. Its measured length is 79cm.

The affidavit by the psychiatrist Dr Elena Poskotchinova is marked Exhibit 6. The psychiatrist observed the accused at Mlondoloza Special Institution between 7 April 2014 and 21 December 2014 on several different occasions. The report indicates that the accused had a known history of mental illness dating back to 2013. The accused's wife Mariah Mpofu indicated in the report that accused was normal up to October 2013 when she observed that accused behaved rather strangely. He was talking about his father having shown him a text message on his phone which he believed was evil.

The report further indicates that accused was psychotic, mostly in the form of auditory hallucinations. He had delusions and believed that he had special powers to make rain and was close to the President of the Republic of Zimbabwe.

In the opinion of the Psychiatrist there is a reasonable possibility that at the time of the commission of this offence accused was suffering from mental illness to such an extent that he could not be held criminally liable for his actions. The report suggests that accused is a danger to society and requires a special verdict to be retained.

We are satisfied that from all the evidence presented before us, there is a reasonable possibility that at the time he committed the offence, accused was suffering from a mental defect to such an extent that he could not be held criminally liable for his conduct.

In the result, and

Accordingly, the following order is made:

- 1) Accused is found not guilty by reason of insanity.
- 2) In terms of section 29 (2) of the Mental Health Act [Chapter 15:12] accused is returned to prison for transfer to a mental institution for further care and treatment.

National Prosecuting Authority, state's legal practitioners
Chitere, Chidawanyika and partners, accused's legal practitioners