

THE STATE  
**versus**  
REGINALD MBUSO SIKETA

HIGH COURT OF ZIMBABWE  
MOYO J  
HWANGE 6 NOVEMBER 2018

### **Criminal Trial**

*Mrs C Gorerino* for the state  
*W Madzikura* for the accused person

**MOYO J:** The accused person faces two counts, one being of murder and the other being of attempted murder. The allegations are that on 18 March 2017, the accused person stabbed the now deceased Sibonisiwe Mpofu twice on the chest and back resulting in her dying from the injuries sustained in that assault.

The alleges in relation to the second count are that he stabbed his young brother Regis Siketa when the young brother tried to intervene and restrain the accused from stabbing the deceased in count 1.

The following were tendered as exhibits

- authority to prosecute
  - psychiatric report
  - state summary
  - defence outline
  - accused's confirmed warned and cautioned statement
  - post mortem report in relation to count 1.
  - it gives the cause of death as
- 1) hypovolemic shock

- 2) cardiac wound
- 3) stabbing
- medical report in relation to count 2
- the knife that was allegedly used

They were all duly marked.

The evidence of the following witness admitted into the court record in accordance with the law.

1. Thembinkosi Khumalo
2. Simon Mugumigwa
3. Hosea Marozwa
4. Elium Eckem Mashavakure
5. Dr Ivan Betacount

The facts of this matter are largely common cause. The deceased and accused were stepmother and stepson respectively. The complainant in the second count was deceased's son and accused's half-brother. Accused had lived harmoniously with his stepmother, father and younger brother, prior to his being dismissed from employment as a teacher. He then went to Lower Gweru to look after his grandfather. In about 3 years later, he left Lower Gweru, in an awkward manner, since he left under the guise of going to collect funds sent by his father to the grandmother to buy maize. He left unannounced without accounting for the collected funds and went to Hwange. In Hwange, he again, arrived unannounced and he went to his parents' home at a time when they were away and they did not know that he was around, he got there, forcibly opened the door (I say he forcibly opened the door, because his family was away at church and they were not aware that he was around, they could not have left their home unlocked at night). So he did gain forced entry. Once inside, he ate all the food that had been prepared, and left with 13 chickens from the fridge, he even says he also took some meat.

He then went and lived in the bush for two days. He later came on the fateful day and found his step mother and half-brother at home. The stepmother allegedly quizzed him about the chickens since neighbours had seen him on the day he took the chickens. From accused's own

version, he had an altercation with deceased as he accused him of stealing the chickens and yet he disputed that as they had not seen him. He also did not like that.

He then left to go and drink beer, while he drank beer. He said in his evidence in chief all deceased asked was the whereabouts of the chickens. He said that he partook of his prints of alcohol on the day but that he appreciated his actions. He said that when he comes back from drinking beer he was coming to commit the offence. He agreed that he pre-planned the attack but that he did not want to kill her. He said that as he drank beer he kept on thinking about the accusation and he wanted to attack the deceased. He found the deceased kneeling mapping the floor and he stabbed her. He admitted that the complainant in the second count just pushed him away and was not armed.

In his defence outline on the first count, he pleads intoxication and provocation although the facts as they unfolded in court did not sustain as of these defences. Even the offence counsel abandoned the issue of provocation on the first count.

Defence counsel says this court should find that the defence of intoxication should be availed to the accused. He had partaken beer fine, but was not drunk to the extent of failing to appreciate his actions from his own word, he appreciated what he was doing, and even as he drank beer he was planning to attack the deceased. The attack thus had nothing to do with the intoxication. In fact from the facts, it seems he drank beer for dutch courage. The accused's shenanigans started when he stole his grandmother's money in Lower Gweru, and continued when he went home unannounced, breaking into a home to gain entry, stealing chickens and gambling to live in bush.

This was a series of transactions that culminated on the fateful day, so it cannot be true that beer he partook of on that afternoon led to the murder Noo, accused had long been up to no good from his own actions. He was already behaving like he had issues with his family prior to the fateful day, by arriving unannounced, breaking into his own home and stealing as well as leaving and going to stay in the bush. The defence of intoxication is this not available to the accused person in such circumstances and it is dismissed. The accused was also not provoked by anyone, in fact he had been in a provocative mood himself by stealing his grandmother's money,

coming to Hwange unannounced breaking into his home and stealing as well as not wanting to be asked or to own up when he had clearly erred.

Accused also failed in court to show how he was acting in self defence against the complainant in count 2, the complainant in count 2 came, pushed him away to refrain him from committing an offence, and he unreasonably stabbed his young brother. Accused was not established the requirements of self defence as provided for in section 253 of the code.

He was not under an unlawful attack, he could have fled, he was not caged in any way,. In fact he had on his own to this home. He introduced a knife for absolutely no reason at all in the circumstances. It is for these reasons that this court rejects the defence of self in relation to count 2.

The accused person, planned as he drank beer, that he wanted to attack the deceased, he used a knife a lethal weapon, and stabbed deceased not once but twice in the chest and back, the chest being a vulnerable part of the body, he stabbed deceased while she was kneeling mopping her home. Accused had to requisite intention to kill from his actions, he did not have desired to mean anything else. He meant death. Accused, even if it could be agreed that death were not his aim and object, he certainly realized that his actions will stabbing deceased with a knife in the league of exhibit 9, in the chest with the amount of force that was used (as inferred from the nature of the injuries), the deceased would certainly die from such actions but he continued nonetheless.

The accused person is accordingly found guilty of murder with actual intent in relation to count 2, the complainant was stabbed in the groin and such an area can lead to death. In fact accused says in his confirmed warned and cautioned statement that he meant to kill them as they also wanted to kill him.

The accused person thus did attempt through his actions to kill complainant in the second count. The accused person is accordingly found guilty of attempted murder and charged in the second count.

Sentence

The accused person is convicted of two counts being that of murder and attempted murder. He is a first offender. He was aged 26 years at the time, he committed two offences at the same. He acted in a most cruel manner when he butchered his stepmother to death for him reprimanding when he was wrong after all. He stabbed his young brother, who wanted to restrain him from his waywardness. He pre-meditated this offence as he was drinking beer. He thus committed this murder in aggravating circumstances. The only thing that will serve him from capital punishment is that at the material time when he did the acts, he had partaken of beer. The accused person thus deserves to be removed from society as he is an undesirable element. He is not remorseful at all, because a remorseful person does not lie but endeavors to tell the court the truth as his conscience weighs heavily on him to divulge all. His attempt to create nonexistent defences shows that he is not sorry at all about his actions. Although he said he regrets, he has failed from the facts before, the court, to walk that talk. He merely pays lip service to that, he does not mean it at all. This court frowns at such conduct like the accused person did. These courts have a duty in the public interest and to register their displeasure at the loss of life by giving appropriate sentences.

It is for these reasons that the accused person is sentenced to 30 years imprisonment.

*National Prosecuting Authority, state's legal practitioners*  
*Dube Nkala and Company, accused's legal practitioners*