

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: CC10/2024

(1) Reportable: No.

(2) Of interest to other judges: No

(3) Revised.

Date 17 March 2025

Signature

In the matter between:

THE STATE

and

PAUL PHILIPPUS PRINSLOO

ACCUSED

JUDGMENT ON MERITS

Munzhelele J

[1] Mr. Prinsloo was charged with two counts of murder, read with the provisions of section 51(1) of the Criminal Law Amendment Act 105 of 1997, in that the State alleges that the murders were committed with premeditation. The accused understood the charges against him and the sentences applicable thereto. He further understood the competent verdicts applicable to the charge of murder, as explained to him by his counsel.

On these two charges, the accused pleaded not guilty to premeditated murder but guilty to murder, read with the provisions of section 51(2) of Act 105 of 1997. A statement in terms of section 115 of the Criminal Procedure Act 51 of 1977 was handed in as Exhibit A. Admissions were also read into the record, and the accused confirmed that these were his admissions, which could be recorded in terms of section 220 of the Criminal Procedure Act 51 of 1977.

[2] The accused admitted to the following:

1. That Dr. Olifemi Adegboyega Omotobra conducted a post-mortem examination on the deceased, Heideman Ruzanne, and compiled a report marked as Exhibit C, which concluded that the cause of death was perforating gunshot injuries to the abdomen.
2. That a second post-mortem examination was conducted by Dr. Olifemi Omotobra on the body of Prinsloo Catharina Magdalena, with the findings recorded in Exhibit D, indicating that the cause of death was perforating gunshot injuries to the trunk.
3. That photographs of the crime scene were taken by Warrant Officer Sidney Motau and submitted as Exhibit E.
4. That a ballistic analysis was conducted by Captain Retha Grobler, with the findings submitted as Exhibit F.

[3] The State called Nicolas Pienaar as a witness, to establish that the accused acted with premeditation before committing the murders. Pienaar testified that he had known the accused for four years prior to the incident. On the day in question, the accused invited him to his house for drinks. He arrived at approximately 12:15 PM and joined the accused.

While they were seated, the accused's wife approached them, handed the accused his phone, and accused him of still being in love with his ex-girlfriend. She then left, only to return moments later, informing the accused that he needed to vacate the house before December 2023, because Alfie would be moving in with her. In response, the accused

stated that he was tired of the situation and declared that he would kill three people: Ruzzane, Magdalene, and Alfie.

Following this exchange, the accused went inside the house to his upstairs room. Shortly thereafter, he returned but proceeded directly to the flat where his daughter and her mother were seated. An argument ensued, during which the witness heard screams and the sound of slapping. He then heard the accused's daughter exclaim, "You can shoot me if you want!"—immediately followed by the sound of a gunshot.

At that moment, Magdalene, the accused's wife, ran past the witness and told him to call the police, as the accused had shot Ruzzane. By that time, the accused had already moved from the flat to the upstairs area of the main house. Once inside, he shot Magdalene. A young girl who had been swimming at the time then stated, "Oupa has shot Ma and Grandma." She then asked the witness to take her to his home, after which they left the scene. The witness further testified that Magdalene's demeanour that day was aggressive.

[4] In response, the Defense called the accused, Phillippus Paul Prinsloo, as the sole witness to refute the allegation of premeditation. The accused denied having told Mr. Pienaar that he intended to kill three people.

He testified that his wife had approached him while he was sitting outside and thrown a beer on him. Shortly thereafter, his daughter, Ruzzane, also confronted him, and both Ruzzane and Magdalene began arguing with him.

Following this altercation, the accused went inside the house and retrieved his firearm. He testified that he took the firearm to assert dominance and to show them "who was in charge." With the firearm loaded, he then proceeded to the flat where Magdalene and Ruzzane were located.

Upon his arrival, both women allegedly attacked him, kicking him and demanding that he leave the house. During the altercation, Ruzzane reportedly taunted him, saying, "Shoot me!". The accused then fired a shot at her. He subsequently shot Magdalene, who had not provoked him with similar words.

Following the shootings, the accused walked into the main house, sat down on a chair in the sitting room, and remained there. He testified that he did not understand why he had committed the act, insisting that everything happened so fast.

Analysis of the facts

[5] Premeditation is a crucial factor in distinguishing between murder as contemplated under section 51(2) and premeditated murder under section 51(1) of the Criminal Law Amendment Act 105 of 1997, which carries a mandatory sentence of life imprisonment.

The determination of premeditation must be based on the evidence presented on the merits, and it is for the court to decide whether the accused acted with premeditation. The state and defense as seen above each called one witness to prove or disprove premeditation. This principle was articulated in *S v Legoa* (33/2002) [2002] ZASCA 122; [2002] 4 All SA 373 (SCA); 2003 (1) SACR 13 (SCA) (26 September 2002), where Cameron JA stated in paragraphs 13-14:

"The 1997 minimum sentencing legislation requires for its application that an accused must have been 'convicted of an offence referred to' in the Schedule. In this case the offence 'referred to' in the Schedule is that of dealing in a dangerous dependence-producing substance '*if it is proved that – (a) the value of the dependence-producing substance in question is more than R50 000,00*'. The question is whether the High Court's conclusion that the value of the substance in question relates solely to the question of sentence and is irrelevant before conviction, is correct.

In my view, for three principal reasons it is not. First, the High Court's conclusion flies in the face of the wording of the 1997 statute. That wording in my view clearly indicates that for the minimum sentencing jurisdiction to exist in respect of an offence, the accused's conviction must encompass all the elements of the offence set out in the Schedule. (This does not apply when the Schedule specifies an attribute not of the offence, but of the accused, such as rape when committed 'by a person who has been convicted of two or more offences of rape, but has not yet been sentenced in respect of such convictions'). Second, even if the wording of the statute was open to more than one interpretation (which in my view it is not), the grave injustice that the contrary interpretation can cause, compels the conclusion that the elements of the offence must be established before conviction. Third, the High Court's conclusion is contrary to established principles and practice in our criminal trial courts.

[6] In *Benedict Moagi Peloele v The Director of Public Prosecutions, Gauteng* (740/2022) [2022] ZASCA 117 (16 August 2022), a case with facts closely resembling the present matter, the court found that the murder was premeditated. It was held that the determination of whether a crime was premeditated requires a consideration of the factual matrix of each case to ascertain the state of mind of the perpetrator prior to the commission of the offence. See also *S v Raath* 2009 (2) SACR 46 (C), where the court emphasized that when assessing the accused's state of mind at the time of the killings, a subjective test is applied. This approach necessitates that the decision-maker considers the accused's personal feelings, experiences, and perceptions, rather than applying a wholly neutral or objective standard. In this regard, Williamson JA in *S v Mini* 1963 (3) SA 188 (A) at 196E stated:

'In attempting to decide by inferential reasoning the state of mind of a particular accused at a particular time, it seems to me that a trier of fact should try mentally to project himself into the position of that accused at that time'. See also *S v Ferreira and Others* [2004] ZASCA 29; [2004] 4 All SA 373 (SCA) para 33.

[7] The court must consider the totality of the evidence in determining whether the murders were premeditated. It is incumbent upon the State to prove beyond a reasonable doubt that the accused premeditated the murder of his wife and daughter. Conversely, the accused bears the responsibility of presenting facts to demonstrate that the murders were not planned in advance. See *Kekana* [2018] ZASCA 148; 2019 (1) SACR 1 (SCA), where the court held that:

“In summary therefore, it was for the appellant to lay a factual foundation for a conclusion that the murders were not premeditated, and the issue was one for the trial court to decide. *In coming to a decision, the court would have had regard to all the circumstances of the murders, including the appellant’s actions during the relevant period*”. A mere assertion by the accused that he does not know what overcame him, how the incident transpired, or that it happened too quickly, is insufficient. Ultimately, it is the trial court’s prerogative to decide whether the murders were premeditated. In making this determination, the court will consider all relevant circumstances, including the accused’s conduct before, during, and after the commission of the offence.

[8] The State and the Defence had two mutually destructive versions. From the State’s evidence, particularly the testimony of Nicolas Pienaar, the accused expressed clear intent before the killings, stating that he was “tired of this” and explicitly declaring his intention to kill Ruzzane, Magdalene, and Alfie. This statement suggests pre-existing contemplation and resolution, indicating premeditation rather than a spontaneous emotional reaction. Additionally, his actions—leaving the scene of the argument, going upstairs, returning with a firearm, and deliberately targeting the victims—suggest a degree of planning rather than an impulsive act driven by provocation.

However, from the defence’s perspective, the accused portrays a different subjective experience—one of escalating tension, perceived loss of control, and an emotional response to provocation. He claimed he took the firearm not with an immediate intent to kill, but rather to assert dominance, suggesting an internal struggle rather than a fully formed plan. His testimony that everything happened “so fast” implies a lack of premeditation in his perception, portraying the killings as reactionary rather than pre-

planned. Furthermore, the accused's passivity after the killings—walking into the house, sitting down, and making no attempt to flee—could be interpreted as evidence of shock, remorse, or emotional detachment following the event. This could suggest that, in his mind, the act was not premeditated but rather the culmination of overwhelming emotions and provocation. But what bothers me with the version of the accused is that, if the intention was just to scare them or show them who is the boss; why then, did he want to scare them with a loaded gun? Secondly, if the accused acted out of provocation, his wife went away and retreated from assaulting him; why then, did he follow her upstairs and shoot her?

[9] Key Issues Undermining the Defense's Perspective:

The Use of a Loaded Firearm to "Scare" the Victims: The accused stated that he retrieved the firearm to assert dominance or "show them who was in charge." However, his choice to use a loaded firearm instead of any other means of intimidation suggests an intent to use lethal force rather than merely to instil fear. If his only intention was to scare them, why not retrieve an unloaded firearm or use another non-lethal means of asserting control? The presence of ammunition demonstrates a readiness to kill rather than a spontaneous emotional response.

The Pursuit and Execution of Magdalene: The sequence of events contradicts an impulsive reaction to provocation. Even if the accused was momentarily provoked by Ruzzane's words ("shoot me"), that does not explain his subsequent actions. Magdalene had already retreated from the altercation after witnessing her daughter being shot. Instead of de-escalating, the accused actively pursued her upstairs and shot her, reinforcing the notion that he was carrying out a premeditated plan rather than reacting emotionally in the heat of the moment. If he had truly been overwhelmed by emotion and acting impulsively, one would expect his actions to cease after the initial gunshot—not to continue methodically.

Fulfilling His Expressed Intentions: Earlier in the day, the accused explicitly stated his intent to kill Ruzzane, Magdalene, and Alfie. His subsequent actions mirror his prior

threats—he killed Ruzzane, then pursued and killed Magdalene, suggesting he was executing a plan rather than reacting spontaneously. The consistency between his prior declarations and his actions further undermines his claim of an unplanned, emotionally-driven act.

[10] In the case of *S v Raath* 2009 (2) SACR 46 (C), the court held that premeditation does not require long-term planning but requires some measure of prior thought or consideration before the act is committed. Accused testified that after the altercation with his wife and daughter, he left the drinking area where he was seated with his friend, went inside the house, took beer from the fridge and put it on top of the table at the sitting room, went upstairs to his room and opened the wardrobe, took a gun from his wardrobe, and then went downstairs to confront his wife and daughter. This sequence suggests that he had time to reflect, which supports premeditation. In *Raath's* case paragraph 13, the court explains that premeditation can happen within minutes if the suspect forms a firm intent before committing the act.

[11] In *S v Kekana* 2014 (2) SACR 240 (SCA), the Supreme Court of Appeal held that premeditation involves consideration of the act before committing it, regardless of whether the actual killing happens shortly after the decision is made. In this case, after an argument, the accused armed himself and then went to confront the victims. The suspect retrieved a gun from a different location (upstairs) before returning to the crime scene, which strongly indicates that he had time to consider his actions. But, because he had already concluded in his heart, that he wants to kill his wife and daughter, he continued to fulfil what he premeditated. In the case of *kekana* paragraph 12-14, the court explains that a cooling-off period does not necessarily remove premeditation if the accused had formed a clear intent before acting. At paras 12 and 13 of the judgment, this Court stated as follows:

‘It was also submitted that the appellant’s conduct occurred on the spur of the moment, and that his actions were not premeditated. I disagree. The appellant’s overall conduct puts paid to that suggestion. It all began with the argument he had with his wife, after

which he decided to commit suicide. He rationalised to himself that his children would suffer in his absence. He killed the first child, after which he instructed one of the children to call his wife. He called his wife to listen to the horror of the killing.

This conduct, to my mind, points to pre-planning or premeditation. In this regard, one must bear in mind what this court said in *S v Kekana* [2014] ZASCA 158 at para 13, that premeditation does not necessarily entail that the accused should have thought or planned his or her action for a long period of time in advance before carrying out his or her plan. This is because ‘even a few minutes are enough to carry out a premeditated action’.

[12] Director of Public Prosecutions, Gauteng v Pistorius [2016] ZASCA 150, The Supreme Court of Appeal clarified that even a short period between forming the intent and carrying out the act can amount to premeditation. Here, the suspect had time to reflect while retrieving the firearm, supporting the argument that he acted with prior consideration rather than spontaneous rage. Paragraph 55 of the case of *Director of Public Prosecutions, Gauteng*, the court emphasizes that retrieving a weapon from another room before committing the crime can demonstrate premeditation. The accused in this case “weighed – up” his proposed conduct on a thought-out basis.

[13] The process of inferential reasoning must be consistent with all proved facts. The evidence needs to be considered in its totality. It is only then that, one can apply the oft-quoted dictum in *R v Blom* 1939 AD 188 at 202-203, where reference is made to two cardinal rules of logic which cannot be ignored. These are, first, that the inference sought to be drawn must be consistent with all the proved facts and, second, the proved facts should be such “that they exclude every reasonable inference from them, save the one sought to be drawn. In *S v Mtsweni* 1985 (1) SA 590 (A) at 593F-G, the Court, in emphasizing that only proven facts can form the basis for legitimate inferences, said:

‘Inference must be carefully distinguished from conjecture or speculation. There can be no inference unless there are objective facts from which to infer the other facts which it is sought to establish ...if there are no positive proved facts from

which the inference can be made, the method of inference fails, and what is left, is mere speculation or conjecture’.

[14] The question remains whether the inferences in the case are the only ones to be drawn. Consistency with the Proved Facts: The inference that the accused acted with premeditation must align with all established evidence. The accused’s prior statement that he would kill Ruzzane, Magdalene, and Alfie, followed by his retrieval of a loaded firearm and his deliberate pursuit of his wife after already shooting his daughter, fits perfectly within a premeditated framework. The accused did not merely react in the heat of the moment—his actions systematically followed the intent he expressed earlier.

Exclusion of Other Reasonable Inferences: The defense argues that the killings were spontaneous and a result of provocation. However: If the intent was only to intimidate, why retrieve a loaded firearm? If the accused lost control in a moment of anger, why did he then follow Magdalene and kill her upstairs after Ruzzane had already been shot? Why did his actions align so precisely with his earlier threat to kill three people? A truly impulsive act would be erratic and unstructured, whereas the accused’s actions reflect a controlled execution of prior intent. The only reasonable inference that excludes speculation or doubt, is that the accused acted in accordance with a premeditated plan rather than an emotional outburst. Based on inferential reasoning *under R v Blom*, the conclusion that the accused premeditated the murders is the only reasonable inference consistent with all the proved facts. Any alternative explanation—such as acting impulsively under provocation—is not supported by the totality of evidence and fails to exclude the deliberate execution of a preconceived plan.

[15] The accused’s state of mind at the time of the killings, viewed through a subjective test, strongly supports premeditation rather than an impulsive act driven by provocation. His retrieval of a loaded firearm, rather than an unloaded one, indicates an intention to use deadly force rather than merely to scare or assert control. His pursuit and execution of his wife, even after she had retreated, negates any claim of immediate provocation and instead suggests deliberation and follow-through on a prior decision.

His actions align precisely with his earlier threats, further demonstrating that he was carrying out a preconceived intention rather than reacting in the heat of the moment. The defence's version lacks credibility in light of the accused's own pre-incident statements, his methodical execution of the killings, and his conscious choice of a loaded firearm. The totality of the evidence supports the conclusion that, the accused acted with premeditation and that the murders were not the product of temporary provocation or loss of control.

[16] Considering Exhibit A and the plea explanation of the accused, I find that the accused has admitted to the elements of the offence. In respect of Count 1, the accused alleges that he shot Magdalene inside the house while she was no longer fighting him. In respect of Count 2, he shot at Ruzzane while she was already four meters away from him. I find that the murder was premeditated.

[17] Therefore, the following verdict is made:
Accused is found guilty as charged on both counts.

M. Munzhelele
Judge of the High Court Pretoria

Heard: 10 March 2025

Delivered: 17 March 2025

Counsel for the State: Adv. Khosa

Counsel for the Accused: Mr. Moldenhauer

