



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GQEBERHA)**

CASE NO.: CC 12/2025

In the matter between:

THE STATE

and

DEVANO VAN VUUREN

JUDGMENT ON SENTENCE

GQAMANA J

[1] The accused has been convicted of murder, unlawful possession of a firearm and ammunition.

The deceased in the murder count was shot in the comfort of his own mother's home during broad

daylight and in a cold-blooded manner. He was visiting his mother whom he had not seen for a long time, when his life was abruptly ended. The offence that the accused has committed is abhorrent. It is now time for the court to sentence him.

[2] In imposing an appropriate sentence, I must consider the well-known triad factors, consisting of the crime, the offender and the interests of society.¹ Sentencing requires a balanced and judicial

assessment of all these factors. The sentence imposed should not be too severe or too light.

An

appropriate sentence should reflect the severity of the crime, while at the same time giving full consideration of all the mitigating and aggravating factors. The sentence should also have regard to or serve the interests of society. It should also be blended with mercy.

[3] In relation to count 1, my point of departure is that the statutory prescribed minimum sentence

of life imprisonment in terms of the provisions of s 51(1) of the Criminal Law (Sentencing) Amendment Act 38 of 2007, read with Part 1 of Schedule 2 of Act 105 of 1997, should be imposed.

Further in relation to count 2, the unlawful possession of a firearm, the prescribed minimum sentence in terms of s 51 (2) is 15 years' imprisonment. However, these sentences may be deviated

if there are substantial and compelling circumstances.

[4] In *S v Malgas*,² the Supreme Court Appeal emphasised that:

“... the [prescribed] sentences should ordinarily and in the absence of weighty justification be imposed for the commission of the listed crimes in the specified circumstances. Unless there are, and can be seen to be, truly convincing reasons for a different response, the crimes in question are therefore required to elicit a severe, standardised and consistent response from the courts.

¹ *S v Zinn* 1969 (2) SA 537 (A).

² 2001 (1) SACR 469 (SCA) para 25.

The specified sentences are not to be departed from lightly and for flimsy reasons which could not withstand scrutiny. Speculative hypothesis favourable to the offender, undue sympathy, aversion to imprisoning first offenders, personal doubts as to the efficacy of the policy underlying the legislation ... are to be excluded.”

[5] Also in *S v Vilakazi*,³ the SCA said:

”[15] It is clear from the terms in which the test was framed in *Malgas* and endorsed in *Dodo* that, it is incumbent upon a court in every case, before it imposes a prescribed sentence, to assess, upon a consideration of all the circumstances of the particular case, whether the prescribed sentence is indeed proportionate to the particular offence.”

[6] It is against the above legal principles that I should consider the appropriate sentence to be imposed. In doing so, I must also have regard to the accused’s personal circumstances, the mitigating and aggravating factors.

[7] The personal circumstances of the accused are as follows: he was born on 5 April 2005, and therefore, he was 18 years of age at the time of commission of offences herein. He was raised by his mother in close-knit family. He is unmarried and has no children. He left school in Grade 10. He had no reason not to complete the secondary school level. He is a first offender. He was arrested on 15 March 2024 and has been in custody since then. He was unemployed but he would often do odd jobs at Trevor’s scrapyard business.

[8] The State presented the victim impact evidence of the deceased wife, Mrs Ruiters. She testified that the deceased was a breadwinner and family provider. They had been together for 17 years but married only for six months. Two children (both girls) were born out of that relationship. Both children are minors, 11 and 5 years of age respectively. The death of her husband emotionally affected not only her, but also her children. They had to be uprooted because they were not feeling safe anymore to be in the same area. Worse of it all, the accused bragged and rejoiced on the day in question and said to her he has killed her husband. The sight of her husband lying on the couch dead, still today causes her anxiety. Her children are now fatherless. They will never again enjoy the love of their father.

³ 2009 (1) SACR 552 (SCA).

[9] The deceased's mother also testified that the accused robbed of her only son who was still alive, and she is childless because of his action. She watched the accused how he fired several shots at the deceased's body unrepentantly. Even though the murder incident happened more than eighteen months ago, she was still emotional.

[10] This reminds me of the remarks made by this court, in *S v Nyangwa*,⁴ that:

"The prevalence of the crime of murder is such that cognizance is sometimes loss of the extreme consequences that flow from it. Life is ended. And with it the enjoyment of all the rights vested in that person: dignity, equality and freedom, and the right to life itself. Not only is life ended, but the lives of family and friends are irreparably altered. It is for this reason that the rule of law requires that the perpetrator should, generally, be visited with harsh punishment. The act of punishment serves as retribution. It serves also to signify that such crimes will not be tolerated, that there is a significant and serious consequence to be suffered by the perpetrator. It is this which our theory of criminal justice posits as the basis for deterrence. But, as a society founded upon the respect for and protection of human dignity, our criminal justice system also acknowledges that, wherever possible, the consequences should be ameliorated where there is a prospect that the perpetrator may be rehabilitated and reintegrated into society upon the completion of the sentence imposed."

[11] Counsel for the accused argued that life imprisonment would effectively deny the accused the possibility of rehabilitation. She implored to the court to have mercy and give the accused a second chance, even though the accused has showed no remorse. In advancing her argument, she submitted that the following factors, the accused's personal circumstances, his age, the influence of alcohol when he committed these offences and his clean record considered cumulative, are substantial and compelling circumstances that should justify a deviation from the prescribed minimum sentences. However, it was conceded that the murder charge is a serious offence, and a correct message must be sent out by imposing significant years of imprisonment.

⁴ Per Goosen J (then) (CC25/2018) [2019] ZAECPHC 46 (7 August 2019).

[12] On the other hand, Counsel for the State submitted that the prescribed sentences must be imposed, because there are no substantial and compelling circumstances justifying a deviation. In advancing his submission, he argued that in cases of serious crime, the personal circumstances of the offender should recede into the background. And in a case of this kind the objective features of the crime come to the fore in determining a proper sentence. Counsel emphasised the seriousness of the offence, its prevalence in the Schauderville area and the impact of the accused's actions to the deceased's immediate and outer families and the society at large.

[13] The accused has been convicted of a serious offence (murder). The life of an innocent person was abruptly terminated. The deceased was killed in broad day light in a cold-blooded manner and in the comfort of his mother's home. His family still lives in fear. The consequences of the accused actions caused permanent and devastating consequences to the deceased's wife and her family.

[14] The accused showed no remorse. His actions demonstrated that he has no respect for life. He chose not to explain his behaviour on that day. The deceased was defenceless and unarmed.

[15] Society looks at courts for protection from criminals. Courts have an obligation to impose the kind of sentences which reflect the natural outrage and revulsion felt by law-abiding members of society. A failure to do so would regrettably have the effect of eroding the public confidence in the criminal justice system.⁵

[16] I accept that the accused showed no remorse. To date the accused has failed to take responsibility for his actions and the consequences thereof. That to me can be attributed to his age, as he was only 18 years of age at the time. Youthfulness usually affects the moral culpability of an accused. This is so because young people often do not possess the maturity of adults and are therefore not in the same position to assess the consequences of their actions. In *S v Williams*⁶ the Constitutional Court warned that youth offenders should not be sacrificed on the altar of deterrence.

⁵ DPP, *North Gauteng v Thabethe* 2011 (2) SACR 567 (SCA) par 22.

⁶ 1995 (3) S A632 (CC) at para 85.

[17] The accused's personal circumstances, particularly his youthfulness, his clean record, i.e. he is a first offender, and that he was under the influence of alcohol at the time of the commission of these offences, considered cumulative amounts to substantial and compelling circumstances justifying a deviation from the prescribed minimum sentences.

[18] However, considering all the mitigating and aggravating factors herein, a lengthy term of imprisonment would be appropriate. The jail term will present an opportunity to the accused to rehabilitate himself and to respect life and human dignity of other fellow human beings. I do, however, acknowledge that the sentence would not bring back the deceased. But there are prospects that the accused may be rehabilitated and reintegrated into society upon completion of his sentence.

[19] After careful consideration I have come to the conclusion that a proper sentence in this matter would be the following:

1. **In respect of count 1, i.e. Murder, 25 years' imprisonment.**
2. **In respect of count 2, i.e. unlawful possession of a firearm, 10 years' imprisonment.**
3. **In respect of count 3, i.e. unlawful possession of ammunition, 4 years' imprisonment.**

Furthermore, the sentences imposed in respect of counts 2 to 3 shall run concurrently with the sentence imposed on count 1. In addition, the accused is declared unfit to possess a firearm licence.

N GQAMANA

JUDGE OF THE HIGH COURT

APPEARANCES:

Counsel for the State : *Adv Canary*

Instructed by : Director of Public Prosecutions
Gqeberha

Counsel for Accused : *Adv J Coertzen*

Instructed by : Legal Aid South Africa
Gqeberha

Heard on : 9 September 2025

Sentence delivered on : 12 September 2025

