



IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN

WC CASE NO.: A202/2025

In the matter between:

**WAYDON BEZUIDENHOUT**

**APPELLANT**

and

**THE STATE**

**RESPONDENT**

**Coram: Goliath, DJP et Thulare, J et Pangarker, J**

**Heard: 27 February 2026**

**Delivered: Electronically on 13 March 2026.**

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**ORDER**

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The appeal against sentence is dismissed. The sentence of life imprisonment is confirmed.

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**JUDGMENT DELIVERED ELECTRONICALLY ON 13 MARCH 2026**

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**GOLIATH, DJP (Thulare J et Pangarker J concurring):**

[1] This is an appeal against sentence. On 3 October 2024 the appellant was convicted in the High Court sitting in Knysna on charges of kidnapping, murder and defeating the ends of justice. On 04 October 2024 he was sentenced to 5 years imprisonment in respect of the kidnapping charge, 12 months' imprisonment in respect of defeating the ends of justice and life imprisonment on the count of murder. In terms of the provisions of section 39 of the Correctional Services Act 111 of 1998 it was ordered that the sentences of 5 years and 12 months were to run concurrently with the sentence of life imprisonment. The appeal lies only against the sentence of life imprisonment.

[2] The appellant pleaded not guilty to all the charges. The appellant and the deceased, Mr Gladman Mawande Kondlo were friends for approximately two years and lived in close proximity to each other in Khayaletu. Although they did not have much in common except for socialising and drinking, both were entrepreneurs who ran their own businesses. The appellant was the sole proprietor of a funeral parlour located in Knysna main road, known as Cassandra Funerals. The deceased operated a successful bed and breakfast establishment at the upper floor of his residence in the tourism sector under the name and style of Wandu Tours and Stays. The appellant often stayed over at the guest house as a paying guest.

[3] On Monday 17 January 2022 just before 6pm the body of Mr Kondlo was discovered in a forest by an off-duty uniformed police officer, Sergeant Mfundo Matshaya, who went to look for his cattle that was grazing in the vicinity of the Uniondale Road and Bokkoppie Road near Denron Quarry, Knysna. While searching for his cattle in the bush, he discovered a body in a downhill sloped area

next to a tree. He observed that there was blood on the legs of the body, and that the head was covered with plastic. He reported the matter to South African Police Service and sent a message on the WhatsApp group.

[4] At approximately 7pm Sergeant Juan Smit, accompanied by Sergeant Ackerman, were the first uniformed members of the South African Police Service to arrive on the scene. Smit observed that the deceased was lying on his back with his hands behind his back. He was wearing a white vest and a black short. His head was covered with a black bag that was tied with a rope. He observed a rope around his mouth. He further observed blood on his neck and legs. The investigating officer, sergeant Vusumzi Xokozela, was on duty when the body of the deceased was discovered. He was the standby detective on duty. He arrived at the body scene eight minutes to seven the evening. He conducted an interview with the police officer who discovered the body.

[5] Warrant Officer Stander took photographs at the scene. He confirmed that the deceased's hands were tied with a shoelace or rope behind his back and his feet were tied with pinkish t-shirt material cloth. The black bag over his head resembled a black refuse bag. When the bag was removed from his face by mortuary staff he observed a wound on the forehead of the deceased. There was a tape or strap around the head which protruded through the mouth.

[6] Dr Hurst conducted an autopsy on the body of the deceased on 20 January 2022. She confirmed that the condition of the body of the deceased aligned with recent death two days ago. She observed blunt force trauma mainly on the head

which resembled a hard blow causing a head fracture. There was a subarachnoid haemorrhage into the scalp but no significant brain injury. However, the extent of the injury to the head could cause a concussion and loss of consciousness or incapacitation.

[7] There was a ligature around the neck, and the airways were covered with a plastic bag. A white shoelace was tightly tied around the neck in a double knot. Beneath the lace was an indentation of the soft tissue which means it compressed the neck significantly enough to cause such indentation. The deceased had a wad in the mouth, and his mouth was tightly tied with tape. There was significant indentation of the mouth with the tape, resulting in the wad being pushed back into the throat. A black refuse bag covered the entire face which was tied around the neck with flat box tape in a double knot on the right side of the neck anteriorly in front. The box tape served to keep the black plastic bag in place.

[8] Black insulation tape was tied tightly around the head, through the mouth with another section tied tightly around the neck. The insulation tape was wound around the head several times to keep the wad in place. He had a blood stained wad in the mouth, and his mouth was tightly tied with the tape. His lips were swollen and there was a patchy contusion on the inner aspects of the lips on the right side as well as a 1.5-centimetre laceration. There was a superficial laceration at the edge of the upper lip.

[9] On removal of the black insulation tape there was a plate material band which was one centimetre wide deeply inside the mouth. The material was seven by four

by three centimetres, in the mouth, held in place by insulation tape. The plastic bag over the head, shoelace around the neck, insulation tape and the material in the mouth could have resulted in smothering and strangulation.

[10] The legs of the deceased were tied with light orange t-shirt material. There were three lacerations to the head, namely, at the right temporal region, left temporal region and the left occipital region at the back of the head. There was also a laceration on the forehead. In summary, there were a total of five lacerations located on top of the head, the sides of the head and both sides and in front. She concluded that the deceased was struck at least five times. The fracture of the right parietal bones on top of the head towards the back was inflicted with significant force. She concluded that the scalp bled significantly before the black bag was put over his head. The airways were obstructed by means of pressure of the rope, a wad in the mouth, and plastic bag which cuts the oxygen. She concluded that the cause of death was strangulation, smothering and blunt force trauma.

[11] Mr Fezile Willie Captain, the opposite neighbour of the deceased, confirmed that the deceased was at his residence on Saturday 15 January 2022 at approximately 2pm the afternoon. They sat together under a tree in front of his residence. The deceased looked tired, stayed for about 30 minutes, and left.

[12] The last time the deceased was seen was on Saturday 15 January 2022 at approximately 22h22. His children were at home and observed the deceased leave home in the company of the appellant and two guests at the guest house. He was

dressed casually in a t-shirt, shorts and flip-flops. The deceased called his son before his departure. His daughter answered the call, and he called out her name multiple times. The children regarded it as a light-hearted moment, questioning as to the reason for the call since they were all at home. The cell phone records confirm a call to and from his son's cell phone at the time. The deceased left his residence in a black car and never returned home.

[13] On 18 January 2022 the accused made an exculpatory statement to the investigating officer when he was still considered as a person of interest who could provide information as to the whereabouts of the deceased. The statement of the appellant essentially provided an account of his whereabouts on Saturday 15 January 2022 and Sunday 16 January 2022. The appellant stated that he slept at the deceased's guesthouse on Friday 14 January 2022. The next morning, he discovered that his cell phone was missing, but the sim card was left behind. He established that R1000,00 was stolen from his wallet. He also discovered damage to the front tyre of his rented vehicle, a Nissan X-Trail, which was parked at the residence of the deceased. He confronted the deceased about the missing items, but he was unable to respond and the deceased apologised.

[14] Saturday morning, 15 January 2022 he had to attend to a funeral at The Craggs, Knysna. His two workers Duwayne and Patrick arrived early at the deceased's house with a black Ford rented by Mamma China. He rented the Nissan X-Trail for funeral purposes which he referred to as the "family car". The workers left with the Ford and Nissan X-Trail to attend to funeral preparations in Craggs. The appellant and deceased walked to the residence of Mamma China to collect an

additional vehicle, a black Mazda for the funeral. They drove to his office to collect funeral equipment, a stretch tent and chair covers, placed it in the black Mazda, and left for The Crag.

[15] The deceased assisted him to prepare the burial site. There were other people present at the burial site. While they were there, Mamma China called and requested him to return her Mazda vehicle because she had an event at Mavusi's house. The two of them left to deliver the vehicle to Mamma China. Before he delivered the vehicle the deceased requested him to drop him at Magadla's Tavern at approximately 11am. Later the same day he assisted Mamma China with a chore to load a tent in the car. He then drove past Magadla's Taven and saw the deceased sitting on the rail at the store.

[16] He subsequently went home and took his car to the car wash. His wife then accompanied him to a braai at Leisure Island, and later the evening they went to numerous entertainment venues namely Elegant, Ingoma, S'khulu's Tavern and Spotlight to do what is known as club hopping. They went home early Sunday morning and he slept at home. He went to the residence of the deceased on Sunday afternoon and Monday morning looking for the deceased. On both occasions he was informed that the deceased was not at home. The wife of the deceased called him on Monday afternoon to enquire about the whereabouts of the deceased. He denied that he was at the residence of the deceased on Saturday evening as conveyed by the children of the deceased.

[17] At the hearing of the matter the appellant did not give a plea explanation, but

made certain admissions regarding the identity of the deceased, post mortem report, certain exhibits, photographs, sketch plans, crime scene exhibits, forensic reports, CCTV report, tracker report of the Nissan X-Trail, cell phone records and DNA reports in respect of exhibits.

[18] The appellant testified in his defence and elaborated on the version provided in his initial statement. He explained that he became embroiled in a drug syndicate and protection racket controlled by Mavusi, the owner of Nellies Tavern. Three to four weeks before the death of the deceased he attended a meeting at the home of Alistair Galant in Hornlee, where Mavusi and Khaya were also present. He was instructed to shoot the deceased and Khaya provided with a 9mm firearm. The plan was that since he was close to the deceased, he had to lure the deceased to a certain place for the hit to be executed. He was informed that Mavusi was already paid for the hit. The hit had to take place after the meeting, but he did not have the courage to do so. He stated that he was hesitant but feared for the safety and the safety of his family and reluctantly agreed to the command.

[19] In his initial statement the last time he saw the deceased was when he dropped him at Magadla's Tavern. In his testimony he expounded on this version. He testified that after he dropped the deceased off near Magadla's Tavern he went to Mamma China to deliver the motor vehicle. Thereafter he assisted Mamma China to deliver chairs and equipment to Mavusi's house where there was a welcoming ceremony for an initiate. Mavusi arrived in a Quantum vehicle and requested him to follow him to his tavern. Mavusi expressed his displeasure at his failure to execute the hit on the deceased and informed him that a hitman was hired who will arrive on

that day between 4pm and 6pm from Port Elizabeth.

[20] With regard to the firearm, the appellant stated that he had placed the gun in the cubby hole of the Nissan X-trail on Saturday 14 September 2022 before he went to The Craggs for funeral preparations accompanied by the deceased. He eventually removed it and placed it in the cubbyhole of the black Mazda of Mamma China, whereafter he retrieved it and hid it behind a wardrobe at his residence. He testified that he never used the firearm and returned it to Khaya three weeks after the death of the deceased. Mamma China confirmed that she saw the appellant remove the firearm from the cubby hole of her vehicle and was alarmed at this discovery. Mr Mbulelo Matlala who worked at Seun's car wash also saw the firearm lying in the boot under the carpet covering the spare wheel when he cleaned the vehicle on Saturday afternoon.

[21] A crucial aspect in the appellant's testimony which was omitted from his statement was that after he went club hopping with his wife, a series of events involving the deceased had occurred. He stated that after club hopping he and his wife arrived home in the early hours of Sunday morning. He dropped his wife at home and thereafter went to the home of the deceased at approximately 5 am. He stated that his intention was to drink with the deceased. When he arrived at the home of the deceased, he observed that a stationary white bakkie was parked in front of the guest house. He parked the Nissan X-trail in the driveway. He entered the house and saw someone at the top of the stairs and went upstairs. He saw the deceased lying on the floor near the breakfast area. His hands were tied behind his back.

[22] The people present were Mavusi, Yonele Best, the hitman and his girlfriend. The deceased frantically called out to him to help him. The deceased was taken down the stairs at gunpoint with the hitman walking behind him. He was placed in the boot of the X-Trail. Mavusa drove the vehicle, and the appellant was seated at the back in the middle with Yonele Best and the hitman on either side. Khaya was driving the bakkie and the lady accompanied him in the bakkie.

[23] They drove on the R339 towards Uniondale Road and stopped along the road at the Denron area. The deceased was aggressively taken from the boot, and he landed on his knees. He shouted and screamed for help. He was bare feet and wore a vest. They started to assault him with fists, hitting him with the butt of the pistol and kicking him on his head. Mavusi called him a dog while stomping him on his head. The deceased was laying on the ground. He tried to intervene, to no avail.

[24] They decided to get some string or ropes. They put him back in the boot and went to Gaddafi Shop which is located next to Nellie's Tavern. Yonele went to the tavern to fetch ropes and two spades. He also took a plastic bag. Everyone else remained in the vehicles. As they left the hitman forcefully pulled the plastic over the deceased's head, but the plastic was not tied at this stage. They returned to Bokkoppie Road. The deceased was crying in the boot. Yonele and the hitman violently removed the deceased from the boot. He fell to the ground. At this stage Mavusi instructed him to leave the scene and threatened him not to inform anyone what had happened. He jumped over the seat and drove away from the scene. According to the appellant the deceased was still alive at that stage.

[25] He drove aimlessly in Sanlam and tried to call a friend, whereafter he went to the residence of the deceased at approximately 5am. He knocked on the door and asked the children whether the deceased was home. He returned to the car and remained seated in the car for a considerable time and cried. He left the vehicle in front of the guesthouse driveway and walked home.

[26] He changed his clothes and put on a blue shirt, pyjama pants and slippers. He then went back to the vehicle and drove to Total Garage where he sat in the car for 58 minutes crying and fell asleep. He then went to the Shell garage at approximately 9 o'clock to wash the car. He returned to the residence of the deceased and again inquired about the whereabouts of the deceased.

[27] The appellant stated that on Sunday afternoon, 16 January 2022, Mavusa and Yonela arrived at his house and threatened him not to report the matter to the South African Police. He was informed that they got rid of the deceased. Mavusa showed him a picture of the deceased. He returned to the deceased's house on Monday morning to look for the deceased. The wife of the deceased called him on Monday to inform him that she was looking for the deceased.

[28] Video footage was obtained of the vehicle at the car wash. Ms Ashley Boethius, an employee at Allsound Security in Knysna provided a comprehensive analysis of CCTV footage of the movements of the appellant at Total Garage and Shell Garage. The images at Shell Garage specifically shows that the appellant supervised the cleaning of the exterior of the car whereafter it was parked under a

car port where the boot was extensively vacuumed.

[29] The investigating officer made a breakthrough when he received information that the appellant was seen at the Total Garage on Saturday evening, on 15 January 2022 and at the Shell Garage on Sunday, 16 January 2022. He scrutinized the video footage of the Nissan X-trail retrieved by Allsound Security and obtained the registration number of the vehicle.

[30] He established that the appellant rented the vehicle from Thrifty Car Rental at George Airport on the afternoon of Friday, 14 January 2022 and returned it on Wednesday 18 January 2022. The appellant was the last person that used the vehicle. The tracker report of the vehicle was obtained, and the vehicle was seized on 26 January 2022 for forensic examination. Captain Joubert examined the vehicle and found traces of blood in the boot that was found to be that of the deceased. Significantly, the combination of forensic evidence comprising of vehicle tracking, cell phone tracking and CCTV footage provided a compelling picture of the movements of the appellant during the course of the fated weekend when the deceased was kidnapped and murdered.

[31] The court found the version of the State to be largely uncontentious and acceptable. The Court found that the appellant held back on his version in order to manipulate the facts put up by the State. The court scrutinized his version and found that it was crafted to manipulate the compelling set of facts put up by the State which established a strong prima facie case against him. The court further found that the appellant tailored his version to create a false alibi during crucial stages of the

commission of the crimes, deliberately switched off his phone to support his false alibi, and was intentionally deceiving the court to believe that his wife was with him at certain times in order to strengthen his false alibi. The court therefore concluded that the appellant was dishonest and manipulative.

[32] The court held that the murder of the deceased was planned and premeditated. The court concluded that the deceased must have been kidnapped and held somewhere while the appellant went club hopping. The court rejected his version as false and found that his evidence pointed to the involvement of other henchmen whom the appellant sought to protect. The court concluded that clear objective evidence established that the appellant did not act alone and that there were co-perpetrators responsible for the abduction and death of the deceased who were not before the court.

[33] The court therefore found the appellant liable to be convicted of the charges for his participation in the kidnapping and murder of the deceased based on the doctrine of common purpose. In convicting the appellant on the charge of defeating the ends of justice, the court found that the appellant deliberately attempted to delay and sabotage the forensic examination of the Nissan X-Trail and preservation of DNA data which resulted in his arrest. Ultimately the appellant was correctly convicted on the basis of strong circumstantial evidence comprising of cell phone record evidence, the tracker report of the Nissan X-Trail, CCTV video footage of the vehicle, witness evidence, forensic evidence as well as the evidence of the appellant.

[34] With regard to sentence, Counsel on behalf of the appellant submitted that the trial court failed to properly evaluate the appellant's personal circumstances, overemphasised the interests of the community, and imposed a life sentence that is harsh, severe and induces a sense of shock. Counsel contended further that the court had failed to have due regard to the appellant's limited participation in the commission of the offences, as well as the fact that the appellant was a first offender susceptible to rehabilitation.

[35] The over-arching ground of appeal is that the court had failed to give sufficient weight to factors that constituted substantial and compelling circumstances which justify the imposition of a sentence lesser than life imprisonment for murder. Counsel on behalf of the State submitted that the court considered all the relevant circumstances of the case, that the sentence is neither severe nor shockingly inappropriate, and that the sentence imposed should be confirmed.

[36] It is trite that sentencing lies in the discretion of the trial court.<sup>1</sup> The essential enquiry in an appeal against sentence is not whether the sentence was right or wrong, but whether the court in imposing it exercised its discretion properly and judicially, a mere misdirection is not by itself sufficient to entitle the Appeal Court to interfere with the sentence; it must be of such a nature, degree, or seriousness that it shows, directly or inferentially that the court did not exercise its discretion at all or exercised it improperly or unreasonably. Such a misdirection is usually and conveniently termed one that vitiates the Court's discretion.<sup>2</sup> Consequently, this court cannot interfere merely because it might have imposed a lighter sentence than

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<sup>1</sup> **Nkabinde and Others v S** [2017] ZASCA 75; 2017 (2) SACR 431 (SCA) at para 51.

<sup>2</sup> **S v Pillay** 1977 (4) SA 531 (A) at 535 E-F.

the trial court.<sup>3</sup>

[37] In **S v RO and Another**<sup>4</sup> the court stated that:

*‘Sentencing is about achieving the right balance (or, in more high-flown terms, proportionality). The elements at play are the crime, the offender and the interests of society or, with different nuance, prevention, retribution, reformation and deterrence. Invariably there are overlaps that render the process unscientific; even a proper exercise of the judicial function allows reasonable people to arrive at different conclusions.’*

[38] In terms of the provisions of section 51 of Act 105 of 1997, premeditated murder or murder in pursuit of a common purpose carries a mandatory sentence of life imprisonment or a lesser sentence in terms of section 51 (3) if substantial and compelling circumstances are proved by evidence. The specified minimum sentences are not to be departed from lightly and for flimsy reasons.<sup>5</sup> The court must consider the traditional mitigating and aggravating factors cumulatively and as part of determining whether the minimum prescribed sentence is so disproportionate to the sentence that would be appropriate to the sentence, to the extent that an injustice would be done by imposing that sentence. Put differently, that the prescribed sentence would be disproportionate to the crime, the criminal and the legitimate needs of society.

[39] The trial court gave a very detailed judgment dealing with all aspects relating to sentence in the matter. The personal circumstances of the appellant were

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<sup>3</sup> **S v Obisi** 2005 (2) SACR 350 (W) para 8, **S v Rabie** 1975 (4) SA 855 (A) at 857 D-E; **S v De Oliveira** 1993 (2) SACR 59 (A) at 667.

<sup>4</sup> **S v RO and Another** 2010 (2) SACR 248 (SCA) at para 30.

<sup>5</sup> **S v Malgas** 2001 (1) SACR 469 (SCA).

assessed and taken account of, as well as the factors relating to the crime and the effect of the crime on the victims. However, in cases of serious crime the personal circumstances of the offender, by themselves, will necessarily recede into the background<sup>6</sup>.

[40] The trial court went through a detailed analysis of the circumstances surrounding the commission of the offences. The court mentioned that the appellant was in a position of trust as a friend of the deceased and abused that trust by facilitating easy access to the deceased. There are factual findings made by the court that there must have been a substantial amount of planning and involvement in luring the deceased away from his home to a place where he was going to be held against his will and killed.

[41] The court set out the cruel manner in which the crimes were committed. The appellant had ample opportunity to reflect but consciously decided to continue to act in concert with others to facilitate the death of a friend who affectionately called him “Master”. The appellant attempted to justify his conduct on a fabricated version suggesting that he feared for his life. The photos on record depict the serious and gruesome injuries suffered by the deceased. The deceased died a painful and merciless death. Having regard to the seriousness of the offence and the interests of society, there can be no doubt that the offence committed by the appellant is extremely serious.

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<sup>6</sup> **S v Vilakazi** 2012 (6) SA 353 (SCA) para 58.

[42] Our Courts have considered the maximum penalty for cases where there is reliance on common purpose.<sup>7</sup> The aggravating features of the crime are overwhelming. In my view the mitigating factors in the appellant's favour are wholly outweighed by the nature of the crimes and the interests of society justifying the strictest sanction possible which is a proportionate and suitable punishment considering the legislative framework. I am satisfied that cumulatively, the factors enumerated by the appellant's Counsel do not amount to convincing reasons for departure from the discretionary minimum sentences prescribed.

[43] I am accordingly satisfied that the trial court properly and judicially applied its mind to the guidance articulated in **S v Malgas** (supra) regarding the existence of substantial and compelling circumstances and correctly concluded that there were no such circumstances in respect of the murder charge. For all the above reasons, it is my view that the trial court did not misdirect itself. There is, therefore, no reason for this court to interfere with the sentences imposed. The courts have a duty to impose appropriate sentences for these crimes to satisfy the objectives of retribution and deterrence in sentencing to deter those with like-minded intent.

[44] In the result, I make the following order:

The appeal against sentence is dismissed. The sentence of life imprisonment is confirmed.

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**DEPUTY JUDGE PRESIDENT GOLIATH**

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<sup>7</sup> **S v Monye** 2017 (1) SACR 329 (SCA) at para 19 and 21; **S v Mlumbi** (70/1990) [1990] ZASCA 153 (29 November 1990); **S v Nduwana** 2015 (JBR) 0751; (CC 26/ 2014) [2015] ZAECPHC 22 (17 April 2015).

**Thulare, J (concurring).**

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**D. THULARE  
JUDGE OF THE HIGH COURT**

**Pangarker, J (concurring).**

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**M. PANGARKER  
JUDGE OF THE HIGH COURT**

Appearances

For appellant: Ms Susanna Kuun

Instructed by: Legal Aid SA

For respondent: Adv Lenro Badenhorst

Instructed by: Director of Public Prosecutions

