



**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG
NORTH EASTERN CIRCUIT, MTUNZINI**

CASE NO: CCD28/2024

In the matter between:

THE STATE

and

SIPHAMANDLA GUMEDE

Coram: MOSSOP J

Heard: 26, 27 February 2026, 2, 3, 5, 6, 9, 10, 11, 12, 16, 17, 18 March 2026

Delivered: 20 March 2026

SENTENCES

The following sentences are imposed:

1. On count 1, being the murder of Mr Edwin Zungu, the accused is sentenced to 15 years' imprisonment.
2. On count 2, being the murder of Mr Simo Luthuli, the accused is sentenced to 15 years' imprisonment.
3. On count 3, being the common assault of Mr Siphamandla Ngema, the accused is sentenced to a fine of R300 or imprisonment for a period of 30 days.

4. On count 4, being the murder of Mr Bongani Mhlongo, the accused is sentenced to life imprisonment.

5. In terms of the provisions of s 280(2) of the Criminal Procedure Act 51 of 1977 it is ordered that the sentences imposed on counts 1, 2 and 3 shall be served concurrently with the sentence of life imprisonment imposed upon the accused on count 4, and the sentence on count 4 shall be served concurrently with the sentence of life imprisonment imposed upon the accused on 11 August 2025.

6. No determination is made in terms of section 103(1) of the Firearms Control Act 60 of 2000 and the accused is consequently declared unfit to possess a firearm.

JUDGMENT ON SENTENCE

MOSSOP J:

[1] It has been said that one person can never really know another person if the other person does not permit himself to be known. Mr Gumede, I do not believe that you are prepared to allow yourself to be known. You have disclosed the bare minimum information about yourself. Just how little you have disclosed will become apparent when I later mention your personal circumstances. Despite you and I being in the same courtroom for approximately a month, I cannot profess to know you as a person. I do, however, know some things about you. I know these things through observing you, from facts about you that I have found to have been proven and from your responses to those proven facts. I shall tell you what I think that I know of you.

[2] The first thing that I know, unquestionably, is that you are a contract killer. You kill people for money. You have denied this through your counsel, Mr *Mkhwanazi*. But there is no doubt that this is what you are and this is what you do. You have five previous convictions for murder, and I have convicted you of three more counts of murder. It is unusual in this life to come across a person who has purposefully killed another human being. But to come across a man who has purposefully killed eight times leaves no doubt about what that person does for a living. He kills. That this must be so is reinforced by the facts of this case. There was no apparent link between you and any of the men that I found that you had killed.

You claimed to not even know Mr Simo Luthuli, yet you killed him. It may be that you are a serial killer who simply derives pleasure from killing others. I have considered this. But it seems to me more likely that you kill people for money at the request of others who have some difficulty with the people earmarked for death. That would explain why there were no obvious links between you and the people that you murdered.

[3] The fact that you have denied that you are a contract killer tells me something more about you, and that is that you are not a truthful person and are a liar. Your denial of being a contract killer simply reinforces that conclusion. But that is not the only lie that you have told in this matter. There were many others. You lied about shooting Mr Simo Luthuli. You lied about shooting Mr Mhlongo. You lied about not discharging a firearm on 9 February 2024. Anyone who heard the evidence led at your trial would know that your default position is to lie. I mentioned in my judgment when I convicted you that you are a person who will not hesitate to tell a lie if it benefits you. Nothing that has occurred since your conviction has changed my view on this.

[4] I also know that you are also extraordinarily arrogant. When I asked your counsel to obtain information from you on Wednesday morning concerning your eight previous convictions, which I will consider shortly, your instruction to him was that this court has the power to ascertain what those convictions involved and it should therefore use those powers if it wanted to know about those previous convictions. In other words, you were not prepared to provide any information about your previous convictions. Throughout this trial, you have sat in the dock and shown no real interest in what was being said about your conduct. You did give some instructions to your counsel, Mr *Mkhwanazi*, from time to time but, on the whole, you seemed to have been bored by the proceedings.

[5] From this conduct, I also know that you have no remorse or regret whatsoever about what you did. You have expressed none in this matter. And when I asked Mr *Mkhwanazi* to obtain details of your previous convictions from you, in addition to your response already mentioned, you also instructed him to advise me that you were not guilty of any of those eight offences for which you were previously

convicted. Thus, not only is there no remorse expressed in this matter, you are also unrepentant about your prior conduct. As Ponnann JA stated in *S v Matyityi*:¹

'Remorse is a gnawing pain of conscience for the plight of another. Thus genuine contrition can only come from an appreciation and acknowledgement of the extent of one's error.'

[6] By refusing to acknowledge your own unlawful conduct, you have prevented this court from finding any remorse on your part.

[7] I also know that you have no feelings for the victims of the family of the persons that you murdered. On Wednesday, the aunt of Mr Simo Luthuli testified before this court and victim impact statements from family members of Mr Zungu and Mr Mhlongo were also handed up. That evidence was tremendously upsetting to hear and read. Yet you displayed no reaction whatsoever. Your air of studied boredom remained.

[8] The surviving family members of the men that you murdered have universally been plunged into an alien lifestyle with the demise in each instance of the breadwinner in their family. Mr Mhlongo was the father of 11 children. His wife rightly asked why he had to die. The family members of the deceased men are not able to reach an answer on the question of why they had to die. Perhaps the answer that you are a contract killer may explain something. It will not, however, explain who wanted the three men dead, or why. That is a secret that only you know and, given your absolute indifference to these proceedings, I have little doubt that you will never reveal what you know. This information will accordingly remain solely with you and on your conscience, if you have one.

[9] The existence of your previous convictions, which you admitted, also tells me something else about you. It tells me that you are an incredibly dangerous man. You are a man who does not hesitate to act violently against your fellow man. You have killed eight of them. You are not a big man, being not particularly tall nor broad. But there is undoubtedly a menacing air about you that creates the impression that you could suddenly explode into violence.

¹ *S v Matyityi* [2010] ZASCA 127; 2011 (1) SACR 40 (SCA) para 13.

[10] Having mentioned your previous convictions, I pause for a moment to consider them in a little more detail. Those convictions include five counts of murder, in respect of which you received a sentence of life imprisonment on each count, a count of attempted murder, for which you received a term of imprisonment of ten years, and two counts of robbery, for which you received two terms of imprisonment of 15 years each. All of these sentences are presently being served concurrently by you.

[11] The SAP69 document that records these previous convictions shows that you were convicted of all of the previous offences on 11 August 2025. As to when you actually committed each of those offences, the SAP69 document is, unfortunately, incomplete and does not mention those dates. Ms *Ntsele*, who appeared for the State, submitted that the CAS number attaching to each offence shows that these eight offences were committed in 2023. If this is so, then chronologically the eight previous offences occurred after counts 1, 2 and 3 in this trial had occurred, but before count 4 had occurred. This has some significance with regard to the sentences that are to be imposed upon you on counts 1 and 2. I do not accept that a CAS number can truly be indicative of when an offence was committed for it reflects when the offence was reported to the South African Police Service and not necessarily when the crime was committed, but, in the circumstances, I have no option but to reluctantly accept what Ms *Ntsele* has submitted and I shall use the chronology mentioned above when determining the sentences to be imposed upon you on counts 1 and 2.

[12] I also know something about you as a person from the submissions on your behalf made to me by Mr *Mkhwanazi*. You chose not to testify under oath in mitigation of sentence but instructed Mr *Mkhwanazi* to make submissions on your behalf. You are 31 years old, you are unmarried, but have three children, a girl aged 9 years, a boy aged 8 years and another girl aged 5 years. Mr *Mkhwanazi* advised me that you never knew your father, he having died when you were but six months old. Your mother is still alive. Prior to your arrest, you made a living selling fruit and vegetables at the Durban market and you earned R6 000 per month from this activity.

[13] That is what I know of you as a person.

[14] As to the sentence to be imposed upon you, Mr *Mkhwanazi* submitted on your behalf that substantial and compelling circumstances exist in this matter that would entitle this court to impose a lesser sentence than the minimum sentences prescribed in respect of the three counts of murder. Those circumstances, of which only one was mentioned, was that you had never known your father.

[15] The leading case that is often referred to when it comes to minimum sentences is the matter of *S v Malgas*.² In that matter, the court stated that it is incorrect to hold the view that for circumstances to qualify as substantial and compelling they must be 'exceptional' in the sense of being seldom encountered or rarely encountered. The court held that whatever nuances of meaning may lurk in those words, their central thrust is obvious, namely that specified minimum sentences are not to be departed from lightly and for flimsy reasons which cannot withstand scrutiny. But there is no reason to conclude that the Legislature intended a court to exclude from consideration, any or all of the many factors traditionally and rightly taken into account by courts when sentencing offenders.

[16] The ground advanced on your behalf by Mr *Mkhwanazi* is, unfortunately, a social reality that a number of citizens of this country experience. Not knowing one's father may occur for any number of reasons, including abandonment of his family by the father, or, as in this case, his death. It is, of course a factor that must enjoy some consideration, for personal and societal factors are no less important than any others. But the death of a father when an accused person was of tender years is rarely sufficient, on its own, to establish the existence of substantial and compelling reasons entitling a court to depart from a prescribed minimum sentence when the accused person is an adult person of mature years, as you are. This is especially so where the serious crime of murder is involved. As Nugent JA observed in *S v Vilakazi*:³

² *S v Malgas* 2001 (2) SA 1222 (SCA).

³ *S v Vilakazi* [2008] ZASCA 87; 2009 (1) SACR 552 (SCA) (*Vilakazi*) para 58.

'In cases of serious crime the personal circumstances of the offender, by themselves, will necessarily recede into the background. Once it becomes clear that the crime is deserving of a substantial period of imprisonment the questions whether the accused is married or single, whether he has two children or three, whether or not he is in employment, are in themselves largely immaterial to what that period should be, and those seem to me to be the kind of "flimsy" grounds that *Malgas* said should be avoided. But they are nonetheless relevant in another respect. A material consideration is whether the accused can be expected to offend again. While that can never be confidently predicted his or her circumstances might assist in making at least some assessment.'

[17] To the list of circumstances in that extract from *Vilakazi* just mentioned, could fairly be added whether the accused enjoyed the presence of a father when growing up. But even if that was added to the factors mentioned, it would, on its own, not establish the presence of substantial and compelling circumstances on the particular facts of this case. Ms *Ntsele* mentioned that many people grow up without a father and do not go on to become murderers. She is, of course, correct.

[18] It is sad to note that you have bequeathed an identical legacy to your children, as they will also grow up not knowing their father, because you will be in prison while they mature and then find their ways in the world.

[19] There are, in my opinion, no substantial and compelling circumstances that could justify a lesser sentence than the prescribed minimum sentences in the three murder counts of which you have been convicted.

[20] Ours is, regrettably, a violent society poisoned with gratuitous violence and unnecessary death. People such as yourself contribute to this deplorable state of affairs. People who make themselves available to commit murders for the payment of a sum of money have no place in our communities. In ancient societies, such as those in Greece and Rome, banishment from a community or country was often used to ensure social order, civic peace and punishment for the persons who committed serious crimes. One of the purposes of banishment was to ensure that the offender disappeared from the sight of the ordinary citizenry and was forgotten. We do not use banishment from the country as a form of punishment in our country,

but we do remove persons from society and place them in prison for long periods of time when they commit serious offences.

[21] Murder is, perhaps, the most serious offence of all. Having committed five murders, you have now been convicted of committing three more. You cannot have had any realistic expectation other than you will again be sentenced to a further lengthy period of imprisonment as a consequence. You must be made to lawfully disappear from society and to take your place where other societal outcasts are kept. The community is not a safe place with you in it. You cannot be allowed to enjoy the benefits of societal living, for you do not observe its rules, as others do. Society demands your incarceration for a lengthy time and this court will not fail in its duty.

[22] There is no point in lecturing you on the evilness and wickedness of your deeds or the holes that you have punched in our societal fabric. You have visited great devastation on the three families that lost loved ones at your hands, and your actions have had far reaching consequences. I say that there is no point in lecturing you because it is patent that you do not care what the consequences of your conduct were. If you did care, there would have been some indication from you of your remorse, but as I have already made clear, you have expressed none.

[23] One of the murdered men, Mr Edwin Zungu had a son, Justin Zungu (Justin). Justin deposed to a victim impact statement. While all those who deposed to victim impact statements, or gave evidence, lamented their respective losses, which was entirely natural and completely understandable, Justin concluded his statement with an uplifting observation. He said the following:

'I never thought that my father's killer would be found. We are grateful to all who worked on his case. We have peace in our hearts. We feel safe. Our lives will heal. His life was taken. God will one day restore us.'

[24] His father's killer has been discovered. It is you. These are moving words, embodying great sadness but also an expression of hope, notwithstanding the calamity that has struck the Zungu family. Justin foresees healing and ultimate restoration. I sincerely hope that his expectations are realised, and I hope that the other families who lost loved members will heal, will be restored and will also be able

to find some form of closure in these proceedings. And I hope, without much hope actually, that you will reflect on your conduct and find some way of redeeming what remains of your life. The greater part of your life will be spent in prison with other violent men. You only get one life, and you have wasted yours. That is your right. You may waste your life if you wish to do so. But the true tragedy is that you have also wasted the lives of the three people that you murdered.

[25] As to the sentence to be imposed upon you, on counts 1 and 2 you were charged in terms of s 51(2) of the Criminal Law Amendment Act (the Act), which provides for a minimum sentence of 15 years' imprisonment for a first offender upon conviction. Given that counts 1 and 2 appear to have preceded the other murders that you committed, I am obliged to find you to be a first offender in respect of those two counts. On count 4, you were charged in terms of s 51(1) of the Act, which demands a minimum sentence of life imprisonment upon conviction. This section of the Act was invoked on the grounds, inter alia, that the murder was premeditated. There can be little doubt of that, for you travelled from Durban to the Mafunda Secondary School at Mbongolwane to kill Mr Mhlongo for an as yet unexplained reason.

[26] Having found there to be no substantial and compelling circumstances established, it follows that the minimum sentences prescribed in respects of counts 1, 2 and 4 must be imposed. An appropriate sentence must also be imposed on the count 3, being the charge of common assault.

[27] Ms *Ntsele* requested that the court determine an appropriate period that you should serve before you are permitted to seek parole. She suggested that you should be required to serve a period of 25 years imprisonment before you may seek parole.

[28] Section 276B of the Criminal Procedure Act 51 of 1977 reads as follows:
'(1)(a) If a court sentences a person convicted of an offence to imprisonment for a period of two years or longer, the court may as part of the sentence, fix a period during which the person shall not be placed on parole.'

(b) Such period shall be referred to as the non-parole-period, and may not exceed two thirds of the term of imprisonment imposed or 25 years, whichever is the shorter.

(2) If a person who is convicted of two or more offences is sentenced to imprisonment and the court directs that the sentences of imprisonment shall run concurrently, the court shall, subject to subsection (1) (b), fix the non-parole-period in respect of the effective period of imprisonment.'

[29] As I intend sentencing you to a period of imprisonment in excess of two years, s 276B is accordingly theoretically capable of being applied. However, in my view the fixing of parole is a function of the Department of Correctional Services, which is the State department that shall take custody of your person for the next several decades. It is the Parole Board and the Department of Correctional Services officials who will observe you and come to know you, and that must make the future determination of when, or if, you should be granted parole. It is therefore something that a court should only involve itself in in exceptional circumstances,⁴ because such an order is, in effect, an order that attempts to divine what the future will bring. I have no idea how you will respond to your lengthy imprisonment. You may respond well and you may earn the right to be released on parole. Should I make the order sought by the State, I will now be determining that you will not be entitled, or deserve, to be released on parole at some stage in the future irrespective of facts that may then exist that demonstrate your suitability to be released on parole.⁵ I simply cannot make such an order.

[30] It, however, also seems to me that such an order is not necessary. Section 73(6)(b)(iv) of the Correctional Services Act 111 of 1998 provides as follows:

'(b) A person who has been sentenced to -

...

(iv) life imprisonment, may not be placed on parole until he or she has served at least 25 years of the sentence but a prisoner on reaching the age of 65 years may be placed on parole if he or she has served at least 15 years of such sentence; imprisonment.'

[31] After reflection, I do not think it appropriate that that I grant such an order.

⁴ *S v Jimmale* [2016] ZACC 27; 2016 (2) SACR 691 (CC); 2016 (11) BCLR 1389 (CC) (*Jimmale*).

⁵ *Jimmale* para 13.

[32] Finally, after having heard submissions and evidence in mitigation and aggravation of sentence on Wednesday, this morning I invited Mr *Mkhwanazi* to address me on whether you should in future be permitted to possess a firearm. He had no submissions to make in this regard and left the matter to me. In my view, you should never be permitted to possess a firearm again.

[33] Finally, it was mentioned on your behalf that your mother was still alive. I am sure that she is horrified that the child that she brought into the world has turned out to be a cold hearted and merciless killer. Her undoubted disappointment in you should weigh heavily with you, for you have brought disgrace upon her and your family.

[34] I am accordingly of the view that the following will be just sentences:

1. On count 1, being the murder of Mr Edwin Zungu, you are sentenced to 15 years' imprisonment.
2. On count 2, being the murder of Mr Simo Luthuli, you are sentenced to 15 years' imprisonment.
3. On count 3, being the common assault of Mr Siphamandla Ngema, you are sentenced to a fine of R300 or imprisonment for a period of 30 days.
4. On count 4, being the murder of Mr Bongani Mhlongo, you are sentenced to life imprisonment.
5. In terms of the provisions of s 280(2) of the Criminal Procedure Act 51 of 1977 it is ordered that the sentences imposed on counts 1, 2 and 3 shall be served concurrently with the sentence of life imprisonment imposed upon you on count 4, and the sentence on count 4 shall be served concurrently with the sentence of life imprisonment imposed upon you on 11 August 2025.
6. No determination is made in terms of section 103(1) of the Firearms Control Act 60 of 2000 and you are consequently declared unfit to possess a firearm.

Do you understand?

I wish you good luck.

MOSSOP J

APPEARANCES

Counsel for the State:

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