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

Case Number: CC56/25
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED
17/03/2026

In the matter between:

**THE STATE**

and

**J[…] P[…] S[…]** Accused

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**JUDGMENT**

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Jordaan, AJ

*Introduction*

[1] Mr. J[…] P[…] S[…], here in after referred to as the accused, is standing before

court for judgment arising from a criminal trial, in which the accused was arraigned on the following charges:

a. Count 1 - Murder read with the provisions of section 51(1) of the Criminal Law Amendment Act 105 of 1997(CLAA) in that on or about 12 to 13 October 2024 in the district of Brits, the accused unlawfully and intentionally killed T[…] S[…] an adult female;

b. Count 2 - Defeating or obstructing the course of justice in that on or about 13 October 2024 the accused informed Chris van den Heever, that his wife was missing from home, and went to the South African Police Service at Brits and reported that the deceased was missing and opened a a missing person file, which acts defeated or obstructed the administration of justice.

[2] During this trial, the accused enjoyed legal representation of his attorney, Mr. Joubert.

[3] This trial proceed only in respect of count 1 for reasons that will become apparent from the background facts enumerated herein.

*Background*

[4] The accused, having understood the charges, the provisions of section 51(1) of the CLAA, the competent verdicts as provided in s258 of the Criminal Procedure Act 51 of 1977(the Act), the consequential orders applicable, plead guilty to the charges - which pleas was confirmed by Mr. Joubert as in accordance with his instructions. Mr. Joubert proceeded to read the section 112(2) of the Criminal Procedure Act 51 of 1977 statement into record, which was confirmed by the accused and accepted by the court as Exhibit "A".

[5] The state with the consent of the defence handed in:

a. Exhibt "81-84" - which consists of the declaration of death certificate and the chain statements of handling the deceased body and the identification of the deceased;

b. Exhibit "C" - the Post Mortem report;

c. Exhibit "D1-D2" - the affidavit of the photographer Captain Mlumbi and the photo album.

[6] Persuant his plea, the accused was convicted on both counts 1 and 2 in accordance with his plea. The state with the admission of the defence then handed in the accused form SAP69's, indicating that the accused has no previous convictions, which was accepted as Exhibit "E".

[7] The defence consulted with Dr Weincove in preparation for their pre-sentence proceedings. Subsequent thereto, the defence applied to have their plea of guilty on count 1 altered to that of not guilty in terms of section 113(1) of the Act as they placed the cause of death into dispute. The plea in respect of count1 was accordingly altered to that of not guilty. The defense stating that the rest of the s112 (2) statement to stand as admissions.

[8] During the ensuing trial, the accused testified that it was not his intention to kill the deceased. This placed a further element of the charge, that of *mens rea,* initially admitted - into dipute.

*The* issues *in dispute*

[9] The issues for determination by this court can thus be chrystalised as:

a. Whether the injuries inflicted on the deceased by the accused caused

her death;

b. Whether the accused had the intention to kill the deceased;

*Evidential material*

[10] The state led the evidence of Dr Kgoethe, while the defence led the evidence of the accused and Dr Weincove.

[11] Dr Kgoethe testified in regard to qualifications and experience that she graduated from Medunsa in the year 2003 with a Bachelor in Medicine and Surgery, she holds a Diploma in Forensic Medicine from the College of Medicine South Africa acquired in 2007, is a fellow of Forensic Medicines and a fellow of the College of Medicine and is employed by the Department of Health of the North West Province as a forensic pathologist since 2011, thus for fourteen years.

[12] It was her evidence that she performed the postmortem on the deceased and recorded her findings in the post mortem report. She read her chief post-mortem findings into record and explained the subarachnoid hemorrhages is bleeding surounding the brain tissue which you can only see by opening the skull of the deceased. The doctor testified that as a result of her observations, she concluded that the cause of death was blunt force head injury.

[13] The doctor observed that there was clotted blood on the face of the deceased a 20 by 35mm bruise on the middle of the forehead of the deceased, a 20 by 20mm bruise on the left cheek of the deceased, a 15 by 10mm bruise on the nasal bridge described as the bone of the nose of the deceased, a 20 by 20 millimetre bruise and swelling around the right eye of the deceased, a four by three centimeter Bruce on the right top shoulder of the deceased, A6 by 5 centimeter abrasion on the back of the left arm of the deceased, a 28 my 18 centimeter abrasion on the left back of the torso of the deceased, a 30 by 25 centimeter abrasion on both buttocks of the

deceased, abrasions on the back of both thighs of the deceased measuring 50 by 19 centimeter on the left and 30 by 9 centimetre on the right, abrasions on the back of both of the legs of the deceased measuring 25 by 10 centimeter on the left and 25 by 8 centimeters on the right.

[14] It was the Dr Mgoethe's testimony that the bruises were caused by blunt force application to the skin, while abrasions can also be caused by blunt force, the ones she observed on the deceased are consistend with being dragged. Dr Mgoethe further testified that because of the location of the bruises on the middle of the forehead of the deceased, the nasal bridge of the deceased, the left side of the face of the deceased and the right side of the deceased's face, it is possible that it was caused by several traumatic blows.

[15] The doctor further testified that the deceased's brain was swollen which was caused by trauma and explained that the no evidence of herniations she found means that the brain tissue did not move to other parts of the skull.

[16] The doctor testified that the peri-orbital swelling and bruising means that the deceased area around her eye was swollen and bruised, due to trauma and observed blood in the nose and mouth of the deceased that possibly dripped to the trachea and bronchi, with a high quantity of blood in the lungs causing it to be oedomutus.

[17] Dr Kgoethe testified that a subarachnoid hemorrhage can be caused by trauma and it can also be caused by natural causes, but because of the injuries on the deceased body, trauma is most likely cause the subarachnoid hemorrhage.

[18] During cross examination Dr Kgoethe was asked if she ever looked for damaged blood vessels or aneurysms or anything like causes of the subarachnoid bleeding to which she replied that she did and that she could not find any other

causes.

[19] The doctor was confronted on whether she looked for damaged blood vessels, which she confirmed that she did as she looked for possible causes of the subarrochnoid bleeding. When confronted that the deceased is a person who bleeds easily without any trauma, the doctor confirmed that there are people like that. It was the pathologists evidence that she cannot comment on whether the deceased was on all the medication, but that bleeding is not a common side effect of anti-depressants.

[20] The proposition was put to the pathologist that applying pressure in restraing the deceased could have caused the bruise on the forehead of the deceased, which the doctor stated it is not likely. The defence submitted that the injuries on the deceased was not significant in the sense that it did not cover the whole of one side of her face, which the doctor answered that it did not cover the whole of one side of her face.

[21] During cross examination the pathologist confirmed that the subarachnoid hemorrhage was between the pyamata and arachnoid, that there was no cause for the subarachnoid hemorrhage, she looked for ruptured blood vessels and tumors and found none. It was put to the pathologist that there are daily more high impact serious events, that the injuries in the face in the instant case were not serious, to which the pathologist replied that the injuries were serious enough for her to attribute them to be the cause the subarachnoid hemorrhage.

[22] It was put to the pathologist that the blood she observed in the mouth, in the airways, the lungs, was as a result of the nose bleeds that the deceased suffered to which the pathologist replied yes, but there was the trauma that she observed on the face of the deceased including the injury on the nose and it could be that as result of that trauma to the nose, that the nose bled and the blood went into the mouth and

trachea.

[23] The doctor was confronted that she did not find any major injuries on the brain to which she replied that the brain was swollen and there was the subarrchnoid bleeding, but that she did not find any bruising of the brain. The doctor testified that there are spontaneous causes and tramatic causes, because of the injuries on the face of the deceased the subarachnoid hamorage was caused by trauma. The doctor conceded that high blood pressure is a risk factor, so too in conjuction with excessive use of alcohol for spontaneous bleeding.

[24] During re-examination the doctor explained that high blood pressure is a risk factor generally, so too excessive alcohol consumption, she did not have a blood alcohol report, but with the injuries in this particular deceased that she examined, the trauma is indicative.

[25] The court sought clarification as to what caused the brain bleed for this deceased, the doctor replied that in this case because of the supporting evidence in the injuries on the face she attributed the subarochnoid hamorage to the trauma on the face.

[26] The accused testified that the deceased was his wife and they had a wonderful relationship. He was on anti-depressants and sleeping medication for insomnia, while his wife was on anti-depressants and various other tablets of which the names were not known to him. They consumed alcohol regularly, and on the day of the incident they celebrated his appointment to the Department of Education, by consuming an unknown quantity of beer and close on finished a bottle of brandy mixed with coca cola.

[27] It was his testimony that he suggested that they should go sleep, to which the deceased objected and slapped the accused twice. The accused testified that he

then slapped the deceased to get her to her senses. The deceased then started to bleed from her nose.

[28] The accused testified that the deceased then came at the accused with her fist, but that he slapped her again on the other side of her head. On realising that it will not work, he grabbed her and restrained her against his body, but she then bit him on his chest. He then turned the deceased around to prevent her biting him, in the process they landed in a bundle on the floor while he was holding her sitting on his lap. The deceased then bit him again on his arm. The accused then restrained the deceased against his body with his arm across her chest under her chin, holding her chin and head upwards with his arm untill the deceased then relaxed and the accused left her on the floor.

[29] The accused testified that he then got up from the floor and took out another beer and went to bedroom where he finished the beer. When he later got up, he went to the bathroom and noticed that the deceased was not in the bed. On going to lounge, he found the deceased on the floor where he left her she was cold and not breathing.

[30] It was his testimony that he was so scared that he loaded the deceased in the car and drove to the veld where he dragged the deceased through the veldt and left her in the veld next to the tramline. The accused testified that he then called the security company with the stupid idea that they could help him. They sent a vehicle out to assist, the security company drove in one direction while he drove in another direction. He then went home to wash the deceased's blood off his hands and took a shower.

[31] The accused testified that he thereafter went to the police station and reported the deceased missing. It was his evidence further that while at the police station a call came through to the police station that the deceased had been found.

He went to the scene with the police in the police vehicle. On the scene the police instructed him to remaine in the police vehicle. He could see his car at the scene and saw the deceased being placed in an ambulance.

[32] It was his evidence that police went to his house where police forensics team was also present. The accused further testified that the missing person report was still incomplete, he then went to the police station and persisted in completing a missing person report as he initially started, instead of being truthful.

[33] The accused testified that he knew he was bigger than the deceased, he did not slap her with his power, he knew he would hurt her and that is not why he slapped her, it was to get her to come to her senses. His evidence further was that it was not his intention to kill the deceased, she was prone to nose bleeds, if she took a sneeze or rode over a hump she would get a nose bleed and she bruised easily. The accused was asked why he did not stop after one slap, to which he testified that he does not think that the deceased would have stopped.

[34] During cross examination the accused testified that he believed that he killed his wife and decided to evade arrest and prosecution because he was drunk and scared, but that due to medical evidence that came to light he currently does not believe that his actions caused her death. The accused conceded that his current believe was based on shaky ground and conjecture.

[35] It was the accused's testimony that he had no intention to kill the deceased. He confirmed that he knew that he was bigger than the deceased and that if he hit her he would injure her, but that he pulled his punches as he knew he would injure her and he wanted to wake her up.

[36] The accused was confronted that the earing of the deceased fell out of her ear on the floor covered in blood at his instance, to which he replied that it was during

the struggle.

[37] The accused was directed to the injuries and confirmed that the deceased was not bleeding before he slapped her, that the deceased bled after he slapped her, that the bruise on the deceased nasal bridge was caused by him he believed it was as a result of him slapping her, he confirmed that the bruise on her right eye, forhead, right shoulder, left cheek and as well as abrasions were caused by him.

[38] It was the accused testimony during cross examination that he has a blackbelt in karate and it involves technical training how to cause harm, how to overcome an attack and self-efemce. He was confronted with his section 112(2) statement that wherein he states that he particularly applied force to the deceased's head and face, which the accused confirmed. The accused also confirmed that he did not have the direct intention to kill the deceased, but that he foresaw that he might injure her or cause her death but proceeded notwithstanding.

[39] During re-examination the accused agreed that he believed that he caused the deceased death when he slapped her, that he had the intention to slap the deceased, not to murder her and that as a blackbelt in karate he could kick and cause lots of damage.

[40] Dr Weincove testified that he has a MBCHB degree and a Master of Medicines and Psychiatry degree, that he practised as a general practitioner in the United Kingdom for twenty three years and became a psychiatrist in 1997 and practised as such in the public and private sector for ten years untill his retirement.

[41] It was the doctor's testimony that subarachnoid hemorrhage is generally a spontaneous occurance and there did not seem to be a severe enough injury to support it.

[42] Dr Weincove further testified that that the injury was not severe enough, he thinks, to cause brain bleed but that persons differ. In the medical field anything is possible who knows if that injury precipitated the brain bleed, it is possible.

[43] It was Dr Weincove's testimony that alcohol abuse can cause brain swelling as it causes an imbalance of the ellectrolytes during urination, but that he does not think that the alcohol abuse is the cause.

**[44]** Dr Weincove also testified that usually with a subarachnoid bleed there would be an abnormality in the vessels, when the doctor was advised that Dr Kgoethe did not find any abnormality in the vessels, to which Dr Weincove replied that if Dr Kgoethe found an anurirism it would mean that it was a spontaneous bleed.

[45] During cross examination Dr Weincove was confronted that the deceased was bleeding from a slap, to which he replied that he expects more than a slap if she was a natural bleeder it can contribute.

*Arguments*

[46] Council for the State and the attorney for the defense prepared written heads of argument, which was confirmed as their closing arguments while expanding on same in oral submissions.

[47] In essence the sate submitted that they had proven the guilt of the accused beyond reasonable doubt and sought the conviction of the accused, while the defense submit ted that the state failed to discharge the onus on them to prove the guilt of the accused beyond reasonable doubt.

*Onus of proof*

[48] In S v Jackson[1] the court held that the burden is on the State to prove the guilt of the accused beyond reasonable doubt, no more and no less. While in Shackell v S[2] the court held that a court does not have to be convinced that every detail of an accused version is true if the accused version is reasonably possibly true in substance the court must decide the matter on the acceptance of that version.

*The Jaw*

[49] The court must consider the definitional elements of the offence of murder in relation to the facts in dispute and establish whether the state has proven the elements that are in dispute.

[50] The accused is indicted on the charge of murder, which is defined as the unlawful and intentional causing of the death of another human being.[3]

[51] The issue raised is whether the accused caused the death of the deceased. It is thus apposite to have regard to the definition of causation which is the required nexus between an accused's conduct and the resulting unlawful consequence.

[52] Intention was during the course of the trial placed in dispute. In cases of murder, there are principally two forms of *do/us* which arise: *do/us directus* and *do/us eventualis.* A person acts with *do/us directus* if he or she committed the offence with the object and purpose of killing the deceased, while a person acts with *do/us eventualis* if he foresees the risk of death occurring, but nevertheless continues to act appreciating that death might well occur.

*Common cause*

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[1] 1998(1)SACR470
[2] 2001 (4) All SA 279 SCA
[3] Criminal Law 6th Edition by CR Snyman page 437

[53] It is not in dispute between the state and the defence that: the accused on the 12th of October 2024 at or near 4[…] R[…], Brits assaulted the deceased on her face and head

a. That the accused on the 12th of October 2024 assaulted the deceased on her face and head;

b. That at the time of assaulting the deceased there was no justification for assaulting the deceased;

c. That as a result of the assault, the deceased sustained the injuries noted in paragraph 4 of the post-mortem report namely a 20X35mm bruise on the middle of the forehead of the deceased, a 20X20mm bruise on the left cheek of the deceased, a 15X10mm bruise on the nasal bridge described as the bone of the nose of the deceased, a 20X20 millimetre bruise and swelling around the right eye of the deceased, a fourXthree centimeter bruise on the right top shoulder of the deceased, a 6X5 centimeter abrasion on the back of the left arm of the deceased, a 28X8 centimeter abrasion on the left back of the torso of the deceased, a 30X25 centimeter abrasion on both buttocks of the deceased, abrasions on the back of both thighs of the deceased measuring 50X19 centimeter on the left and 30X9 centimetre on the right, abrasions on the back of both of the legs of the deceased measuring 25X10 centimeter on the left and 25X8 centimeters on the right.;

d. That the cause of death of the deceased was blunt force head injury;

e. that the deceased was on chronic high blood medication and antidepressant medication.

*Evaluation*

[54] The approach to the evaluation of evidence was stated in S v Trainor[4] "A conspectus of all the evidence is required. Evidence that is reliable should be

[4] 2003 (1) SACR 35 SCA

weighed against such evidence as may be found to be false. Independently verifiable evidence, if any, should be weighed to see if it supports any of the evidence tendered. In considering whether evidence is reliable, the quality of that evidence must of necessity be evaluated, as must corroborative evidence, if any. Evidence, of course, must be evaluated against the onus on any particular issue or in respect of the case in its entirety."

[55] The doctors, Dr Kgoethe and Dr Wincove, impressed the court as professional experts and did not impress the court as being biased or prejudiced in favour of the state or defence, but delivered their evidence impartialy and it is evident in the concessions both expert witnesses made.

[56] While Dr Weincove initially rejected Dr Kgoethe's findings, he testified that two slaps cannot cause significat injury to cause brain bleed, when he was confronted that it caused a nose bridge injury and that she bled, he responded that it would be more than that. Dr Weincove further testified that anything is possible in the medical field and persons differ.

[57] Dr Kgoethe testified during cross examination that bleeding is not a common side effect of anti-depressants and conceded that high blood pressure can cause bleeding, further that the high blood pressure with excessive abuse of alcohol can cause bleeding. Dr Kgoethe testified that she found no abnormality with the vessels, no anuirism and no other causes for the subarachnoid hemorrahage.

[58] Both doctors are in agreement that two slaps would not give rise to a subarachnoid hemorrhage. Both doctors having been presented with the proposition of the two slaps and having regard to the body of injuries presented testified that it must have been more. The accused himself testified that he caused the injuries on the deceased. Among the injuries is a right swollen and bruised eye, a left bruised check, a bruise on the nasal bridge and a bruise on the middle of the forehead.

[59] Dr Kgoethe further testified that because of the location of the bruises on the middle of the forehead of the deceased, the nasal bridge of the deceased, the left side of the face of the deceased and the right side of the deceased's face, it is possible that it was caused by several traumatic blows.

[60] The body of injuries observed on the front and side of the face and sides of the face, forehead and nose, with the subarachnoid hemorrhage of the brain over the front and sides caused the doctor to conclude that the trauma to the face is what probably caused the subarachnoid hemorahage.

[61] That the accused caused the injuries on the deceased is not disputed by him. He testified that he has a black belt in karate and pulled the power of his slaps as he is also much bigger than the deceased.

[62] He testified that at the time he assaulted the deceased he had no justification for doing so. He testified that he knew that she bruised and bled easily. He admitted that the deceased only bled after he slapped her and as a result of his assault on her she sustained the injuries as per par4 of the postmortem report. Despite asserting that he had no intention to kill the deceased, when confronted with his s112(2) statement, he conceded that at the time he assaulted her he foresaw the real possibility that his conduct could cause serious injury or death. That despite foreseeing this possibility he reconciled himself with the risk and proceeded with the assault.

[63] It was the testimony of the accused that he and the deceased consumed alcohol regularly and were both on anti-depresant medication and the deceased on a myriad other medication in addition. He testified that the bloodied earing on the floor was in the deceased ear undisturbed prior to the assault.

[64] While the accused was not a particularly mendacious witness, he was also not an open and honest witness who delivered his evidence without contradictions as can be clearly shown by his evidence on his lack of intent to kill the deceased, to later having the intent, but in the form of dolus eventualis. Further, he testified that he slapped the deceased, to later he pulled his punches because he is trained in karate then again pulling his slaps. Testifying that he was panicked and did not think and that the alcohol affected him, yet he meticulously articulated what he did and why he did it prior to the assult, during the assault and after the assault until he went to bed.

[65] Contrary to his assertion, the accused at no stage testified that he does not know how he assaulted the deceased or how she ended on the floor, he meticulously testified that he pulled his power-that attests to complete presence of mind and the intentional control and application of his muscular function to assaulting the deceased.This shows that the consumption of alcohol by the accused had no bearing on his brain function, his intention, his actions, his appreciation of his wrongfulness of his actions and control of his muscular functions and the situation had no bearing on him not knowing what is happening.

[66] This court, taking into account the body of evidence before it, finds that no evidence was presented of this deceased who has for a period of time been on chronic high blood pressure medication, anti-depressants and other medication that can cause bleeding, who regularly consumes alcohol, who has a history of bruising easily and bleeding easily ever being admitted to hospital because of it, only that she bled easily which is consistent with life-until! she was assaulted.

[67] Bearing in mind the evidence that doctor Wincove agrees with Dr Kgoethe that two slaps would not have caused the subarachnoid hemorrhage, it must be more. Dr Kgoethe examined other possible causes for the subarachnoid hemorrhage and found no other probable causes, but the body of the deceased showed trauma

consistent with the frontal peri-orbital lobes subarachnoid hemorhage.

[68] Dr Kgoethe testified that subarachnoid hearhage can occur spontaneously or through trauma. She impressed this court as an impartial professional expert witness who had the benefit of examining the deceased body, that her medical conclusions are based on logical reasoning derived from medical body of trauma observed and dissected from which she concluded that the probable cause of the heamorhage was the trauma to the face.

[69] Dr Weincove likewise was a professional expert witness, who did not have the benefit of dissecting the deceased or examining the body, but from reading Dr Kgoethe's report and hearing submissions on the injuries to the deceased and that Dr Kgoethe excluded other possible causes, replied impartially stating that he was not aware and submitted that he does not think two slaps could have caused the trauma, that people differ and anything is possible.

[70] This court having regard to the conspectus of evidence before it finds:

a. The accused assaulted the deceased on her face;

b. That the deceased started bleeding after the assault on the deceased;

c. That the location of the injuries and the number of the injuries indicate that the accused assaulting the deceased with more than two slaps;

d. That the accused assaulted the deceased without justification,

e. That the accused was at all times aware of what he was doing, was acting in accordance with this knowledge, awareness of his actions and he was in control of his muscular movement;

f. That as a result of the assault on the deceased the deceased sustained

injuries as per paragraph 4 of the post mortem report;

g. That on the medical evidence as well the non-medical evidence presented that the probabilities favour that the probable cause of the subarachnoid hemorrhage which caused the death of the deceased, is the trauma to the face of the deceased;

h. That at the time that the accused assaulted the deceased, causing the trauma to her face, he foresaw the possibility that his assault on her will cause her death, but he nevertheless continued to assault her reconciling himself with the possibility that the deceased might die;

*i.* That as a result the State proved their case against the accused beyond reasonable doubt and the accused version in so far as it contradicts the state version, is found not to be reasonably possibly true.

*Order*

[71] The accused is found guilty of count 1 murder with intent in the form of douls eventualis

**M.T. JORDAAN'**
**ACTING JUDGE OF THE HIGH COURT**
**PRETORIA**

For the State: Advocate Tshabalala on behalf of
The Office of the Director of Public Prosecutions

For the Respondent: Mr. F. Joubert