

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

CASE NO: CC35/2025

DATE: 30.03.2026

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO THE JUDGES: YES/NO

(3) REVISED.

In the matter between

THE STATE

And

B[...] T[...]

SENTENCE

MATLAPENG AJ: Mr B[...] T[...], herein after the accused, is 48 years of age, convicted of murder, read with the provisions of section 51(1) of the Criminal Law Amendment Act 105 of 1997. On 11 November 2025, he pleaded guilty to the charge, and after the Court found that he pleaded guilty correctly to the charge that he admitted all the elements of the offence preferred against him. The Court returned a verdict of guilty as charged.

2. The provisions of Section 51(1) of the Criminal Law Amendment Act 105 of 1977, herein after the Minimum Sentence Act, finds application in that the accused was in a domestic relationship with the deceased and the death of the deceased

resulted from physical abuse as contemplated in paragraph (a) of the definition of domestic violence in section 1 of the Domestic Violence Act 116 of 1998.

3. This Court must now consider what an appropriate sentence is and in the assessment of what an appropriate sentence is, the Court must have regard to and pay attention to the accused personal circumstances, the offence of which he has been convicted, and the interest of the community. And none of the triad mentioned in *Rex v Zinn* 1969 (2) SA 537 (A) should be overemphasised at the expense of and to the exclusion of others.

4. In the case of *Rabie* 1975 (4) SA 855 (A), it was held that:

"Punishment should fit the criminal as well as the crime, be fair to society and be blended with a measure of mercy according to the circumstances."

5. A brief synopsis of the facts that led to the conviction of the accused is necessary, the accused and the deceased were life partners. On 30 November 2024, which is the day of the incident, they had an argument over a bottle of beer. The accused hit the deceased with a bottle they had been drinking before the deceased departed this planet earth.

6. The circumstances under which this offense occurred attracts the imposition of the prescribed sentence of life imprisonment if the Court can find that there are no substantial and compelling circumstances justifying this Court to deviate from imposing the prescribed term of life imprisonment.

The post-mortem report, which was handed in as EXHIBIT B, determined the cause of death as multiple stab wounds with large volume blood loss. A photo album and key thereto were also handed in as EXHIBIT C.

Photos 3, 4, 5 and 6 depicts the deceased's head and face, these photos demonstrate in clear terms that the deceased was severely assaulted. They also depict a gash across her face above the left eye, above the right eye. Photo 8 of EXHIBIT C depicts a broken beer bottle.

7. In the case of *S v Malgas* 2001 (1) SACR 469 (SCA); 2001 (2) SA 122; 2001 (3) All SA 220. The Supreme Court of Appeals states that:

"The Court may impose a lesser sentence if on consideration of the circumstances of a particular case. It is satisfied that they render the prescribed sentence unjust, in that it would be disproportionate to the crime, the criminal, and the needs of society so that an injustice would be done by imposing that sentence."

8. Every human being has the inherent right to life. And no one shall arbitrarily be deprived of his or her right to life. Section 11 of the Constitution of the Republic of South Africa Act 108 of 1976 provides:

"Everyone has the right to life."

9. Closely akin to the protection of the right to life in the Constitution is the protection of one's right to freedom and security of the person. Section 12(1) of the Constitution provides that everyone has the right to freedom and security of the person, which includes:

- a. Not to be deprived of freedom arbitrarily or;
- b. Without just cause;
- c. To be free from all forms of violence from either public or private sources'
- d. Not to be tortured in anyway.

10. In terms of section 36 of the Constitution, the rights in the Bill of Rights may be limited in exception of the right to life, which is an absolute right. The fundamental human right to life was infringed upon by the accused in this matter because on 11 November 2025, he pleaded guilty to having murdered the deceased and I convicted him as charged.

11. Mr Kgagara for the defence from Legal Aid South Africa argues that the Court should find that there are substantial and compelling circumstances justifying this Court to depart from imposing the prescribed sentence of life imprisonment. He argues that the following factors, cumulatively taken into account, should be found to constitute substantial and compelling circumstances.

- a. That accused pleaded guilty to this charge, which in itself shows a sign of remorse on his part.
- b. That he spent more than a year in custody awaiting trial.
- c. That he has three children with the deceased of 19, 15, and 13 years old, respectively. He has other two children, but it appears there is no good relationship between the latter two children and the accused.
- d. He was the principal caregiver of the deceased's children.
- e. That he is suffering from diabetes.
- f. And lastly, that alcohol played some role during the commission of the offense he is convicted of.

12. Adv Rancho, on the other hand, argue that the Court should find that there are no substantial and compelling circumstances and that the Court should impose the prescribed sentence of life imprisonment.

Adv Rancho for the state argues in the main that regard being heard to the accused previous convictions, which demonstrates that he is a violent person and that the deceased was brutally murdered, as well as the victim impact report, that these factors should persuade the Court to find that there are no substantial and compelling circumstances.

13. A probation officer's report was also handed in as an exhibit, and the probation officer observes that the accused is a violent person. It will later appear that this observation by the probation officer, is confirmed by the accused's previous convictions.

A victim impact report was also handed in by S[...] V[...], it is a 19-year-old child. He is the first of three children. He states in the report that he does not have

any financial support. They are being maintained by the grandmother. His two siblings are receiving R500 for grants. He is struggling and is presently doing Grade 12.

The probation officer recommended a direct prison term. The accused has previous convictions. On 23 August 2003, he was convicted of assault and was sentenced to R400 or 30 days imprisonment.

On 9 December 2004, that is the following year, he was convicted of rape and sentenced to two years' imprisonment, which was wholly suspended for a period of three years on condition that he is not again convicted of rape or attempted rape committed during the period of suspension.

On 12 August 2005, he was convicted of culpable homicide. He was sentenced, in terms of section 276(1)(h), to one-year correctional supervision.

On 3 September 2013, at Khutsong, he was convicted of assault with intent to do grievous body harm and sentenced to six months imprisonment without the option of a fine.

Adv Rancho for the State brought it to the attention of the Court that this last previous conviction, the deceased in this matter was the complainant. And this was confirmed by Mr Kgagara after consultation with the accused.

15. The previous convictions of the accused demonstrates in clear and unequivocal terms that the accused is a violent person. And they demonstrate that he was treated with velvet gloves in the past. He was treated leniently on all these instances. I find it aggravating that the deceased in this matter was brutally killed. And the accused was convicted in the past of assault with the intent to do grievous body harm for having assaulted the deceased in this matter. And the accused, this is the second person he killed. He has a previous conviction of culpable homicide, the deceased is the second person that the accused has killed.

16. In the case of *S v Eadie* 2002 (1) SACR 663 (SCA), the Court held that :

"The message that must reach society is that consciously giving in to one's anger or to other emotions and endangering the lives of other members of society will not be tolerated and will be met with the full force of the law."

17. I am in agreement with Mr Kgagara for the defence that the following factors cumulatively taken into account are sufficient to constitute substantia I and compelling factors and entitling this court to deviate from imposing the prescribed time of life imprisonment. That he pleaded guilty to this charge, which in itself shows a sign of remorse on his part. That he spent more than a year in custody awaiting trial. That alcohol played some part during the commission of the offense.

18. After having considered all the relevant factors, the one against the other in an attempt to strike a balanced sentence, the Court is of the view that the sentence to be pronounced shortly will be a just one under the circumstances. He may stand up.

19. In the result, the accused is sentenced as follows: 25 years imprisonment. The accused is declared unfit to possess a firearm.

MATLAPENG AJ
JUDGE OF THE HIGH COURT
DATE: 30/03/2026

TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that **so far as it is audible to me**, the foregoing is a true and correct transcript of the proceedings recorded by means of a digital recorder in the matter between:

THE STATE// B[...] T[...]

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PROBLEMS EXPERIENCED WITH RECORDING

1. Incorrect grammar typed verbatim.
2. Unknown names typed phonetically.
3. Microphone unclear / soft / air conditioner on. Refer to [indistinct] throughout record of transcription.
- 4.

DATE COMPLETED: 16.04.2026

TRANSCRIBER:

Monique Engelbrecht
(Sworn-in Transcriber)