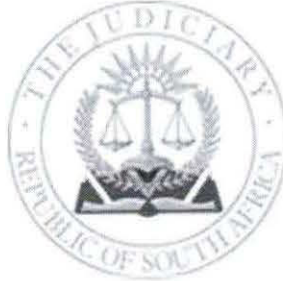



REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, JOHANNESBURG

Case Number: SS060/2023

(1)	REPORTABLE: Yes
(2)	OF INTEREST TO OTHER JUDGES: Yes
(3)	REVISED: No
	
21/05/2026	
DATE	SIGNATURE

In the matter between:

**The State**

and

**Sandile Sibekezelo Mbatha**

**Heard:** 23 April 2026

**Delivered:** 21 May 2026

**Summary:** Sentence - prescribed minimum sentence – principles restated – just sentence includes appropriate measure of mercy – considerations for substantial and compelling circumstances.

---

**JUDGMENT ON SENTENCE**

---

**Yacoob, J:**

1. Mr Sandile Mbatha was charged with 2 counts of murder read with s 51(1) and part 1 of Schedule 2 of Act 105 of 1997, 2 counts of attempted murder, two counts of pointing a firearm, alternatively something a person is likely to believe is a firearm, and two counts of kidnapping. He was convicted on all charges. The facts are as set out in the main judgment.
2. The State has presented victim impact reports dealing with the two families of the two people who were killed on the night of 21 January 2023, Mr Tshidiso Rammatlo and Mr Katlego Letseli. The impact of the events on the two surviving victims, the complainants in the charges of attempted murder and kidnapping, is before court through their testimony in the main proceedings. A pre-sentence report was also filed on behalf of Mr Mbatha. No other evidence was proffered regarding sentence.
3. There are prescribed minimum sentences for the two murder and attempted murder charges. Since the State alleged and proved that the offences were committed in execution of a common purpose, i.e. that there was a group of people who carried out the assaults that led to the deaths of Mr Rammatlo and Mr Letseli, and which Mr Nhlapo and Mr Mahlobo survived, the offences fall under Part 1 of Schedule 2 to the Criminal Law Amendment Act, 105 of 1997 ("the Act"). A person convicted of an offence in terms of Part 1 of Schedule 2 is subject to a prescribed minimum sentence of life imprisonment in terms of s 51(1) of the Act.<sup>1</sup>
4. There are no prescribed minimum sentences for the remaining charges. Although the imposition of a minimum sentence is not recorded on the charge

---

<sup>1</sup> Murder that does not fall within Part 1 attracts a prescribed minimum sentence of 15 years for a first offence, in terms of s51(2) read with Part 2.

sheet with regard to the attempted murder charge, it is well established that an attempted offence may attract the same sentence as the offence itself. In addition, even if it is not a prescribed minimum sentence, the court has the discretion to impose the life sentence if appropriate.

5. In terms of s 51(3) of the Act, a court may impose a lesser sentence if it is satisfied that substantial and compelling circumstances exist which justify the lower sentence. There is no onus on the accused person to show that there are substantial and compelling circumstances, but any facts the accused wishes the court to take into account must be placed before the court.<sup>2</sup>
6. The factors a Court is to take into account in ensuring that a sentence is appropriate are well established and are set out in *S v Zinn*,<sup>3</sup> in what is popularly known as the *Zinn* triad. The three legs of the triad are the personal circumstances of the person being sentenced, the interests of society and the nature and seriousness of the offence. The interests of the victim must also be taken into account,<sup>4</sup> although it could be argued that this emerges from taking into account the interests of society and the nature and seriousness of the offence. Even where there is a minimum sentence, the Court has to consider these factors to ensure that the sentence is not disproportionate. If the sentence is disproportionate, then that would be a substantial and compelling circumstance that would justify deviating from the minimum sentence. Consideration of these factors may also result in a conclusion for other reasons that there are substantial and compelling circumstances that support deviating from the minimum sentence.<sup>5</sup>

---

<sup>2</sup> *S v Rosslee* 2006 (1) SACR 537 (SACR at para [33]).

<sup>3</sup> 1969 (2) SA 537 (A) at 540G-H.

<sup>4</sup> *S v Rudman and Another* 2013 (2) SACR 209 at para [3], see also *Rosslee* at para [35]

<sup>5</sup> *S v Malgas* 2001 (1) SACR 469 (SCA) at para [9].

7. However, a court may not deviate from the prescribed minimum sentence “lightly and for flimsy reasons”.<sup>6</sup>
8. Mr Mbatha’s circumstances are that he is a teacher, and is almost 34 years old. He was raised in a stable home in KwaZulu-Natal with the support of his parents who were separated, and his extended family. His father died in 2009 when he was 17 years old, which had a severe impact on him. Mr Mbatha is not married and has seven sons with seven different mothers. The children’s ages range from 13 to 3 years old. None of them live with him save for the child he has with the partner with whom he is (or was) cohabiting, but he supports them financially and sees them as often as he can, or did so before he was incarcerated. Mr Mbatha lived until his conviction with his partner and two children,<sup>7</sup> in a stable environment. He is an observant Christian.
9. Mr Mbatha has a Bachelor’s degree in education from the University of Zululand. He is a teacher, and was employed as a primary school teacher until he was arrested in 2023. He was then transferred to another primary school after the arrest, and worked there until his bail was cancelled on conviction. He contributed financially to his children and his paternal grandmother, as well as to groceries within his home. He is now under debt review.
10. The probation officer reports that Mr Mbatha’s colleagues provided very positive reports of him as an educator and team player. He was courteous and not prone to aggression. Mr Mbatha suffered from a stress-related mental condition as a result of these proceedings, but underwent treatment and has recovered.

---

<sup>6</sup> *Malgas* at [25] D.

<sup>7</sup> The second child is his partner’s child who he regards as his stepchild.

11. The probation officer also reports that Mr Mbatha's narrative of the events which led to his conviction is that he was alerted by a friend about the removal of his vehicle's headlights, noticed a commotion when he went to the vehicle, but instructed the car guard to enter his vehicle to search for the responsible person. This search was unsuccessful and Mr Mbatha apparently told the probation officer they abandoned the pursuit of the suspect and went instead to a scrapyards to obtain replacement parts. This is not consistent with Mr Mbatha's testimony before this court, which is set out in the main judgment.
12. It is apparent that, whatever sentence is imposed on Mr Mbatha, his career as an educator has been impacted, and his rise in social status and hard work that went into that prejudiced. He will in effect be serving a kind of life sentence in any event, whatever sentence is imposed by this Court.
13. The two witnesses before court, Mr Nhlapo and Mr Mahlobo (the complainants in the attempted murder and kidnapping counts), were clearly traumatised by the events of that night, and by the witnessing the deaths of Mr Letseli and Mr Rammatlo. Their narrative of the events shows that their lives and well-being were considered less important than the theft of headlights. The implication of what happened is that, because they were car guards and waste pickers, their lives were worth less. This is never acceptable.
14. The victim impact reports show that the two deceased were young men who were loved and who had potential to live better lives, as well as improve the lives of their families. Mr Rammatlo was 19 years old. Mr Letseli was 27 years old. They died in an extremely brutal and traumatic manner. Their families continue to grieve and feel the trauma of their deaths.

15. The nature of the crimes was heinous for the reasons set out above. The idea that someone may be murdered for stealing property is not only antithetical to the rule of law and a society in which human dignity is valued, but also an extreme response to a relatively petty crime. There is no proportionality whatsoever, to the extent that notionally there could be proportionality when someone takes the law into their own hands.
16. The interests of society require that the events of that night be acknowledged with a sentence that demonstrates the unacceptability of this kind of conduct in a society such as that which South Africa aspires to be.
17. Naturally this does not mean that Mr Mbatha must be sacrificed on the altar of deterrence, or to send a message. Nonetheless, I find it difficult to find substantial and compelling circumstances which justify deviation from the prescribed minimum sentences.
18. It was submitted for Mr Mbatha that the court must temper justice with mercy. In my view this is a misstatement. Justice is only justice if the appropriate measure of mercy is infused within it. The sentence must be fair and just to the accused, the victim (including secondary victims, the family and community) and society as a whole.
19. It is indeed a great pity that Mr Mbatha's life is shattered by the conviction and sentence, and that the lives of his children will also be affected even though he is not their primary caregiver. The court does not lack compassion for him. But people must bear the consequences of their actions even if it was the result of a momentary lapse in judgment.
20. Mr Mbatha's counsel urged me to find that Mr Mbatha has shown remorse for what has happened. I understand that a person who maintains their innocence

and may intend to appeal their conviction has a difficulty in how remorse may be shown. But in this particular case, there are a number of indications that Mr Mbatha's remorse does not exist. In particular, it is evident in his various inconsistent versions, and in his failure to point the police to his "friend" "Jack", who, in his evidence, he implied may have been involved in what happened, even if he himself was not. Although an accused person does not have an obligation to assist the police, an ordinary member of society does have such an obligation, to assist in a police investigation, and if in fact someone else may have known more, Mr Mbatha's remorse may have been shown had he told the police about that. In my view the claims of remorse are an afterthought intended to attempt to gain a less severe sentence.

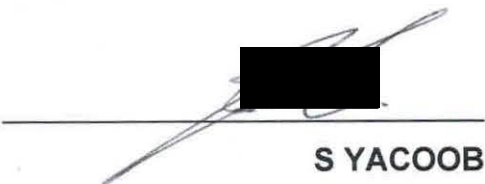
21. In these circumstances I find no justification to deviate from the prescribed minimum sentences for the counts of murder and attempted murder. No separate submissions were made regarding the attempted murder charge, and taking into account that there was no deliberate action on the part of the perpetrators which resulted in the attempted murders not becoming murders, in other words that it was simply chance, I see no reason why a different sentence should be imposed for those counts.

22. No submissions were made regarding the firearm and kidnapping charges. Considering that they were part of one sequence of events, I consider that short sentences should be imposed for those. In any event they will run concurrently, since the effective sentence is a life sentence. No order will be made to permit Mr Mbatha to possess a firearm in future.

23. Consequently, Mr Mbatha is sentenced as follows:

1. Counts 1, 2, 3 and 4: life for each count;

2. Counts 5 and 6: three years for each count;
  3. Counts 7 and 8: five years for each count,
- all sentences to run concurrently.



---

**S YACOOB**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, JOHANNESBURG**

For the State: Mr M Mbaqa, Office of the Director of Public Prosecutions,  
Johannesburg.

For the Defence: Mr B.N Forbay  
Mr K. Malepe

Instructed by: B.N Forbay Attorneys