



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

JUDGMENT

**Not Reportable
Case No: A97/2026**

In the matter between:

**WILLIAM PETERSEN
CHRISTOPHER DAMON**

First Appellant
Second Appellant

and

THE STATE

Respondent

Coram : SMITH, AJ et (NZIWENI, J concurring)

Heard on : 11 September 2026

Delivered on: 16 September 2026

ORDER

The appeal in respect of conviction and sentence is dismissed.

JUDGMENT

SMITH, AJ

Introduction

[1] This is an appeal against conviction and life sentence imposed on both appellants, in terms of the provisions of s 51(1) of the Criminal Law Amendment Act, Act 105 of 1997 (CLAA). The appellants were tried and convicted in the Regional Court sitting at Mossel Bay on 9 March 2022 on a charge of murder.

[2] The appellants were sentenced to life imprisonment on 24 May 2022. The appellants both exercised their automatic right of appeal in terms of Section 309 (1)(a) of the Criminal Procedure Act (CPA) Act 51 of 1977.¹

Summary of the evidence

[3] On 1 June 2017, during the late afternoon Cynthia Kees, Candice Scheepers and Dotshie made their way to the shop in Hoogekraal, Groot Brak River. On their way there they met the deceased. Candice warned him of the presence of the two appellants and Hendrik in the area. Her warning emanated from an earlier altercation between the deceased and the appellants and Hendrik. Soon thereafter Candice and Cynthia heard a noise and ran towards it. They saw the deceased running towards them. He was being chased by the appellants and Hendrik. The deceased fell and was attacked by the appellants and Hendrik. The appellants used a small axe and a fishing pole, to which a sharp metal point was attached, to attack the deceased. Cynthia, who reached the deceased first, shouted at the appellants to stop their attack. After they attacked the deceased, the appellants and Hendrik left together.

¹ First proviso to Section 309(1)(a) Act 51 of 1977

[4] The deceased suffered multiple stab and incised wounds. He succumbed to his wounds and died on the scene.

[5] The medico- legal postmortem examination concluded that the cause of death was stab wounds to the chest involving the abdomen.

Conviction

[6] During the parties' submissions, counsel for the appellants conceded, and rightly so, that the Regional Court Magistrate, on the merits, correctly found both appellants guilty of murder. In fact, it was conceded that the credibility findings of the Regional Magistrate could not be assailed. These concessions are borne out by the appeal record.

[7] Equally clear from the record is that the Regional Magistrate did not misdirect herself when she evaluated the evidence and convicted the appellants on the strength thereof. The State presented not merely a high volume of evidence, but testimony of significant qualitative value supported by sufficient corroborating evidence. As such, careful consideration of the record leads to the conclusion that the appellant's attack on the conviction is without merit.

Sentence

[8] Holmes JA in *S v Rabie*² provided a guideline as to when interference in the court a quo's sentence is permissible:

"1. In every appeal against sentence, whether imposed by a magistrate or a judge, the court hearing the appeal –

(i) Should be guided by the principle that punishment is pre- eminently a matter for the discretion of the trial court, and

² 1975 (4) 855 A 857 D-F; *S v Kekona* 2013 (1) SACR 101 (SCA) 8

(ii) *Should be careful not to erode such discretion: hence the further principle that the sentence should only be altered if the discretion has not been judicially and properly exercised.*

2. *The test under (ii) is whether the sentence is vitiated by irregularity or misdirection or is disturbingly inappropriate."*

[9] The court a quo considered the pre-sentence reports and other mitigating factors on behalf of the appellants. The interests of society and the nature and seriousness of the offence was duly considered. Counsel for the appellants conceded that the court a quo *"was aware of the well-known triad when imposing the sentence"*³

[10] The appellant's chased the deceased, who was unarmed, until he fell down. While he was lying on the ground, defenseless, they attacked him.

[11] Both the appellants maintain that they are innocent. There is no remorse shown by any one of them. They lack insight into the seriousness of the offense they have committed. This weighs against both appellants' prospects of rehabilitation.

[12] The minimum sentence of life imprisonment and the law applicable was discussed and applied in the judgment of the court a quo. There was no irregularity or misdirection when life imprisonment was imposed for both the appellants.

[13] After careful consideration of the record of the proceedings in the Regional Court and the written and oral submissions of counsel for the appellants and the respondent, I find no misdirection on the part of the Regional Court Magistrate in respect of sentence of both the appellants.

In the result, I propose the following order:

³ Heads of Argument for the Appellants par 5 page 14

ORDER

The appeal in respect of conviction and sentence is dismissed.



S. I. SMITH, AJ
Acting Judge of the High Court

I agree, and it is so ordered.



C. N. NZIWENI
Judge of the High Court

APPEARANCES

For the Appellant: Ms I. Levendal

Instructed by: Legal Aid South Africa

For the Respondent: Adv M Engelbrecht

Instructed by: Directorate of Public Prosecutions, Western Cape