



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: SS127/2021

**DPP Ref: 10/2/11/1
(2021/083)**

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: YES

Date: 15 March 2023

In the matter between:

THE STATE

and

GEORGE: LEROY

ACCUSED

SENTENCE

ALLY AJ

[1] The Accused, Leroy George, has been found guilty by this Court on the following charges:

- 1.1. **Count 1:** Murder of **Igshaan Shaun Wilkenson**, an adult male person, read with the provisions of Section 51(1) of Act No 105 of 1997 and Part 1 of Schedule 2 of Act 105 of 1997, as amended;
- 1.2. **Count 2:** Contravention of Section 3 read with Sections 1, 2, 103, 117, 120(1)(a) and Section 121 read with Schedule 4 of the Firearms Control Act 60 of 2000, and further read with Section 260 of the Criminal Procedure Act 51 of 1977, and further read with Section 51(2) of Act 105 of 1997, and Schedule 2 Part II of Act 105 of 1997 – unlawful possession of a firearm;
- 1.3. **Count 3:** Contravention of Section 90 read with Sections 1, 2, 103, 117, 120(1)(a) and 121 read with Schedule 4 of the Firearms Control Act 60 of 2000, and further read with Section 250 of the Criminal Procedure Act 51 of 1977 – unlawful possession of ammunition;
- 1.4. **Count 4:** Murder of **Terrance Rhodes**, an adult male person, read with the provisions of Section 51(1) of Act No 105 of 1997 and Part 1 of Schedule 2 of Act 105 of 1997, as amended;
- 1.5. **Count 5:** Contravention of Section 3 read with Sections 1, 2, 103, 117, 120(1)(a) and Section 121 read with Schedule 4 of the Firearms Control Act 60 of 2000, and further read with Section 260 of the Criminal Procedure Act 51 of 1977, and further read with Section 51(2) of Act 105 of 1997, and Schedule 2 Part II of Act 105 of 1997 – unlawful possession of a firearm;
- 1.6. **Count 6:** Contravention of Section 90 read with Sections 1, 2, 103, 117, 120(1)(a) and 121 read with Schedule 4 of the Firearms Control Act 60

of 2000, and further read with Section 250 of the Criminal Procedure Act 51 of 1977 – unlawful possession of ammunition;

[2] The State proved previous convictions in respect of the Accused which was admitted into evidence as Exhibit “L”. The previous conviction is for housebreaking with intent to steal which was committed on 8 August 2004 and found guilty on 18 February 2005. The Accused was sentenced to 12 months imprisonment wholly suspended for 5 years on condition that he is not found guilty of housebreaking with intention to steal during the period of suspension. A further condition was that the Accused had to attend and complete the “Yes Programme” at NIRO and finally to be under the supervision of a Parole Officer for a period of 12 months.

[3] The Accused chose not to present any evidence in mitigation of sentence.

[4] The State then indicated that it would present evidence in aggravation of sentence and called two witnesses, namely, Jocelyn Lorraine Wilkenson and Liesl Winnaar.

[5] Jocelyn Lorraine Wilkenson, hereinafter referred to as Mrs Wilkenson was married to the deceased in Count 1, Igshaan Shaun Wilkenson who she stated was 52 years of age at the time of his death.

[6] Mrs Wilkenson stated that she was married to the deceased for 13 years with no children born of the relationship but together they had four children. Mrs Wilkenson's children are aged 26, 25 and 24 and the deceased's child, Shaqiel, is 22.

[7] All the children lived with Shaun and Mrs Wilkenson and all but one of the children were employed.

[8] Shaun Wilkenson was self-employed at the time of his death earning approximately R20 000-00 [twenty thousand rand] in a good month and R15 000-00 in a bad month.

[9] Mrs Wilkenson testified that Shaun had an excellent relationship with all the children. He did everything for them. She had the best marriage relationship with him.

[10] Mrs Wilkenson testified that the death of Shaun had a devastating impact on her life and that of the children. According to her Shaun did not have any problems with anyone and on 24 April 2021, when she heard of Shaun's passing, she was completely broken. She attended therapy and counselling and is at present taking anti-depressants.

[11] Mrs Wilkenson testified that she and Shaun had decided in 2021 that she would resign from work and look after the family. As a result of Shaun's death she had to leave work but was presently employed. She stated that all the plans that the two of them had was just taken away.

[12] Mrs Wilkenson testified that she lives in Reiger Park and has lived there all her life, 48 years. She explained to the Court that the common crimes that can be found in Reiger Park are dealing in drugs, people fighting and killing each other over drug territory. The common weapons used in these crimes were knives and firearms.

[13] Mrs Wilkenson testified that she suffers from asthma and attending Court has not been good for her health but she told herself that she will attend in order for her in some way to get closure.

[14] Liesl Winnaar, hereinafter referred to as Ms Winnaar, testified that she had been in a relationship with Terrance Rhodes for 8 years at the time of his death. One child, a son 5 years of age, was born of this relationship.

[15] Ms Winnaar testified that Terrance was 33 years old at the time of his death. He was self-employed and earned money as a 'loan-shark' and at the gambling

school. Ms Winnaar testified that Terrance earned approximately R2000-00 to R5000-00 depending on the time of the month.

[16] Terrance had two other daughters aged 14 and 10 and they live with their mother. Ms Winnaar testified that he maintained all his children.

[17] Ms Winnaar testified that she used to be employed but she lost her job because of her health. She presently receives support from her mother, Terrance's mother and her sisters.

[18] She testified that she has suffered financially due to Terrance's death and his death has had a devastating impact on her life and the lives of their child and his children. She stated that in November 2022 her life became unbearable and she tried to commit suicide. She has attended all the Court proceedings and this has been straining and emotional for her. At times she is unable to sleep and would feel like a zombie. Their son is no longer the same. They do not talk of Terrance's death.

[19] Ms Bovu then addressed the Court on sentence and placed the personal circumstances of the Accused on record.

[20] The Accused was single and is 37 years of age with one dependent, a daughter presently aged 12 years. His daughter is in the care of the Accused's mother. The Accused's grandmother whom he lived with before his arrest, has since passed away.

[21] Before his arrest, the Accused was employed by Ekurhuleni Metro Municipality as an artisan assistant. He earned R13 000-00 [thirteen thousand rand a month] and used this money to take care of his daughter and grandmother. His daughter is currently in Grade 7 and is being maintained by a grant of R480 a month.

[22] The Accused has an N6 qualification.

[23] Ms Bovu submitted that the Accused concedes the seriousness of the offences and that they were innocent victims. He concedes that the minimum sentence for murder in the circumstances of this case, is life imprisonment and that the Court may only deviate from such sentence where the Accused has proven substantial and compelling circumstances.

[24] Ms Bovu submitted further that the Accused is a first offender in relation to the crimes he has been convicted of and he does not possess a firearm. The Accused had co-operated with the police during the investigation of the crimes.

[25] Ms Bovu submitted that the punishment must fit the criminal and the crimes but must also be blended with an element of mercy and not a sledgehammer¹. Ms Bovu submitted further that the Court should consider making the sentences for the various Counts, run concurrently.

[26] Ms Barnard, for the State, submitted that the Accused has been convicted of very serious offences and that it should also be remembered that an illegal firearm has been used in the commission of the murders.

[27] Ms Barnard emphasised that the murders of Shaun and Terrance were senseless. Terrance was sought out and killed. Both deceased were defenceless. The interests of society demand punishment for such an horrendous crime. Reiger Park is notorious for violence and gun violence. A message needs to be sent out to the community that violence is no solution to problems you might have with another person.

[28] Finally, Ms Barnard submitted that the Court should impose the minimum sentence applicable in Counts 1, 2, 4 and 5.

¹ S v Khumalo 1973 (3) SA 697

[29] I have taken heed of the submissions made by Ms Bovu and Ms Barnard. It falls on this Court, however, to decide the punishment to be imposed for the crimes committed by the Accused.

[30] I am mindful of the triad that needs to be considered in imposing a sentence in this case, namely, the crime, the offender and the interest of society².

[31] The legislator has, however, made an intervention, in that an Accused who has been convicted of a serious crime read with the provisions of Section 51 of the Criminal Law Amendment Act 105 of 1997, may only deviate from the minimum sentences proposed where substantial and compelling circumstances are shown to exist.

[32] Now in this case, the Accused, besides his personal circumstances which in my view, are not out of the ordinary, has not shown nor proven the existence of substantial and compelling circumstances. It is true that the Accused is a first time offender in respect of the crimes he has been convicted of in this case but the gravity and callousness of the murders perpetrated against the deceased, far outweigh any mitigation that being a first offender might bring to light.

[33] The evidence before this Court is that the firearm used in the killing of both the deceased, was the same firearm and it is my view that Counts 2 and 5 must

² S v Zinn 1969 (2) SA 537 (A) at 540G-H

therefore be considered as one Count in respect of any sentence to be imposed. The same must be said for the unlawful possession of ammunition in respect of Counts 3 and 6.

[34] The Accused did not care who he injured or killed on 24 April 2021 when Shaun Wilkenson was killed. In respect of the killing of Terrance Rhodes on 5 June 2021, he showed no mercy and sought the deceased out and killed him execution style. These kinds of killings surely do not deserve the mercy of this Court.

[35] There is no question that direct imprisonment is the only sentence that is justified in the circumstances of this case and the Defence, correctly, did not submit differently.

[36] Accordingly, the Accused is sentenced as follows:

36.1. Count 1: the murder of Shaun Wilkenson, life imprisonment;

36.2. Count 2 and Count 5: the unlawful possession of a firearm, 15 years imprisonment;

36.3. Count 3 and 6: the unlawful possession of ammunition, 5 years imprisonment;

36.4. Count 4: the murder of Terrance Rhodes, life imprisonment;

36.5. In terms of Section 103 (1) of the Firearms Control Act 60 of 2000, the Accused is *ex lege* deemed unfit to possess a firearm;

36.6. The sentences in Counts 2, 3, 4, 5 and 6 are to run concurrently with the sentence in Count 1. Accordingly, the Accused's effective term of imprisonment is life imprisonment.

**ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION OF THE HIGH COURT, JOHANNESBURG**

Appearances:

For the State:

Adv. R. Barnard

DPP Johannesburg

For the Accused:

Ms S. Bovu

Legal Aid South Africa