

**ISAAC MUUNGANIRWA**

**Versus**

**THE STATE**

IN THE HIGH COURT OF ZIMBABWE  
CHIWESHE J  
BULAWAYO 15 & 22 MAY 2003

*M Ncube* for the applicant  
*Mrs M Moya-Matshanga* for respondent

Bail Application

**CHIWESHE J:** The accused faces charges of armed robbery and one count of attempted murder. He applies for bail pending trial. The state opposes the application on the grounds *inter alia* that he is unlikely to stand trial as he is prone to abscondment. It is alleged he has previously skipped bail and for that reason he is no longer a suitable candidate for bail. The applicant argues otherwise. He may be given the benefit of the doubt in that regard as the presumption of innocence operates in his favour.

However, it is further alleged that the police have had (in an effort to re-arrest him) to pursue him as far as the Plumtree border post and into Botswana. There he is alleged to have had an exchange of gunfire with the police, in an attempt to resist arrest. *Mr Ncube* initially argued that these events were a fabrication by the police. When asked to confirm whether in fact his client had been arrested at or near the border post and or on the Botswana side of the border he said he did not have instructions on the point. I do not think that *Mr Ncube* was being candid with the court. In the end he conceded that his client was indeed arrested at the border post. Once that concession is made, the conclusion that the applicant attempted to remove

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himself from the jurisdiction of this court is inescapable. He sought to abscond. Such a person cannot be a proper candidate for bail.

It was for these reasons that the application was dismissed.

*Hare & Partners* applicant's legal practitioners  
*Attorney-General's Office* respondent's legal practitioners