

**THE STATE**

**AND**

**ANTONY ZVOUSHE**

IN THE HIGH COURT OF ZIMBABWE

MAKONESE J

GWERU 30 JANUARY 2013

*Mr T. Mupariwa* for the State

*Mr T. Chivasa* for the accused

Criminal trial

**MAKONESE J:** The accused is a male adult aged 26 years at the time of the commission of the offence. He stands accused of the crime of murder, it being alleged that on the 9<sup>th</sup> December 2009, he killed one Letwin Muremba, a female aged 18 years at the relevant time. Accused has tendered a plea of not guilty by reason of insanity. The brief facts are that on the fateful day the deceased was at home at village Mabodza, Chief Chiwundura, in the Midlands Province and doing her laundry. The accused was also present at the homestead. The accused and the deceased had a minor misunderstanding after the accused had delayed bringing water for the laundry. The accused person then armed himself with an axe and struck the deceased twice on the head with the cutting edge of the axe and deceased fell to the ground. The accused then lifted the deceased to his bedroom and placed her on the floor. He then proceeded to strike the deceased several times on the head with the axe until he crushed her skull. The deceased's skull was opened and she died instantly. The accused person locked the door and disappeared from the crime scene. The remains of the deceased were discovered by her husband one Henry Zvoushe who alerted other villagers leading to his arrest by the police. The police recovered the blood stained axe that same day.

It is evident from the Statement of Agreed Facts which has been tendered as Exhibit 1 by both State and Defence Counsel that the accused did commit the terrible crime. It is also

clear that the attack was serious and unprovoked and the circumstances support the submission that the accused must have suffered from some mental disability at the time the crime was committed.

The State also tendered a Post Mortem Report which has been marked Exhibit 2. According to the Post Mortem Report the cause of death was "Head injuries." The State further produced by consent an Affidavit in terms of section 278(3) of the Criminal Procedure and Evidence Act, [chapter 9:07] which is marked Exhibit 3. The Report by a Psychiatrist Consultant Dr Elena Poskotchinova details the mental history of the accused person. I will not repeat the entire report of the Psychiatrist but it important to observe that the accused is a known psychiatric patient, he had been treated at Ingutsheni Hospital on two occasions from April 1998 to May 1999. He was being treated for a mental illness known as Schizophrenia paranoia. In January 1998 he escaped from Gokwe Hospital where he was due for treatment for a mental problem after he tried to kill his uncle and set him on fire. The Psychiatrist concluded that in her opinion at the time of the alleged offence the accused was indeed suffering from mental disorder and was so affected that he could not possibly have been legally responsible for his actions. Her findings were that accused person was a danger to society as he had been arrested for attempted murder in 1998 and murder in 2000, and that accused required mental treatment.

We are satisfied that from the evidence that has been placed before us that the concession that has been made by the State in accepting a Plea of not Guilty by reason of Insanity was properly made.

Accordingly, and, in terms of the provisions of section 29 of the Mental Health Act [Chapter 5:12] we return a special verdict of not guilty by reason of insanity.

The accused person shall be returned to Hwa Hwa Prison for further care and treatment for his mental condition.

*Criminal Division, Attorney General's Office, state's legal practitioners  
Chivasa and Associates, accused's legal practitioners*