

THE STATE

Versus

WARDSON DHIGA

IN THE HIGH COURT OF ZIMBABWE
MOYO J with Assessors Mr A. B. Mpofu & Mr T. Matemba
GWERU 16 MAY 2022

Criminal Trial

M. Ndlovu for the state
Ms T. Musoso for the accused

MOYO J: Accused faces a charge murder, it being alleged that on the 16th of November 2020, he assaulted the deceased Katarina Mupasi and thereby causing her death. Accused pleaded not guilty by reason of insanity. The state counsel accepted that plea and the parties drew a statement of agreed facts which was tendered and marked exhibit 1. The state counsel also tendered the post mortem report and the psychiatrist's report as well as the alleged weapon which is a steel wheelbarrow handle which were all duly marked. The statement of agreed facts reads as follows:

1. Wardson Dhiga (hereinafter called the accused) was aged 40 years at the time of commission of the alleged offence. He resides at Village Mavhiya, Chief Chingama, Mberengwa in the Midlands Province. He is not employed.

2. Katarina Mupasi (hereinafter referred to as deceased) was aged 72 years at the time she met her death. The deceased was accused's aunt.
3. On the 16th November 2020 at around 0900 hours, the deceased was passing through accused's homestead on her way to fetch firewood. The accused person confronted the deceased and asked her why she was passing through his homestead.
4. The accused person armed himself with a wheelbarrow handle and assaulted the deceased several times on the legs and head causing her to fall down. After the deceased had fallen down the accused delivered several blows on her back and buttocks with the wheelbarrow handle.
5. Lilian Nginga saw the accused person assaulting the deceased and called Macala Hove who was able to stop the assault and disarmed the accused person.
6. The deceased passed on soon after the assault. Matter was reported to the police leading to the arrest of the accused person. The deceased's body was taken to United Bulawayo Hospital where Dr Juana Rodriguez Gregori conducted a post mortem examination. He concluded that the cause of death was:
 - 1) Subarachnoid haemorrhage
 - 2) Head trauma

Thereafter post mortem report number 1055-1084 was compiled.

7. The accused was examined by a psychiatrist Dr N. Mawere on 23/06/21 and on 08/09/21 at Mlondolozi Special Institute.
8. Dr Mawere concluded that at the time of commission of the alleged offence, the accused was suffering from a mental disorder (schizophrenia and substance induced psychosis). He further stated that the accused was mentally disordered to such an extent that he should not be held responsible for his actions and did not appreciate the wrongfulness of his actions.
9. The accused accepts the evidence of the state witness and content of the post mortem report and psychiatrist report, and that at the time of the alleged offence, he was suffering from a mental disorder to such an extent that he should not be held legally responsible for his actions.
10. The state concedes to the fact that the accused was suffering from a mental disorder at the time of commission of the alleged offence and its appropriate for the court to return a verdict of Not Guilty by reason of insanity in terms of section 29(2) of the Mental Health Act, Chapter 15:12.

The post mortem report gives the cause of death as subarachnoid haemorrhage, head trauma. From the psychiatrist evidence tendered before this court, the accused cannot be held responsible for his actions and is thus found

not guilty by reason of insanity. The accused is accordingly acquitted of murder and a special verdict is rendered.

He however is a danger to society and will accordingly be committed to Mlondolozu Mental Institution.

National Prosecuting Authority, state's legal practitioners
Kwande Legal Practitioners, accused's legal practitioners