

THE STATE  
versus  
ALBERT MUGOVE MATAPO  
and  
NYASHA ZIVUKU  
and  
ONCEMORE MUDZURAHONA  
and  
EMMANUEL MARARA  
and  
PATSON MUPFURE  
and  
SHINGIRAI WEBSTER MUTEMACHANI

IN THE HIGH COURT OF ZIMBABWE  
BHUNU J  
HARARE, 4 October 2010 and 12 November 2010

*N Zvekare with Mr. Nyazamba, for the State.*  
*C Warara with G Nyandoro for the defence*

Assessors:

1. Mrs. Shava
2. Mr. Shenje

BHUNU J: The six accused persons are charged with treason as defined in s 20 of the Criminal Law (Codification and Reform Act [*Cap 9:23*], alternatively contravening s 30 of the Criminal Law (Codification and Reform Act [*Cap. 9:23*], that is to say, causing disaffection among the Police Force or Defence Force.

The State is ready to proceed with the trial but all the six accused are vigorously resisting being placed on trial arguing that they are not properly before this court on account of procedural irregularities.

On 13 October 2010 under judgment number HH 238-10 I dismissed the accused's objection and ordered that the trial must commence. Aggrieved by my ruling the accused sought leave to appeal to the Supreme Court. I dismissed the application on 27 October 2010 under judgment number HH-248-10. Dissatisfied with my ruling in this respect, the accused then took the matter to the Supreme Court seeking the same relief.

They now seek postponement on the basis that they are not ready for trial and that there is need to await the determination of the Supreme Court on the issue.

In all the relevant judgments I gave extensive if not exhaustive reasons for my rulings. I abide by those reasons there is no need to repeat them as they speak for themselves.

For those reasons it is still my considered view that the accused have no reasonable prospects of success in the Supreme Court. It is therefore still my considered firm view that both the Supreme and Appeal Courts are unlikely to interfere with this court's inherent jurisdiction to try the accused according to law.

I find it incredible that the accused are not ready for trial when they filed their defence outline and summaries of evidence more than two years ago on 11 July 2008. Undoubtedly the accused know the case they are going to meet and they have had ample time to prepare for their defence. The blame for inadequate preparation for the trial can only be laid squarely at the accused's door. They therefore cannot be heard to complain when they have been sitting on their laurels all this time.

I am therefore of the firm view that the time has come for this matter to be put to rest on the merits without any further delay, for "justice delayed is justice denied." Going round and round in circles without making any progress towards the finalization of the case can only defeat the due administration of justice in this country. Our law requires that an accused person be brought to trial within a reasonable time. That legal requirement is subverted when the legal system fails to try an accused person after more than three years of incarceration without trial.

I am however inclined to grant the accused one or more days to polish up their defenses. **It is accordingly ordered that this matter be and is hereby postponed to 17 November 2010 at 10 am for trial.**

*Warara and Associate*, accused's legal practitioners  
*The Attorney General's Office*, State's legal practitioner