

THE STATE  
versus  
ELLIOT MANDIVENGA  
And  
HARDLIFE KURIRAI  
And  
JONATHAN MUSIIWA  
And  
COSMAS NYAMBI  
And  
GIVEN TARU  
And  
MUNYARADZI LAITON BEN MUSHONI  
And  
FARAI MUSIMHI

HIGH COURT OF ZIMBABWE  
MAWADZE J  
MASVINGO, 10, 11, 13, February, 22, 23 June & 17 July 2020

### **Criminal Trial**

#### **Assessors**

- 1. Mr Nish**
- 2. Mr Chikukwa**

**T. Chikwati and B.E. Mathose for the State**  
**M. Vengesa for all 7 accused**

MAWADZE J: All the 7 accused are facing the charge of murder as defined in section 47(1) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*].

The charge is that on 27 June, 2019 at Pisirai Village, Headman Makonese, Chivi, Masvingo each one of them or more of them caused the death of Wellington Zibako by assaulting him with switches, and a whip all over the body intending to kill him or realising that their conduct may cause death but continued to engage in that conduct despite such risk or possibility.

The now deceased was 21 years old and residing in Muzondo Village, Headman Makonese, in Chivi. All the 7 accused reside in Pisirai Village, Headman Makonese in Chivi.

At the material time accused 1 Elliot Mandivenga was 52 years old; accused 2 Hardlife Kurira was 27 years old; accused 3 Jonathan Musiiwa was 44 years old; accused 4 Cosmas Nyambi was 24 years old, accused 5 Given Taru was 31 years old, accused 6 Munyaradzi Laiton Ben Mushoni was 55 years old and accused 7 Farai Musimhi was a juvenile aged 17 years.

During the trial accused 7 Farai Musimhi's, mother Sheila Taru was present throughout because he is a juvenile.

The agreed facts which emerge from the trial can be summarised as follows;

On 26 June, 2019 the now deceased disappeared from his residence and his parents could not locate him for 2 days. His body was only found on 28 June, 2019 in a bush at about 1100 hrs.

It then emerged that on 26 June, 2019 the now deceased intruded into accused 6 Munyaradzi Laiton Ben Mashoni's homestead where he allegedly broke a window pane and stole a solar panel. This homestead has a durawall almost 2 metres high, is gated and the now deceased is said to have intruded into this homestead through an undesignated point.

At the material time when the now deceased intruded into accused 6's Munyaradzi Laiton Ben Mushoni's homestead only accused 1 Elliot Mandivenga and accused 4 Cosmas Nyambi were at this homestead. It is these two who apprehended the now deceased.

Accused 2 Hardlife Kurira and accused 7 Farai Musimhi only rushed to accused 6 Munyaradzi Laiton Ben Mushoni's homestead after the now deceased had been apprehended and accused 1 Elliot Mandivenga and accused 4 Cosmas Nyambi had shouted that they had apprehended a thief.

Accused 3 Jonathan Musiiwa, accused 5 Given Taru and accused 6 Munyaradzi Laiton Ben Mushoni had gone to Chivi growth point using KIA bakkie belonging to and driven by accused 6 Munyaradzi Laiton Ben Mushoni. They arrived soon after the now deceased had been

apprehended. The now deceased was apprehended at night. Accused 6 Munyaradzi Laiton Ben Mushoni who used to work in South Africa was residing at his homestead with his aged mother. His wife resides in South Africa. The aged grandmother was not present on that day.

Accused 6 Munyaradzi Laiton Ben Mushoni employed accused 1 Elliot Mandivenga whom he stayed with as a herd boy. He is related somehow to all other accused persons. Accused 2 Hardlife Kurirai is a son of his cousin, accused 3 Jonathan Musiiwa is his nephew; accused 4 Cosmas Nyambi is his neighbour whom he normally gave piece jobs; accused 5 Given Taru is his nephew and accused 7 Farai Musimhi is his nephew and neighbour.

For easy reference I shall refer to accused 1 Elliot Mandivenga just as Elliot; accused 2 Hardlife Kurirai as Hardlife, accused 3 Jonathan Musiiwa as Jonathan, accused 4 Cosmas Nyambi as Cosmas, accused 5 Given Taru as Given, accused 6 Munyaradzi Laiton Ben Mushoni as Mushoni as Mushoni and accused 7 Farai Musimhi as Farai.

After the now deceased had been apprehended at accused 6 Mushoni's homestead all the 7 accused assaulted him at this homestead. What is in issue is how each of the accused assaulted the now deceased at this homestead, that is the manner and extent of the assault.

It is common cause that after the assault at accused 6 Mushoni's homestead the now deceased was ferried in accused 6 Mushoni's motor vehicle to some point into the bush. The motor vehicle was driven by accused 6 Mushoni who was seated in the cabin with accused 4 Given. The now deceased was in the loading box with accused 2 Hardlife, accused 3 Jonathan and accused 5 Given.

It is not in issue that accused 1 Elliot and accused 7 Farai remained at accused 6 Mushoni's homestead when all other accused left with the now deceased in accused 6 Mushoni's motor vehicle.

It is common cause that that after leaving accused 6 Mushoni's homestead the now deceased was further assaulted and abandoned in the bush where he died. What is in dispute is who assaulted the now deceased at that stage and the manner of the assault.

Lastly all the 7 accused have put into issue the cause of the now deceased's death. Put differently, they all disputed that the assault they perpetrated on the now deceased has a nexus to his death.

The state case is that after accused 1 Elliot and accused 4 Cosmas apprehended the now deceased at accused 6 Mushoni's homestead they tied him on both hands with a rope and assaulted him. The other accused then arrived at the homestead and took turns to assault the now deceased with a whip and open hands indiscriminately at this homestead. Thereafter it is the state case that the now deceased was taken by accused 2 Hardlife, accused 3 Jonathan, accused 4 Cosmas, accused 5 Given and accused 6 Mushoni in accused 6 Mushoni's motor vehicle to Chibhanguza Village, Headman Makonese, Chivi where the motor vehicle was stopped and the assault of the now deceased continued. The now deceased was then abandoned in the bush where he passed on only for his body to be discovered on 28 July, 2019 at about 1100 hrs. Police investigations led to the arrest of all 7 accused and the recovery of various exhibits including blood stained whips and switches. The state alleges that the now deceased sustained various injuries inclusive of the head injury and fractured neck which were the proximate causes of his death.

In order to buttress its case the state called Judith Tavarera, Collen Zibako, Special Constabulary Tobias Taru, Dr Godfrey Zimbwa, D/Cst Wilbert Maruva and D/Sgt Nxumalo Mxolisi as state witnesses.

All the 7 accused gave evidence and did not call any defence witnesses.

A total of 14 Exhibits were produced by consent. They are as follows;

Exhibits 1 to 7 are accused persons 'confirmed warned and cautioned statements. I shall assess their probative value or relevance in dealing with all 7 accuseds' evidence.

Exhibit 8 a is post mortem report. I shall assess its probative value in dealing with Dr Godfrey Zimbwa's evidence and the cause of the now deceased's death.

Exhibit 9 is a bunch of switches. We noted that these switches are broken, not very thick and of various sizes. They were recovered at the scene near where deceased's body was found. It is not in dispute they were used to assault the now deceased.

Exhibit 10 is a pair of accused 5 Given's tackies which he worn on the day in question and were taken by police during investigations as they were blood stained.

Exhibit 11 is the now deceased's bag containing the now deceased's clothes. It was recovered in the bush near the now deceased's body.

Exhibit 12 is sjambok or whip. It was recovered at accused 6 Mushoni's homestead at accused 6 Mushoni's instance. It is common cause it was used to assault the now deceased.

Exhibit 13 is a long green rope. Again it was recovered at accused 6 Mushoni's homestead at his instance and it is common cause of was used to tie the now deceased.

Exhibit 14(a) to (f) are photo graphs of the now deceased's body taken by police as he lay in various positions. What can be observed is the deep cut on right wrist, injured left leg, injured left leg, various broken switches near the body of the deceased and tree branches.

What is important to note in this case is that other than the 7 accused persons no one else witnessed the assault of the now deceased. This means that in ascertaining the manner and extent of the assault perpetrated on the now deceased the court has to rely on accused persons' testimony, the nature of injuries observed by witnesses and the post mortem report.

We now turn to the evidence of the state witnesses.

Judith Tavarera (Judith)

She is the first person who discovered the now deceased's body on 28 June, 2019 at about 1100 hrs on her way to the church. She thereafter alerted fellow villagers including special constabulary Tobias Taru. All Judith observed was that the now deceased was lying near a road in the bush on his back. She observed an injury on his left wrist, switches and foot prints near the now deceased's body. Most importantly she observed motor vehicle tyre marks close to deceased's body and that some of the switches were broken and blood stained. It is common cause that tyre marks were of accused 6 Mushoni's motor vehicle and the switches were used to assault the now deceased. Judith's observations are not contested.

Collen Zibako (Collen)

Is an uncle to the now deceased. He knew the now deceased since birth.

It was a bit difficult to comprehend his evidence as regards the now deceased's life history. While Collen intimated that the now deceased exhibited signs of mental illness he nonetheless failed to lucidate on what those signs were. All he said is that the now deceased would spent months without bathing. The now deceased had no history of involving in any criminal conduct.

Collen is the one who positively identified the now deceased to the police in the bush. He observed a deep cut on the hand and leg.

According to Collen the accused persons paid 8 head of cattle as compensation out of 31 cattle and 10 goats demanded by the now deceased's family. They also provided mealie meal for the mourners. However accused 6 Mushoni said he paid 4 cattle, and that his co accused Jonathan paid 2 cattle, accused 4 Cosmas two cattle, accused 2 Hardlife 4 goats and accused 5 Given 5 goats all as compensation. Accused 6 Mushoni said he bought deceased's coffin and met all funeral expenses as pressure was brought to bear upon him after the now deceased's body had been dumped at his homestead.

All we noted is that Collen was a jittery and belligerent witness who failed to explain seemingly simple issues like accused's alleged mental health and circumstances surrounding payment of compensation by some of the accused persons.

Special Constabulary Tobias Taru (Sp/Cstbry Taru)

S/Cstbry Taru is the first police detail who visited the scene where the now deceased's body was found. His evidence also explains how the accused persons were arrested as the culprits. We assessed him to be a very impressive witness who surprisingly had an excellent eye for detail and comprehensive observations.

S/Cstbry Taru said after being alerted by Judith he visited the scene where the now deceased's body was and observed the following;

- 1) the now deceased was lying in the bush near the road on his back
- 2) there was a trail of blood drops from the body which he followed for few metres and they ended where there was motor vehicle marks showing that at that point a motor vehicle had reversed. This has a bearing on accused's evidence on how they left the now deceased in the bush
- 3) he observed pieces of broken mopani tree switches near deceased's body although there were no mopani trees within the surrounding area. This would mean the mopani tree switches were plucked from some other area
- 4) the scene of crime made him to suspect foul play and he made inquiries within the public until an informer advised him that accused persons were the culprits. He in turn advised members of the regular police at Chivi police station. He was present when police went to accused 6's homestead and first arrested accused 1 Elliot, accused 4 Cosmas and accused 7 Farai which led to the arrest of other accused

persons. Indeed credit is due to Special Constabulary Taru for such a sterling and excellent job which I believe even members of the regular police force should emulate without use of unlawful force to crack cases.

D/Sgt Nxumalo Mxolisi's

His role was to take deceased's photographs Exhibit 14(d) to (f) at the scene as he was part of the investigating team.

D/Cst Wilbert Maruva (D/Cst Maruva)

D/Cst Maruva only attended scene after details from ZRP Chivi had already first attended the scene. At the scene he observed some struggle marks a distance from deceased's body and motor vehicle tyre marks. There were pieces of Mususu tree and Mopani tree switches some of which were blood stained. He observed several whip marks on the now deceased's body and clots of blood on now deceased's nose and mouth.

After the arrest of accused 5 they recovered accused 5's blood stained tackies which had made similar prints at the scene where the body of deceased was and took them as Exhibit 10. D/Cst Maruva said all 7 accused made indications at accused 6 Mushoni's homestead where the assault first took place. Thereafter he said accused 4 Cosmas and accused 5 Given led them to the bush near deceased's body where they recovered the now deceased's bag Exhibit 11 with deceased's various items. He said accused 6 Mushoni led to the recovery of the whip Exhibit 12 and the rope Exhibit 13 at his homestead.

D/Cst Maruva said whilst all accused alleged the now deceased had intruded into accused 6 Mushoni's homestead none of them was able to explain how the now deceased had done so as the durawall around that homestead is very high and both gates were locked. Further he was not shown any single item the now deceased had stolen or the alleged window pane he had broken. All the accused showed him were switches, and a whip they used to assault the now deceased and that they had also used open hands and booted feet.

The evidence of D/Cst Maruva is not controverted.

We now turn to Dr Godfrey Zimbwa's evidence which is relevant to the now deceased's cause of death.

All the accused refuted that they had a hand in the now deceased's death. They all said there was no nexus between the cause of deceased's death and the assault each accused perpetrated on the now deceased with the whip, thin switches and open hands. All accused except accused 1 Elliot and accused 7 Farai said the now deceased was possibly fatally injured when he jumped from accused Mushoni's moving vehicle and hit his head hard on to the ground or hit his head against tree trunks as he fled or had his neck stuck between some logs as he tried to flee in the bush. Now is this possibly true in light of the medical evidence available?

As per Exhibit 8 the post mortem report the now deceased's remains were examined by Dr Zimbwa on 1 July, 2019 and he made the following observations;

- “1) extensive whole body lacerations with multiple whip lash marks*
- 2) multiple head bruises with facial swelling*
- 3) bilateral fracture of clavicles*
- 4) neck is loose and hyper mobile”*

Dr Zimbwa concluded that the cause of death was “head injury and fractured neck”.

Dr Godfrey Zimbwa (Dr Zimbwa)

Dr Zimbwa is a fairly experienced doctor with 23 years' experience. He examined the remains of the now deceased and compiled Exhibit 8 the post mortem. He observed the whip lashes and broken collar bones (clavicles) on both sides.

According to Dr Zimbwa switches could only cause whip lashes or marks or lacerations not neck fracture.

Dr Zimbwa said while it was possible for the now deceased to sustain a fractured neck after jumping from a moving motor vehicle he found this to be most unlikely in this case. Dr Zimbwa explained that after breaking the neck on hitting the ground it could have been virtually impossible for the accused to flee let alone to be chased by the accused as they allege. Dr Zimbwa said this was not possible because a fractured neck would immediately give severance or partial tear of the spinal chord which in turn would trigger immediately 3 things which are;

- (a) immediate paralysis or weakness of both hands
- (b) immediate paralysis of both limbs and
- (c) most fatally is the paralysis diaphragm muscles and breathing ceases



Dr Zimbwa said it would not have been possible for the now deceased to flee and be chased after by the accused persons after sustaining such an injury as they allege as the now deceased would only have hobbled for about 3 metres and collapsed.

Dr Zimbwa discounted that the neck could have been broken by the whip Exhibit 12 or switches but possibly using booted feet. He said the broken collar bones on both sides could not have possibly been caused by falling from a moving motor vehicle but application of direct force on both sides of the neck. Dr Zimbwa said after breaking the neck the now deceased would not be able to flee at all as he would virtually have no limbs or legs to do so, worse still would not be able to breathe.

Dr Zimbwa said he did not find any injuries consistent with the now deceased having fallen from a moving motor vehicle because if he had done so head long the skull would have been injured not the neck. All he observed were whip marks all over the body indicative of indiscriminate, sustained or prolonged assault. Dr Zimbwa dismissed the version given by the accused on how the now deceased was injured as clearly falsely because after breaking the neck the accused persons could not even have bothered to assault the now deceased because they would simply be assaulting a corpse by then.

What emerges from Dr Zimbwa's evidence therefore is that the now deceased either never jumped from the motor vehicle or if at all he did he was not injured in the manner explained by the accused. The only inference we can rightly draw is that the fractured neck was a result of assault. This means that all accused except accused 1 Elliot and accused 7 Farai told a material lie on how the now deceased was injured and we are entitled to draw an adverse inference.

Finally, we assess the evidence of each accused in order to determine whether any criminal liability can be ascribed to him.

#### Accused 1 Elliot

Elliot did not go with the now deceased where he was finally dumped. This means he only assaulted the now deceased at the homestead of accused 6 Mushoni. Indeed, Elliot was not truthful on how he assaulted the now deceased. In Exhibit 1 his warned and cautioned statement he did not explain how he perpetrated the assault. As per his defence outline he is the one with accused 4 Cosmas who tied the now deceased with the rope Exhibit 13.

In his defence outline Elliot said he only assaulted the now deceased with open hands. Elliot could not explain why he omitted to explain the manner in which his assaulted the now deceased in his confirmed warned and cautioned statement. Further accused 2 Jonathan said Elliot just like all 7 accused assaulted the now deceased at the homestead with a switch. Accused 5 said Elliot also used a sjambok.

While accused Elliot may have under played how he assaulted the now deceased the fact remains that he did assault the now deceased. However the assault at the homestead could not have been fatal although serious.

In the circumstances, accused 1 Elliot can only be found guilty of contravening section 89(1) of the Criminal Code [*Cap 9:23*] relating to assault.

Accused 7 Farai

Just like accused 1 Elliot, accused 7 Farai remained at the homestead when the now deceased was ferried away in the motor vehicle. Accused 7 Farai admitted assaulting the now deceased at the homestead. However in his confirmed warned and cautioned statement accused 7 Farai did not explain the manner of the assault he perpetrated.

In his defence outline accused 7 Farai said he used open hands only. However accused 3 Jonathan said accused 7 Farai used switches. Accused 5 Given said Farai also used a sjambok Exhibit 12. Again, accused 7 Farai may have underplayed the manner he assaulted the now deceased. However such an assault was not possibly fatal. He should be found guilty of contravening section 89(1) of the Criminal Code [*Cap 9:23*] which is the offence of assault.

Accused 2 Hardlife, accused 3 Jonathan, accused 4 Cosmas, accused 5 Given and accused 6 Mushoni all assaulted the now deceased at the homestead and are the ones who drove away with the now deceased and abandoned him in the bush.

It is also clear that accused 2 Hardlife, accused 3 Jonathan, accused 4 Cosmas, accused 5 Given and accused 6 Mushoni lied in their evidence. In their warned and cautioned statements they all said the now deceased jumped off the motor vehicle after it had stopped. This includes the version given by accused 6 Mushoni the driver. However in court they changed their story and said the now deceased jumped off the motor vehicle after it slowed down. They were all not able to reconcile these contradictory versions. They all gave the warned and cautioned statements in the presence of legal counsel. The warned and cautioned statements are confirmed. This casts

serious doubt as to whether the now deceased even jumped off the motor vehicle moreso in view of observations at the scene by Special Constabulary Taru and Dr Zimbwa's evidence.

Accused 2 Hardlife does not explain the manner he assaulted the now deceased after he chased him and caught him in the bush nor that the now deceased hit against any tree trumps or caught between any logs as he later said in court. Again he was untruthful.

Accused 3 Jonathan does not explain how he assaulted the now deceased at the homestead. While in the bush he said he remained standing at the motor vehicle with Mushoni after the now deceased fled as per his confirmed warned and cautioned statement. However this is refuted by accused 6 Mushoni who said he directed Mushoni on how to reverse and followed other accused persons.

Accused 4 Cosmas and accused 5 Given do not explain in the warned and cautioned statements how they assaulted the now deceased in the bush after apprehending him.

Accused 6 Mushoni in his warned and cautioned statement confirms his colleagues assaulted the now deceased in the bush although he himself did not.

How then do we assess accused 2 to 6's criminal liability?

#### Accused 2 Hardlife

Accused 2 Hardlife said he kicked the now deceased at the homestead. In the bush as per his defence outline he said he used open hands to assault the now deceased. In his evidence in chief he denied assaulting the now deceased after chasing him in the bush. These conflicting versions by accused 2 Hardlife cannot possibly true. We are persuaded to accept what Elliot said that at homestead accused 2 also used open hands and switches as explained.

#### Accused 3 Jonathan

At the homestead accused 3 Jonathan said he used open hands to assault the now deceased. He denied further assaulting the now deceased in the bush. However accused 5 Given said accused 3 Jonathan also used a sjambok Exhibit 12 at the homestead. Accused 5 Given also said accused 3 also chased after the now deceased and used a switch to assault the now deceased about 4 times. Accused 6 Mushoni said he also told accused 3 to follow other accused who had chased after the now deceased. It is clear to our minds that accused 3 Jonathan also assaulted the now deceased not only at the homestead but in the bush as explained. There is nothing to suggest he disengaged from the conduct of his colleagues.

Accused 4 Cosmas

At the homestead Cosmas said he assaulted the now deceased with open hands. In the bush he said he also used switches to assault the now deceased. Accused 4 under cross examination changed and said he used booted feet and sjambok to assault the now deceased at the homestead.

Our finding is that accused 4 Cosmas assaulted the now deceased at homestead with open hands and booted feet. In the bush he used switches.

Accused 5 Given

At the homestead accused 5 Given said he used open hands to assault the now deceased. In the bush he said he also used switches. However accused 1 Elliot under cross examination said he panicked and had to move away fearful of the severe manner accused 4 Cosmas and accused 5 Given were assaulting the now deceased at the homestead as it was clear that severe injury would result.

Again our finding is that accused 5 Given assaulted the now deceased both at the homestead and in the bush.

Accused 6 Mushoni

Accused 6 Mushoni was allegedly the wronged party. The unlawful intrusion had happened at his residence. It is his property allegedly stolen and window pane of his house broken. He is the eldest of all the accused and was their benefactor. His motor vehicle was used to ferry the now deceased and he drove it. It is accused 6 Mushoni who decided that the now deceased should be left in the bush. Above all accused 6 did not bother to take the now deceased to police. He did not restrain any of the accused from assaulting the now deceased neither did he disengage from what the accused were doing, that is assaulting the now deceased. Instead he assaulted the now deceased with the sjambok Exhibit 12 at his homestead and watched the assault in the bush. The inference we can draw is that accused 6 at all material times acted in common purpose with the other accused persons.

According to accused 2 Hardlife it is accused 6 Mushoni who instructed other accused to leave the now deceased in the bush. This is not refuted by accused 6 Mushoni himself.

Accused 5 Given said accused 6 witnessed the assault in the bush. This is not refuted by accused 6 himself.

In our assessment accused 6 Mushoni was a poor witness whose attempt to distance himself from all what happened is clearly futile. Why do we say so?

- a) At his homestead he decided to assault the now deceased whom he knew had been assaulted by all other accused before him oblivious of injuries the now deceased had sustained.
- b) It is accused 6 who took a conscious decision not to take the now deceased to the police but rather to inflict punishment and take the law in his hands.
- c) It is accused 6 despite witnessing the further assault in the bush who did not take the now deceased to his homestead or to check on the injuries inflicted but simply instructed his colleagues to stop the assault and leave the now deceased in the bush without checking his condition
- d) Accused 6 Mushoni totally failed to explain why he suddenly lost interest to take the now deceased to the now deceased homestead close by or alert the now deceased's relatives of all what had happened. He could not explain why he never took the stolen items to the police or report the matter. He could not explain why he did not check whether the deceased who had allegedly jumped off his moving vehicle and had been further assaulted was injured. He saw deceased injured at his homestead and was tied while in his motor vehicle. Despite allegations of unlawful intrusion at his homestead he decided to ignore all what had happened by not making any report to the police or to anyone. He was happy to pretend nothing had happened. The only inference we can draw is that accused 6 Mushoni acted in this manner because he was acting in common purpose with all accused. He participated in the assault of the now deceased and was an accessory to all what happened. He was also negligent in his conduct.

It is therefore our finding that accused 2 Hardlife, accused 3 Jonathan, accused 4 Cosmas, accused 5 Given and accused 6 Mushoni acted in common purpose. The assault on the now deceased was prolonged and persistent. The degree of force was quite high in view of injuries inflicted. None of them cared as regards nature of injuries indiscriminately caused. They all abandoned the now deceased in the bush. All the accused 2 to 6 while not having intention, actual or constructive to cause deceased's death, were nonetheless negligent in their conduct which conduct led to the deceased's demise.



In the result, we have entered the following verdict;

**VERDICT**

Accused 1 Elliot – not guilty of murder but guilty of contravening section 89 of the Criminal Code [*Cap 9:23*] – Assault.

Accused 2 to 6 (Hardlife, Jonathan, Cosmas, Given and Mushoni) – not guilty of murder but guilty of contravening section 49 of the Criminal Code [*Cap 9:23*] – culpable homicide.

Accused 7 Farai – not guilty of murder but guilty of contravening section 89 (1) of the Criminal Code [*Cap 9:23*] – Assault.

*National Prosecuting Authority, counsel for the State*  
*Mugiya & Muchami Law Chambers, counsel for all 7 accused*