

REPUBLIC OF NAMIBIA

REPORTABLE



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: CC 15/2019

In the matter between:

THE STATE

and

MARIO FRANCOIS MENSAH

ACCUSED

Neutral citation: *S v Mensah* (CC 15/2019) [2020] NAHCMD 256
(25 June 2020)

Coram: LIEBENBERG, J

Heard: 22 June 2020

Delivered: 25 June 2020

Flynote: Criminal Procedure – Sentence – Murder – Attempted murder – Theft – Personal circumstances – First offender – Remorse – The accused testified in mitigation and called one witness in mitigation – Remorse genuine – Interests of Society – Crimes of violence cannot be tolerated any longer and the courts are under a duty to do its part in bringing an end to it by imposing

deterrent sentences. – Accused committed offences with firearm appropriated – Considered aggravating factor – Taking a life of an innocent defenceless woman – Accused acted irrationally and inexcusably – Deterrence and retribution emphasised.

Criminal Procedure – Sentence – Intoxication – May constitute both mitigating and/or aggravating factor during sentence – It is for the state to discount it as a mitigating factor, to show that it did not materially affect the appellant's behaviour – In present case, crimes committed whilst under the influence of alcohol, rendering his behaviour marginally less reprehensible.

Criminal law – Arms and Ammunition Act 7 of 1996 – Declaration of unfitness to possess an arm – Section 10 of the Arms and Ammunition Act 7 of 1996 – Accused declared unfit to possess an arm – Period of 5 years to commence after accused person has served sentences in full.

Summary: The accused has been found guilty on charges of Murder with direct intent, Assault with intent to do grievous bodily harm, Pointing of a firearm (c/s 38(1)(i) of Act 7 of 1996), Possession of a firearm without a licence (c/s 2 of Act 7 of 1996), unlawful Possession of ammunition (c/s 33 of Act 7 of 1996), Theft, Attempted murder and Discharging a firearm in a public place (c/s 38(1)(o) of Act 7 of 1996) following a tragic night where the accused allowed himself to succumb to violent behaviour, which led to the assault of more than one person and the loss of life. The state led evidence by the mother of the deceased who indicated that she not only lost a daughter but lost the financial support she received from her. This financial support has also been taken from the deceased's four children and that they lost their primary care-taker and were subjected to being separated; two living with the grandparents at Stampriet and the other two with their biological father in Windhoek.

The accused testified in mitigation relating to court that he has a drug and alcohol addiction and suffered from depression due to economic hardships and his divorce. Acknowledging the seriousness of his crimes and that he must be punished for taking someone's life and that he will be imprisoned for

long. He said his actions are not testament of his up-bringing and that he took wrong turns in life. His evidence was supported by his father, who testified that he has no doubt that deep down the accused is a good person but that he has lost direction in life due to drug addiction. He is alive to his son's anger issues and past failures at rehabilitating. He believes that the accused, with the necessary support and during incarceration will become a better person

Held, the crimes committed by accused generally attract direct imprisonment, the duration of which would mainly depend on the circumstances under which the crimes were committed and the blameworthiness of the offender.

Held, the crimes were committed whilst under the influence of alcohol, rendering his behaviour marginally less reprehensible.

Held, the consumption of alcohol did play some part in the accused's lawless conduct that evening. Although it does not excuse the crime, it mitigates the punishment to be meted out to the accused.

Held, liquor can arouse senses and inhibit sensibilities. It is for the state to discount it as a mitigating factor, to show that it did not materially affect the accused's behaviour.

Held, in order to be a valid consideration and constituting a mitigating factor, penitence must be sincere and the accused must take the court fully into his confidence. This much the accused has done in mitigation of sentence.

Held, the majority of the offences the accused was convicted of are serious and involves the use of a firearm, not only putting the lives of innocent people at risk, but resulted in the cold-blooded murder of a mother of four young children who were dependent on her.

Held, crimes like murder not only militate against society's most basic values and principles, it also trashes the victim's fundamental rights enshrined in the supreme law of the land, the Namibian Constitution.

Held, accused's alleged diminished blameworthiness in respect of theft of the firearm is compromised by the way he used the weapon to commit crimes on diverse occasions.

Held, the courts must echo society's indignation and antipathy of those who are guilty of unbecoming and despicable behaviour

Held, it is wholly unacceptable that innocent people walking the streets or whilst at home where they should feel safe, be accosted and threatened or even killed.

Held, this country over the past decade is suffering from an epidemic of violence which cannot be tolerated any longer and the courts are under a duty to do its part in bringing an end to it by imposing deterrent sentences which ought to serve as an eye-opener to other potential criminals.

Held, it is necessary to send a deterrent message to society in general that conduct, as demonstrated by the accused will not, and should not, for the sake of law and order, be tolerated, and that long-term imprisonment is inevitable.

ORDER

- Count 1: Murder (with direct intent) – 25 years' imprisonment.
- Count 2: Assault with intent to do grievous bodily harm – 2 years' imprisonment.
- Count 3: Pointing of a firearm (c/s 38(1) (i) of Act 7 of 1996) – N\$4 000 or 1 year imprisonment.
- Count 4: Theft – 1 year imprisonment.
- Count 5: Possession of a firearm without a licence (c/s 2 of Act 7 of 1996) and
- Count 6: Possession of ammunition (c/s 33 of Act 7 of 1996), taken together for sentence – N\$6 000 or 2 years' imprisonment.
- Count 7: Attempted murder – 5 years' imprisonment.
- Count 8: Discharging a firearm in a public place (c/s 38(1) (o) of Act 7 of 1996) – N\$4 000 or 1 year imprisonment.

In terms of s 280(2) of Act 51 of 1977 it is ordered that the sentences imposed on counts 2 and 4 be served concurrently with the sentence imposed on count 1.

It is further ordered, in terms of s 10 of Act 7 of 1996 that the accused is declared unfit to possess an arm for a period of five (5) years, which period is only to commence after the accused has served his sentence in full.

SENTENCE

LIEBENBERG J:

[1] On 19 June 2020 and after evidence was heard, the accused was convicted on the following counts:

Count 1: Murder (with direct intent); Count 2: Assault with intent to do grievous bodily harm; Count 3: Pointing of a firearm (c/s 38(1)(i) of Act 7 of 1996) ; Count 4: Theft; Count 5: Possession of a firearm without a licence (c/s 2 of Act 7 of 1996); Count 6: Possession of ammunition (c/s 33 of Act 7 of 1996); Count 7: Attempted murder; and Count 8: Discharging a firearm in a public place (c/s 38(1)(o) of Act 7 of 1996).

The proceedings have now reached the stage where the court must decide what sentence in the circumstances of this case will be appropriate and just.

[2] Ms. *Gebhardt* still represents the accused while Mr. *Lutibezi* appears for the state.

[3] At the commencement of proceedings the state handed up a record of previous convictions (J14) reflecting three entries, duly admitted by the accused. These relate to crimes of assault (common); assault with intent to do grievous bodily harm and *crimen injuria*, crimes for which the accused was convicted and sentenced on 12 March 2019. Whereas the crimes committed in the present matter were committed prior to those listed in the record relied on by the state, the latter crimes therefore cannot be regarded as previous convictions. However it is not entirely insignificant as it adversely reflects on the accused's demeanour and character whilst out on bail on this matter. On the accused's evidence these convictions emanated from a bar fight between him and a friend which ended only after assaulting his friend for a second time at the hospital when both went for treatment. In that matter he pleaded guilty to all counts and effectively served five months' imprisonment whilst out on bail in this matter.

Evidence in aggravation/mitigation of sentence

[4] The state led the evidence of one witness, Ms. Maria Adams, the biological mother to the deceased, with regards to the personal circumstances of the deceased at the time of her demise. Four children aged 15, 12, 8 and 3 were born to the deceased and were staying with her in Gibeon where she worked as a casual labourer. Besides the monthly financial upkeep of her children, the deceased also supported her elderly mother financially and provided food. This obviously stopped with her death. As for the minor children, welfare officials stepped in and placed the children with their respective biological fathers; two living with the grandparents at Stampriet and the other two with their biological father in Windhoek. As for her own loss, Ms. Adams said she was heartbroken whilst the deceased's children are equally suffering emotionally in that, during the school holidays they would visit their mother's grave and become very emotional. With regards to the accused and his parents, Ms. Adams confirmed that they approached her seeking forgiveness and that she informed them that she had forgiven the accused for what he has done to her and the family. It is common cause that Mr. Mensah (senior) also assisted the Adams family financially with N\$2 000 and by providing food to the family and mourners prior to the funeral.

[5] The accused testified in mitigation, stating his current age as 39 years, single and the father of three children aged 13, 7 and 4, respectively. The children are residing with their biological mothers in Windhoek and Mariental. He does not pay maintenance but said he financially provides for their needs when necessary. Whilst serving his sentence, his father will provide in his children's financial needs. Although he has no permanent employment, he assists his father in his businesses for which he earns approximately N\$5 000 per month. After he matriculated in 1998 he obtained a certificate in personal computer engineering from Damelin College.

[6] He admitted that he has a drug and alcohol addiction for which he underwent rehabilitation on two occasions i.e. in 2011 and 2016 when he relapsed after 1 – 2 years. He also suffered from depression at the time, exacerbated by the fact that he was unemployed. He got married in 2015 and his last born followed the next year. Due to unemployment and his continued relapses, this impacted on his marriage and contributed to their divorce.

[7] The accused acknowledged the seriousness of his crimes and said he found it difficult to put his emotions and feelings into words. Adding that he must be punished for taking someone's life and that he will be imprisoned for long. He said his actions are not testament of his rearing and that he took wrong turns in life which led to bad things like his divorce. He begged for mercy and to be afforded the opportunity to better himself in future and expressed hope of seeing his children again. The accused further admits to being short tempered and having anger issues – traits which currently still exist for which he needs help. These, in his view, accompanied by the taking of alcohol, contributed to the commission of the crimes at hand; despite psychological treatment in the past.

[8] The evidence of Mr. Louis Mensah, the accused's father, essentially supports that of the accused as regards the latter's character and weaknesses. He said he has no doubt that deep down the accused is a good person but that he has lost direction in life due to drug addiction. He is alive to his son's anger issues and past failures at rehabilitating. He is however convinced that the accused, with the necessary support during incarceration, is able to reform and be a better person. Mr. Mensah testified that over the past 11 years, he has been involved with the government in setting up a programme aimed at preventing or curbing illicit drug trafficking in Namibia, and plans on involving the accused after his release; to which the accused agreed. He further confirmed the support provided to the Adams family and, being a father himself, expressed sympathy for their loss. The incarceration of the accused would bring additional hardship to his family as his only other son

is already a serving prisoner, with two more years before his release. Lastly, Mr. Mensah prayed for a reduced sentence for the accused.

The nature and extent of the crimes committed

[9] It is common ground that courts take a serious view of those offences the accused stands convicted of. These crimes generally attract direct imprisonment, the duration of which would mainly depend on the circumstances under which the crimes were committed and the blameworthiness of the offender. It was further acknowledged by the accused that he stands convicted of offences that are prevalent in our jurisdiction. The latter clearly underpins the need for a deterrent sentence.

[10] With regards to theft of the firearm, it was submitted that the circumstances under which the accused took possession of it lessens his blameworthiness in that he unexpectedly came across same at the club. Though the submission is not without merit, it would appear to me that the accused's alleged diminished blameworthiness is compromised by the way he used the weapon to commit several crimes soon thereafter. What particularly aggravates the offence of theft in this instance, is that it involves a firearm. This offence, in my view, remains serious and deserving of appropriate punishment.

[11] As borne out by the evidence, these crimes were committed during the same night when the accused together with his friends indulged in drinking throughout the night. Although the defence did not lead specific evidence as to the quantity of alcohol imbibed by the accused, the results of a blood-alcohol test conducted later that day, exhibited a reading of 0.12g/100ml of blood. Despite the court's rejection of the accused's evidence that his level of intoxication during the commission of the murder was such that he lacked criminal capacity, the evidence duly established that the accused had indeed consumed liquor leading up to the commission of the said offences. It is trite that the consumption of liquor or drugs prior to the commission of an offence would not necessarily constitute a mitigating factor; which will be determined

by the circumstances of the case. Although the mere consumption of liquor is not in itself a mitigating factor, it is generally accepted that, if the court is satisfied that the accused was intoxicated when he acted, this will be a mitigating factor. In the present circumstances, shown during the trial, I am satisfied that the accused's intoxication that night is a factor to take into consideration when deciding what sentence(s), in the circumstances of this case, would be appropriate.

[12] The court should further not judge the accused's behaviour solely on the strength of the tragic consequences his actions caused, but must view it in context with his state of intoxication when committing the crimes, rendering his behaviour marginally less reprehensible. Intoxication is likely to affect one's rational thinking as stated in *S v M¹* at para 29h-i:

'Liquor can arouse senses and inhibit sensibilities. It is for the State to discount it as a mitigating factor, to show that it did not materially affect the appellant's behaviour. The appellant was most likely not thinking rationally ...'

Furthermore on intoxication, the court in *S v Ndhlovu(2)*² at 695-696D-E stated thus:

'Intoxication is one of humanity's age-old frailties, which may, depending on the circumstances, reduce the moral blameworthiness of a crime, and may even evoke a touch of compassion through the perceptive understanding that man, seeking solace or pleasure in liquor, may easily over-indulge and thereby do the things which sober he would not do. On the other hand intoxication may, again depending on the circumstances, aggravate the aspect of blameworthiness (see sec. 350 of the Code) as, for example, when a man deliberately fortifies himself with liquor to enable him insensitively to carry out a fell design. In the result, in seeking a basic principle in regard to intoxication and extenuation in murder cases, it is neither necessary nor desirable to say more than that the Court has a discretion, to be exercised judicially upon a consideration of the facts of each case, and in essence one is weighing the frailties of the individual with the evil of his deed.'

¹ *S v M* 1994 (2) SACR 24 (A).

² *S v Ndhlovu(2)* 1965 (4) SA 692 (A).

(Emphasis provided)

[13] The accused during his testimony admitted that he has been struggling with anger issues for the past decade. He said this was addressed during two bouts of counselling together with his alcohol and drug addiction. He further stated that he, to date, suffers from depression. In the absence of medical evidence or reports explaining the nature, effect and extent of the accused's depression and the accompanying addictions, it is almost impossible for the court to make any determination thereon and decide what weight, if any, should be accorded thereto during sentencing. The state in response submitted that the accused blamed his sporadic violent tendencies on alcohol, drugs and anger issues he has had for almost a decade. Despite seeking professional help, he has been unable to bring these issues under control; neither did psychologists and expert intervention produce tangible results. Thus, it was argued, he is a danger to society and should permanently be removed. It therefore proposes that life imprisonment be imposed on the murder charge and direct imprisonment on the remainder of the counts.

[14] Mr. Mensah (snr) expressed the view that the reason why rehabilitation in the past failed, is because the period during which the accused attended the programme, was too short. He was alive to the fact that a lengthy custodial sentence on the murder charge is to be expected, but that he will personally involve himself with the accused's rehabilitation whilst serving his sentence and, having already garnered the accused's co-operation in this respect, the accused could be an example to others upon his release and restore his life to that of a decent member of the community. How honest and honourable the intentions of Mr. Mensah may be, the accused's situation in the measurable future would be that limited contact with persons from outside is permitted and that his father's contribution towards rehabilitation would allow little more than being supportive. Programmes on rehabilitation are initiated within the facility and the success thereof largely depends on the offender. It seems apposite in the present circumstances to repeat what was

said on the aspect of rehabilitation in *S v Mhlakaza and Another*³ at 519h-i:

'Whether or not this scepticism is fully justified, the point is that the object of a lengthy sentence of imprisonment is the removal of a serious offender from society. Should he become rehabilitated in prison, he might qualify for a reduction in sentence, but it remains an unenviable, if not impossible, burden upon a court to have to divine what effect a long sentence will have on the individual before it. Such predictions cannot be made with any degree of accuracy.'

[15] In my view, it would at this juncture simply be too soon to take the uncertain future occurrence into consideration as a mitigating factor, but can credit the accused's declaration of willingness to work with his father towards rehabilitation.

[16] From the evidence adduced, it is noticeable that the accused has a history of alcohol and drug abuse. Furthermore, on his own account, he has anger issues which contributed to the commission of the crimes for which he now stands convicted. Also as regards those crimes convicted of whilst out on bail. When applying the aforementioned principles to the present circumstances and, further taking into consideration that the accused on the day in question was intoxicated, it seems to me probable that particularly the consumption of alcohol did play some part in the accused's lawless conduct that evening. Although it does not excuse the crime, it mitigates the punishment to be meted out to the accused.

[17] The evidence further shows that the two shooting incidents involving Angelo and the deceased were not premeditated. These crimes were committed on the spur of the moment when the accused was confronted and although it is no justification for his actions, it is a factor to be taken into account; moreover when accompanied by the intake of alcohol.

[18] It was submitted on the accused's behalf that the guilty pleas tendered during the trial are indicative of remorse, moreover, where he on two

³ *S v Mhlakaza and Another* 1997 (1) SACR 515.

occasions tendered his apology to the deceased's mother who said that she had forgiven him. Countering the argument, the state submitted that the accused's expression of remorse is not sincere, for reason that he did not extend any apology to the complainants in the other counts leading up to the trial. Also, having made himself guilty of similar violent conduct whilst out on bail, is further proof thereof.

[19] Though not entirely without merit, the accused's alleged failure to show or express remorse must be viewed in context. When the question was put to the accused in cross-examination why he failed to apologise to the other complainants, he explained that one of his bail conditions was that he may not have contact with state witnesses. The explanation to me seems reasonable in the circumstances and I do not think an adverse inference could be made from only apologising to the deceased's mother and not the other complainants. The need and urgency to apologise to the family of the deceased was clearly a pressing issue for the Mensah family and where the accused has done so in person, it appears genuine. Moreover where he repeated it under oath during his testimony in mitigation. In order to be a valid consideration and constituting a mitigating factor, penitence must be sincere and the accused must take the court fully into his confidence.⁴ This much the accused has done in mitigation of sentence.

[20] Although the accused pleaded not guilty on some of the charges and the state, notwithstanding, secured convictions on all the counts, I do not believe that in all instances where an accused expresses remorse only after conviction, can it be said that it is not sincere. Much will depend on the circumstances of the case and I have no doubt that there could be circumstances in which the court would be able to find that remorse, *albeit* demonstrated only after conviction, is genuine and sincere. The accused during his testimony accepted legal and moral responsibility for his wrongdoing. He broke down emotionally when apologising to the court, saying that he found it difficult to find the right words, but that he was wretched for the loss he has caused to the deceased's children and family. Though his

⁴ *S v Seegers*, 1970 (2) SA 506 (A) at 511G-H.

defence in having acted in self-defence did not stand up in court, the circumstances surrounding both shooting incidents are such that the accused might subjectively have believed that he was not guilty of the offences charged. Against this backdrop, I am satisfied that the accused has demonstrated and expressed his sincere remorse for his wrongdoing. I consider that a mitigating circumstance.

[21] As to the court's approach to extenuating circumstances and the weight to be accorded thereto, the court must consider the cumulative effect of all extenuating circumstances and not consider separately each factor in isolation.⁵

Interest of society

[22] The majority of the offences the accused was convicted of are serious and involve the use of a firearm, not only putting the lives of innocent people at risk, but resulted in the cold-blooded murder of a mother of four young children who were dependent on her. What aggravates the accused's actions on the night in question is that there was no need to resort to the use of a firearm for whatever reason, let alone firing shots at close range directly at two persons whose presence and actions offended him. The first shot fired at Angelo was a near hit in that the bullet grazed his cheek while his second victim was shot in the head at point *blanc* range for no reason – making it another senseless murder. The fact that the deceased was a defenceless woman clearly did not deter the accused; notwithstanding her being inside her own yard when questioning the accused's assault on a family member, clearly acting within her rights.

[23] Crimes like murder not only militate against society's most basic values and principles, it also trashes the victim's fundamental rights enshrined in the supreme law of the land, the Namibian Constitution. Society looks to the courts for protection and to uphold the rule of law. Through its judgments the courts must echo society's indignation and antipathy of those who are guilty of

⁵ *S v Manyathi*, 1967 (1) SA 435 (AD) at 439B-F.

unbecoming and despicable behaviour, as encountered in this instance. It is wholly unacceptable that innocent people walking the streets or whilst at home where they should feel safe, be accosted and threatened or even killed. The accused's conduct on that night can be described as irrational and trigger-happy, with complete disregard for the safety of the community. This country has over the past decade suffered from an epidemic of violence which cannot be tolerated any longer and the courts are under a duty to do its part in bringing an end to it. This would be by imposing deterrent sentences which ought to serve as an eye-opener to other potential criminals.

[24] In cases of this nature, even where an accused's personal circumstances are extremely favourable, they must yield to society's legitimate demand that its members be entitled to feel safe and without being threatened, injured or murdered by criminals.

[25] In the circumstances of this case, I am of the view that it is necessary to send a deterrent message to society in general that conduct, as demonstrated by the accused, will not, and should not, for the sake of law and order, be tolerated, and that long-term imprisonment is inevitable. This view is supported by the remarks made in *S v Mhlakaza and Another (supra)*,⁶ and approved in *S v Schiefer*⁷ where the court stated that, given the current levels of violence and serious crimes, it would seem proper at sentencing to put emphasis on retribution and deterrence as objectives of punishment. In this instance I deem it appropriate to follow this approach.

[26] It is trite that regard must be had to the cumulative effect of sentences of long-term imprisonment and for the court to ensure that the total sentence imposed is not disproportionate to the accused's blameworthiness in relation to the offences committed.

⁶ At 519d.

⁷ *S v Schiefer* 2017 (4) NR 1073 (SC).

[27] Ms. *Gebhardt*, after having consulted with the accused and Mr. Mensah (snr), proposed that fines be imposed on those counts where the accused is convicted under the Arms and Ammunition Act, 7 of 1996. This is based on an undertaking that if fines were to be imposed, the accused and/or his family would assist in paying the fines. The state, on the contrary, having asked for a sentence of life imprisonment on the murder count, submitted that the sentences would in any event be served concurrently but, conceded that it falls within the discretion of the court to impose a fine on those counts.

[28] Whereas the imposition and payment of fines on some of the counts would definitely ameliorate the cumulative effect of individual sentences of imprisonment, the court, in my view, should be inclined to follow that route. In the event of the fines not being paid, then the accused would be required to serve the alternative sentence in addition to any imprisonment imposed on other counts.

Conclusion

[29] There can be no doubt that the accused has to live with a constant sense of guilt for subjecting those near and dear to him to the trauma and disruption of their family life which his conviction must have caused and one might have empathy for them. However, this court cannot allow such compassion to deter it from imposing the kind of sentence dictated by the interests of society. This is one of the penalties convicted persons must pay.

[30] The distress and hardship of the loss of a mother and breadwinner will undoubtedly be felt more intensely by the Adams family where the children are torn away from the family. Each child were to live with the biological father, a life until then unknown to them. One could only hope that their pain and the disruption caused by the passing of their mother would not cause permanent psychological harm.

[31] It is inevitable to come to the conclusion that in sentencing, the personal circumstances of the accused simply do not measure up to the gravity of the crimes committed, considered together with the legitimate interests and expectations of society. The court is further mindful of the fact that accused is a first offender and has been in custody awaiting trial for a period of 7 months. I do not consider this period to be unreasonably long for it to have any significant impact on the sentences to be imposed.⁸

[32] By virtue of s 10(8) of the Arms and Ammunition Act 7 of 1996, the court may declare a person who has been convicted of an offence in the commission of which a firearm was used (s 10(6)), unfit to possess an arm for such period as may be fixed by the court, but for not less than two years.

[33] The State's application to have the accused declared unfit to possess a firearm was not opposed by the defence. In view thereof the appropriate order will be made declaring the accused unfit to possess a firearm for the determined period, only to commence after his release.

[34] In conclusion, I consider the following sentence appropriate and the accused is sentenced as follows:

- Count 1: Murder (with direct intent) – 25 years' imprisonment.
- Count 2: Assault with intent to do grievous bodily harm – 2 years' imprisonment.
- Count 3: Pointing of a firearm (c/s 38(1) (i) of Act 7 of 1996) – N\$4 000 or 1 year imprisonment.
- Count 4: Theft – 1 year imprisonment.
- Count 5: Possession of a firearm without a licence (c/s 2 of Act 7 of 1996) and
- Count 6: Possession of ammunition (c/s 33 of Act 7 of 1996) taken together for sentence – N\$6 000 or 2 years' imprisonment.
- Count 7: Attempted murder – 5 years' imprisonment.

⁸ *S v Kauzuu* 2006 (1) NR 225 (HC) at 232F-H.

Count 8: Discharging a firearm in a public place (c/s 38(1) (o) of Act 7 of 1996) – N\$4 000 or 1 year imprisonment.

In terms of s 280(2) of Act 51 of 1977 it is ordered that the sentences imposed on counts 2 and 4 be served concurrently with the sentence imposed on count 1.

It is further ordered, in terms of s 10 of Act 7 of 1996 that the accused is declared unfit to possess an arm for a period of five (5) years, which period is only to commence after the accused has served his sentence in full.

JC LIEBENBERG
JUDGE

APPEARANCES

STATE

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ACCUSED

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