

In the matter between:

THE STATE

and

JUSTIN PIERRE RAUTENBACH

the Accused

SUMMARY

VALLY, J:

Having been found guilty of 5 counts, being:

³⁵₁₇ murder,

³⁵₁₇ theft,

³⁵₁₇ unlawful possession of a firearm,

³⁵₁₇ unlawful possession of ammunition and

³⁵₁₇ unlawful possession of cannabis and methaqualone,

the appropriate sentence had to be decided.

Section 51 of the Criminal Law Amendment Act 105 of 1997 provides for minimum sentence for certain serious offences such as the present case. In terms of s 51(2) read with Schedule 2 of the Act the court is enjoined to impose a minimum sentence of 15 years imprisonment unless the court finds that there are *substantial and compelling circumstances* to warrant a lower sentence. This minimum sentence is to be imposed to, inter alia, reflect the view that society regards the severity of the crime of taking another person's life in a serious light and to ensure that the punishment meted out is consistently applied to all perpetrators of crime.

As regards count 1, the court noted that the accused presented no testimony demonstrating that there were substantial and compelling circumstances warranting the imposition of a lesser sentence. The facts he presented from the bar did not constitute “*substantial and compelling circumstances*” warranting a reduction of the minimum sentence prescribed by the Act. In fact, most of them were circumstances ordinary to most people’s lives.

The court also found that the accused moral blameworthiness had not been diminished by his consumption of alcohol. Having considered the accused’s actions after the murder, it was found that the impact of alcohol and brazipam was not of such a nature as to have affected his judgment to such an extent that he was unable to take any of the decisions which underlay the actions he took immediately after committing the murder.

As regards count 2, the court found that the accused’s actions showed little regard to the deceased and demonstrated his callousness when he perpetrated the crime and warranted a severe sentence.

Taking all the above-mentioned factors, the accused was sentenced as follows:

³⁵₁₇ on count 1: 16 years imprisonment;

³⁵₁₇ on count 2: 8 years imprisonment;

³⁵₁₇ counts 3 & 4 taken together: 4 years imprisonment; and

³⁵₁₇ on count 5: 6 months imprisonment suspended for 5 years on condition he is not convicted of the same offence during the period of the sentence.

The 6 years imposed on count 2 were ordered to run concurrently with the sentence imposed on count 1. The entire sentence imposed on counts 3 and 4 were also ordered to run concurrently to with the sentence imposed on count 1.