IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NUMBER: A157/2019

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES:
(3) NO
(4) REVISED.

6 MAY 2020
DATE SIGNATURE
HANDED DOWN ELECTRONICALLY DUE TO COVID 19

In the matter between:-

MONYAI CLIFF Appellant

and

THE STATE Respondent

JUDGMENT

FMM SNYMAN (AJ)

Introduction

[1] This is an appeal against the sentence of the appellant after he was charged together with 2 other accused in the Regional Court sitting in Randburg on 8 counts of robbery with aggravating circumstances and 2 counts of unlawful possession of a fire-arm and ammunition respectively.

[2] The appellant was found guilty on 5 counts of robbery with aggravating circumstances and 2 counts of unlawful possession of a fire-arm and ammunition respectively. The appellant was sentenced on 11 November 2010 to a total period of 35 years imprisonment.

Incomplete record

[3] The appellant, the State and the Magistrate in the Court *a quo* were not able to reconstruct a complete record. The following evidence do not form part of the record:

[3.1] The annexures to the charge sheet are not part of the record;

[3.2] The exact nature of the sentences imposed is not apparent from the J15 (Charge Sheet) or any annexure thereto;

[3.3] The transcription ends at page 125 after the evidence of the appellant and does not include the evidence of the 2 co-accused individuals;

[3.4] The SAP 69 form is not part of the record (that is the appellant's criminal record status);

[3.5] The judgment on the conviction is not part of the record;

[3.6] The evidence in aggravation or mitigation of sentence is not part of the record;

[3.7] The arguments in support of aggravation or mitigation of sentence are not part of the record; and

[3.8] The judgment on the sentences is not part of the record.

[4] Counsel for both the appellant and respondent have agreed to proceed and request that the appeal be finalised despite the lack of a complete record. The representatives of both parties submitted that the record is as complete as it ever will be and a postponement would not be of any value to obtain a more complete record.

[5] Both parties have the duty to reconstruct the record from secondary sources and it is apparent from the record before Court that the parties have indeed done everything in their power to reconstruct and reassemble the record. There are mainly 2 reasons why the record is incomplete: the transcribed record was done on an old machine and the record could not

be traced; and the magistrate has retired and has no independent recollection or notes on the trial.

[6] As found in **S v Zondi** 2003 (2) SACR 227 (W) at paragraph 9, the adequacy of an appeal record depends on the basis and grounds of the particular appeal.

[7] Despite the agreement between the parties that the appeal should proceed on the record before the Court, it is for this Court to determine and satisfy itself that the record before the appeal Court is indeed sufficient to give adherence to the principle that the appellant has a fair and just appeal. One of the bases on which an appeal would be fair obviously entails a complete record with sufficient information to enable the Court to come to a fair decision. Should the record not be sufficient, the appellant would be entitled to an acquittal.

[8] This Court has to consider and assess the adequacy of the record for purposes of this appeal against sentence. In the matter of **S v dos Santos** 2018 (1) SACR 20 (GP) on the issue of an incomplete record, the following was held by Jacobs AJ (with Rabie J concurring):

> *"[3] Our law requires that an appeal record must be adequate for consideration of the appeal. The record need not be a perfect recordal of everything that was said at the trial. (**S v Chabedi** 2005 (1) SACR 415 (SCA)). The question whether defects in an appeal record are so serious that a proper consideration of the appeal is not possible should not be answered in the abstract, but rather on the nature of the defects and in particular what is available of the record and the nature of the issues to be decided on appeal."*

[9] The Constitutional Court has considered the issue of an incomplete record in relation to a fair appeal in **S v Schoombee and Another** 2017 (2) SACR 1 (CC) and found in paragraphs 19 to 21 as follows:

> *"It is long established in our criminal jurisprudence that an accused's right to a fair trial encompasses the right to appeal. An adequate record of trial court proceedings is a key component of this right. When a record is inadequate for a proper consideration of an appeal, it will, as a rule, lead to the conviction and sentence being set aside."*

[10] The question whether defects in an appeal record are so serious that a proper consideration of the appeal would not be possible, should be answered on the nature of the defects and in particular on evaluation of what is available of the record and the nature of the issues to be decided on appeal.

[11] In determining whether the record is sufficient to render the appeal fair, it is necessary to examine the nature of the issues to be decided on appeal in relation to the available record.

The appeal

[12] This appeal is only against the sentences imposed on the accused. I will repeat the counts, as well as the findings and sentences. I will deal with the appeal against the appellant's sentence in more detail after the summary of the counts and outcomes thereof.

[13] The appellant was charged on the following counts:

[14] Count 1:

> *"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.*
>
> *IN THAT on or about 13 April 2007 and at or near […] A. street Cosmo City, Randburg in the Regional Division of Gauteng the accused unlawfully and intentionally break open and enter the house of Thembela Mayathula and Isaac Matwa with the intent to*

rob and did unlawfully and intentionally assault Thembela Mayathula and or Isaac Matwa and did then and there and with force take the following from their possession to wit: a DVD player, DVD's and 74 centimetre television all to the value of approximately R8,000.00, the property of, or in the lawful possession of Thembela Mayathula or Isaac Matwa."

[14.1] The appellant was acquitted on this count after a section 174 application for acquittal in terms of the Criminal Procedure Act 51 of 1977 ("CPA") was brought.

[14.2] The appellant was subsequently discharged on this count.

[15] Count 2 reads as follows:

"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.

IN THAT on or about 8 July 2007 and at or near […] Z. Street, Cosmo City in the Regional Division Gauteng, the accused unlawfully and intentionally broke open and entered the house of Zwakheli Motswa and Issac Sibuya with the intent to rob and did unlawfully and intentionally assault Zwakheli Motswa and Issac Sibuya and did then and there and with force take the following from their possession to wit: two leather jackets, shoes and clothing, a clothing bag, a DVD player, speakers value unknown to

the state, the property or in the lawful possession of Zwakheli Motswa and or Issac Sibuya."

[15.1] The appellant's section 174 application in terms of the CPA was dismissed.

[15.2] The appellant was however found not guilty on this count.

[16] Count 3 reads as follows:

"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.

IN THAT upon or about 25 July 2007 and at or near […] C. street, Cosmo City in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Phumlani Nyembe and or Mphumzeni Nyembe with the intent to rob and did unlawfully and intentionally assault Phumlani and or Mphumzeni Nyembe and did then and there and with force take the following from their possession to wit three cellphones, two laptops, two pairs of running shoes, a computer tower and a computer as well as a pair of black shoes to the value of approximately R20,000.00 the property or in the lawful possession of Phumlani Nyembe and or Mphumzeni Nyembe."

[16.1] The appellant was found guilty on this count.

[16.2] The appellant was sentenced to 15 years imprisonment on this count.

[17] Count 4 reads as follows:

> *"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.*
>
> *IN THAT upon or about 10 August 2007 and at or near […] H. Street, Cosmo City in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Queen Zanele Ndlovu and or Tamsanca Ndlovu with the intent to rob and did unlawfully and intentionally assault Queen Zanele Ndlovu and or Tamsanca Ndlovu and did then and there and with force take the following from their possession to wit a DVD player, a AIM DVD player, Sansui amplifier, a JVC CD player. Nokia cellphone, Nokia 62 cellphone, a Samsung Z540 cellphone, two speakers, a pair of shoes, a towel, air-freshner, more or less 20 DVD's and musical CD's, video cassettes, a VCR and the value of all the items approximately R15,000.00."*

[17.1] The appellant was found guilty on this count.

[17.2] The appellant was sentenced to 15 years imprisonment on this count.

[18] Count 5 reads as follows:

> *"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.*
>
> *IN THAT upon or about 22 August 2007 and at or near […] J. Street, Cosmo City in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Lucky Lesese with the intent to rob and did unlawfully and intentionally assault Lucky Lesese and did then and there and with force take the following from his possession to wit a continental pillow cover, six pairs of shoes to the value of R4,800.00, one by Daniel Hector belt to the value of R200.00, a silver LG television value R3,000, a silver Mercer laptop value R6,000.00, a LG home-theatre system valued R2,500.00, two DVD's plus minus R120.00 and 20 CD's to the value of approximately R1,000 as well as a black Samsung cellphone to the value of R1,500.00."*

[18.1] The appellant was found guilty on this count.

[18.2] The appellant was sentenced to 15 years imprisonment on this count.

[19] Count 6 reads as follows:

> *"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECION 1 AND SECTION 262(1) AND*

SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.

IN THAT upon or about 24 August 2007 and at or near […] A. Street, Cosmo City in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Teresa Mnisi with the intent to rob and did unlawfully and intentionally assaulted Teresa Mnisi and did then and there and with force take the following from her possession to wit a Nokia 3310 cellphone valued R350.00 as well as R200.00 in cash, the property in lawful possession of Teresa Mnisi."

[19.1] The appellant was acquitted from this count after a section 174 application in terms of the CPA was brought.

[19.2] The appellant was subsequently discharged on this count.

[20] Count 7 reads as follows:

"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.

IN THAT upon or about 28 August 2007 and at or near […] B. Street, Cosmo City Extension 5 in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Brenda Moni and Theodora Nyatonga with the intent to rob and did unlawfully and intentionally assault Brenda Moni and

Theodora Nyatonga and did then and there and with force take the following from her possession to wit a Nokia cellphone to the value of R500.00 as well as a Motorola cellphone to the value of R1,300.00."

[20.1] The appellant was found guilty on this count.

[20.2] The appellant was sentenced to 15 years imprisonment on this count, to be served concurrent with the sentence on count 9.

[21] Count 8 reads as follows:

"HOUSEBREAKING WITH INTENT TO ROB WITH AGGRAVATING CIRCUMSTANCES READ WITH THE PROVISIONS OF SECTION 1 AND SECTION 262(1) AND SECTION 260 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AND SECTIONS 51 AND 52 OF ACT 105 OF 1977.

IN THAT upon or about 28 August 2007 and at or near […] S. Road, Cosmo City in the Regional Division of Gauteng the accused did unlawfully and intentionally break open and enter the house of Bheki Norman Makhatini with the intent to rob and did unlawfully and intentionally assault Bheki Norman Makhatini and did then and there and with force take the following from his possession to wit a Wolf Dell television valued R2,500, a LG microwave value R1,500.00, a laptop valued at R5,000.00, a digital camera value R1,500.00, Nokia cellphone value R4,000.00, a kettle valued R200.00, a DVD player value R1,000.00, a DSTV decoder valued at R2,000.00 and R380.00 in cash the property or lawful possession of Bheki Norman Makhatini."

[21.1] The appellant was found guilty on this count.

[21.2] The appellant was sentenced to 15 years imprisonment on this count.

[22] Count 9 reads as follows:

> *"POSSESSION OF A FIRE-ARM CONTRAVENING THE PROVISIONS OF SECTION 3 OF THE FIREARMS CONTROL ACT 60 OF 2000 FURTHER READ WITH THE PROVISIONS OF ACT 105 OF 1997*
>
> *IN THAT upon or about 29 August 2007 and at or near Randburg in the Regional Division of Gauteng the accused unlawfully had in his possession the following firearm to wit a nine millimetre calibre Vector semi-automatic pistol without holding a licence, permit or authorisation issued in terms of the Act to possess that firearm."*

[22.1] The appellant was found guilty on this count.

[22.2] The appellant was sentenced to 15 years imprisonment, to be served concurrent with the sentence on count 7.

[23] Count 10 reads as follows:

> *"POSSESSION OF AMMUNITION, CONTRAVENING THE PROVISIONS OF SECTION 90 OF THE FIREARMS CONTROL*

ACT 60 OF 2000 FURTHER READ WITH THE PROVISIONS OF ACT 105 OF 1997

IN THAT upon or about 29 August 2007 and at or near Kya-Sands squatter camp in the Regional Division of Gauteng the accused unlawfully had in his or their possession the following ammunition to wit 15 nine millimetre parabellum calibre cartridges without being the holder of a licence in respect of a firearm capable of discharging the ammunition."

[23.1] The appellant was found guilty on this count.

[23.2] The appellant was sentenced to 3 years imprisonment.

[24] In each of the counts number 4, 5, 7 and 8, a period of 10 years of the 15 years were ordered to run concurrent with the 15 years of count number 3.

[25] The court further ordered that the sentences on counts number 9 and 10 run concurrent with the sentence of count number 3.

[26] The appellant was effectively sentenced to 35 years imprisonment.

[27] The appellant is now appealing against the effective sentence of 35 years imprisonment imposed by the trial court on the grounds that it is excessive and extremely harsh. Counsel for the appellant submitted during argument in court that a sentence of 35 years imprisonment would effectively

amount to a lifelong imprisonment for the appellant and that 25 years imprisonment would be appropriate in the circumstances.

[28] The appellant in his notice of appeal contended that the trial court failed to adequately consider the following personal circumstances:

[28.1] He is 35 years old;

[28.2] He is a first time offender; and

[28.3] The time spent in prison awaiting the finalisation of the trial.

[29] The appellant further contended that the trial court did not adequately consider his prospects of rehabilitation, and it overemphasized the seriousness of the offence, the interest of society, the prevalence of the offence and the deterrent effect of the sentence.

[30] I will deal with the grounds of appeal after making a finding on whether the record is complete and sufficient to grant the appellant a fair and just opportunity to have the appeal considered properly.

Finding on incomplete record

[31] I have examined the nature of the issues to be decided on appeal in relation to the available record. It was submitted on behalf of the appellant during argument that the most prevailing ground of appeal is the inadequate consideration of the age of the appellant by the trial court.

[32] No reference was made of pre-sentencing reports or victim-impact reports. These reports were also not listed by the parties as evidence that could not be reconstructed as part of the record. As such, I make the inference that there were no such reports.

[33] The evidence on sentencing mitigation and aggravation, as well as the argument thereof, is not essential to be before this Court in considering the appeal because they are common cause between the parties.

[34] The records absent from Court, would not play a determining part in the outcome of the appeal as the information contained in the absent record, has been obtained from secondary sources and/or is common cause before this Court.

[35] Taking into account the case law referred to above I find that the issues to be decided on appeal in relation to the available record can indeed be

determined on the available record. The appeal can proceed on the defective record and the appellant will suffer no prejudice thereto.

Sentence

[36] In determining an appeal on sentencing, it was stated in **S v Malgas** 2001 (1) SACR 469 (SCA) that:

> *"Courts are required to approach the imposition of sentence conscious that the Legislature has ordained life imprisonment . . . as the sentence that should ordinarily and in absence of weighty justification be imposed for the listed crimes in the specified circumstances."*

[37] As set out herein under, the crimes committed by the appellant are indeed crimes that the Legislature has ordained life imprisonment as a sentence. Any deviation thereto, should be justified. In **S v Obisi** 2005 (2) SACR 350 (W) the full bench held that the test on appeal against sentence was not whether the appellate tribunal would have imposed another form of punishment, but whether or not the trial court had exercised its discretion properly and reasonably in imposing sentence.

[38] I deal with each ground of appeal individually.

<u>Age of 35</u>

[39] The appellant has been found guilty on 5 counts of robbery with aggravating circumstances and 2 counts of unlawful possession of a fire-arm and ammunition. These are very serious offences which started in July 2007 and escalated in severity until August 2007. It is clear that the appellant and his 2 co-accused were on a rampage of destruction in the neighbourhood. All of the criminal counts were in the area of Cosmo City, Randburg.

[40] The evidence against the appellant reflected that the appellant and his 2 co-accused escalated in seriousness of the crimes. The *modus operandi* included that the appellant and co-accused would enter the houses when the victims were asleep, assault the victims and stole items of various value. Had they not been caught, I have no doubt that the ransacking of Cosmo City would have continued and escalated.

[41] The complainant in the 4th count, Ms Ndlovu, testified that accused number 3 shot at her husband but missed him in that he ducked in evading the bullet. The bullet entered her husband's pillow. The complainant testified that she identified both accused number 3 and the appellant, and that the appellant was standing next to accused number 3 when he shot at her husband.

[42] The age of the appellant is not a factor that influences this Court to reduce the sentence of the appellant. At age 35, the appellant was well aware that what he was doing was criminal. The manner in which the crimes escalated, and the manner in which the appellant associated himself with his co-accused when the complainants were shot at, and the illegal fire-arm used, confirms that the appellant was not under undue influence or pressure from his co-accused, but indicates that the appellant acted out of own accord.

[43] At the age of 35 one would expect of a citizen to have obtained employment and be a pillar in the community. Instead, the appellant appears to have been a career criminal, having regard to the frequency of the robberies. There were 5 robberies in approximately 1 month, from 25 July 2007 to 29 August 2007, all in the same area and with the same *modus operandi*.

[44] This ground of appeal cannot be successful and is accordingly dismissed.

First offender

[45] It is common cause that the appellant is a first offender.

[46] The sheer magnitude and frequency of the criminal conduct surpasses the fact that the appellant is a first offender. I dare say that the appellant is not so much as a first offender, as some-one who has been caught for the first time.

[47] Even though the appellant is a first offender, there are other factors that cancel the mitigatory aspect of being a first offender. These factors are:

[47.1] The fact that the appellant was charged with 8 counts and convicted on 5 counts of robbery with aggravating circumstances;

[47.2] The fact that the appellant was found in possession of an illegal fire-arm and ammunition;

[47.3] The fact that the crimes escalated in violence and frequency in the same neighbourhood.

[48] The fact that the appellant is a first offender cannot be sustained as a ground of appeal and is accordingly dismissed.

Time awaiting trial in prison

[49] The Court considered that the appellant has been awaiting trial in prison.

[50] The Court also considered that the sentencing has already taken place during 2010, thus the appellant has already served 10 years of his sentence.

[51] The time that the appellant spent in prison awaiting trial, as well as the time that the appellant has already spent in execution of his sentence, is not a ground that the Court would consider significant in evaluating the sentences issued by the court *a quo*. This is so, due to the gravity of the crimes. Having been found guilty on 5 counts of robbery with aggravating circumstances, and possession of an illegal fire-arm and ammunition, the period awaiting trial does not impact on adjusting the time-period of the sentencing.

[52] This ground of appeal can therefore not be successful and it is dismissed.

<u>35 years harsh and excessive; as well as rehabilitation</u>

[53] Counsel for the appellant argued that the Magistrate in the court *a quo* did, to a degree, take into account the cumulative effect of the sentences imposed, but submitted that it was not properly and/or sufficiently as the resultant effect of 35 years imprisonment is excessive in the circumstances.

[54] Counsel on behalf of the appellant referred the Court to several matters (**R v Mzwakala** 1957 (4) SA 273 (A); **S v Tuhadeleni** 1969 (1) SA 153 (A) and **S v Whitehead** 1970 (4) SA 424 (A)) in which it was held that a sentence of 25 years imprisonment were regarded as excessive and should only be applied in exceptional circumstances.

[55] Counsel for the appellant submitted that a sentence in the total of 25 years instead of 35 years, would be fair and reasonable.

[56] The appellant has the opportunity to prove his capability of rehabilitation with the numerous rehabilitation programmes in prison. Because of the nature, the seriousness and prevalence of the offences committed by the appellant I deem it to the benefit of the appellant to serve a longer sentence of imprisonment to enable himself to rehabilitate in prison. This would also be to the benefit and protection of the society.

[57] It deems to be repeated that the appellant is charged and found guilty on 5 counts of housebreaking with the intent to rob and robbery with aggravating circumstances read with the provisions of section 1 and section 262(1) and section 260 of the Criminal Procedure Act 51 of 1977 read with section 51 of the Criminal Law Amendment Act, 105 of 1997.

[58] Section 51 of the Criminal Law Amendment Act, 105 of 1997 reads as follows:

> *"**51 Discretionary minimum sentences for certain serious offences***
> *(1) ….*
> *(2) Notwithstanding any other law but subject to subsections (3) and (6), a regional court or a High Court shall sentence a person who has been convicted of an offence referred to in-*
> *(a) Part II of Schedule 2, in the case of-*
> *(i) a first offender, to imprisonment for a period not less than 15 years;*
> *….."* (own emphasis)

[59] Robbery with aggravating circumstances is listed in Part II of Schedule 2 of Act 105 of 1997.

[60] The Magistrate in the court *a quo* was compelled under the statutory provisions of section 51 of the Criminal Law Amendment Act 105 of 1997 to issue a sentence of 15 years on each conviction of every individual count of robbery. The Magistrate *a quo* has thus already given consideration to the length of the sentences, in that he has already applied concurrent running of sentencing.

[61] The cases that the counsel for the appellant referred the Court to in support thereof that a sentence of 35 years is excessive, are all cases that were determined prior to the commencement of the Criminal Procedure Act 105 of 1997 and as such is not applicable in this matter.

[62] This ground of appeal can accordingly also not succeed and is dismissed.

Conclusion

[63] The sentencing falls primarily within the discretion of the trial court, as the trial court has had personal observations of the evidence of the complainants and the appellant during the trial. The Supreme Court of Appeal has confirmed in **S v Salzwedel and Others** 1999 (2) SACR 586 (SCA) that the Court of appeal is only entitled to interfere if the sentence given by the Court *a quo* is *"disturbingly inappropriate, so totally out of proportion to* [the-sic] *magnitude of offence, or sufficiently disparate, or vitiated by misdirection showing that trial Court exercised* [its-sic] *discretion unreasonably".*

[64] I do not find that any of the circumstances as raised in the Court *a quo* or in this appeal would affect the sentencing to result in it being shocking and/or disturbingly inappropriate. The trial court reduced the cumulative effect of the total sentence imposed of 93 years imprisonment to 35 years

effective imprisonment. The effective sentence is lengthy because the appellant was convicted and sentenced on multiple serious offences. It is apparent from the available record that he robbed the complainants of valuable items, the immovable properties were damaged during the robberies and some of the complainants sustained physical and emotional injuries. The appellant is a danger to the society.

[65] I agree with the Court *a quo* that a proper sentence for the appellant would be a collective period of effectively 35 years imprisonment.

I therefore propose the following order:

1. The appeal on the sentence is dismissed.

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FMM SNYMAN, AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION

I agree and it is so ordered:

_____

MMP MDALANA-MAYISELA, J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION

DATE OF HEARING: 4 February 2020
DATE OF JUDGMENT: 6 May 2020

JUDGMENT HANDED DOWN ELECTRONICALLY DUE TO COVID 19 RESTRICTIONS

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