

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO: SS70/99

DATE: 13 APRIL 2000

5 In the matter between:

THE STATE

and

GRANVILLE CARLSON Accused 1

FAGHRIE ABRAHAMS Accused 2

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SENTENCE

IMMELMAN, AJ

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I come now to the matter of sentence. The State has proved only one previous conviction, being conviction of accused 2 on 31 March 1994 of housebreaking of business premises with the intent to steal and theft of goods to the value of R28 000, committed on 22 December 1993. In respect of this conviction accused 2 received a sentence of imprisonment for three years under correctional supervision by the Commissioner, in terms of Section 276(1)(i) of the Criminal Procedure Act. It is noteworthy for purposes of sentence that the present offences were committed by accused 2 only about one year after the 98/ds

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but for the meeting on the day in question with
accused 2, who had a pre-arranged appointment with
the deceased, accused 1 would not have had any
contact at all with the deceased who was in fact a
5 stranger to him.

As for his personal circumstances the Court takes account of
the fact that accused 1 is a first offender. Indeed his lack of a
criminal record serves to underscore his inexperience in
10 matters criminal and in some measure to support the
conclusion of an induced proclivity towards criminal activity
under the dominating influence of accused 2. His upbringing
and history as indicated by the evidence of his mother, Mrs
Onrust, reveal anything but the picture of a deprived, unloving
15 or uncaring family background or of hardship. If anything her
evidence shows that he was in fact spoilt. Significantly this
evidence shows the absence of any need on his part to resort
to criminal behaviour in order to acquire property and reveals
an overlying motivation of simple greed.

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Through his counsel accused 1 expressed repentance for his
wrongdoing in this matter. Can one however accept merely on
the say-so of counsel that accused 1 is truly, sincerely and
genuinely remorseful for his actions, and take account thereof
25 as a factor in mitigation. I think not. Remorse connotes

repentance and inner sorrow inspired by a feeling of guilt or by another's plight, as opposed to simple feeling of sorrow for oneself. See S v Martin 1996(2) SACR 375 at 383H and S v Stanley 1996(2) SACR 570 AD. In order to establish true,
5 sincere and genuine remorse an accused must take the Court fully into his confidence. See S v Seegers 1970(2) SA506 AD at 511G, this accused 1 did not do.

The third factor to be considered in the case of accused 1 is
10 the interests of society. In this I include the interests of the loving and close-knit family members of the deceased on whom his unnecessary death at such a young age has had a most profound effect. Under this head the Court takes into account that in recent times this country has been ravaged and is still
15 being ravaged by a wave of crime, the likes and prevalence and extent of which is virtually unparalleled and unprecedented at any other period. Serious crimes which include murder and robbery have become the order of the day. So common place have they become that the long-suffering
20 citizens of this country cry out so far and no further. Their demand is that the Courts of this country do their utmost to put an end to this wave of crime, which undermines the very fabric of orderly civilised society and to protect them through the imposition of stringent sentences.

With regard to accused 1 the Court accepts that he is not inherently evil, that he came under the bad influence of accused 2, and that after arrest he gave the police his full cooperation. He nevertheless lied to this Court. Possibly he is rehabilitatable but no evidence was presented to the Court in this regard. Be that as it may however the seriousness of the case is such that seen in the context of the recognised objects of punishment the interest of society seem to demand that deterrence and retribution must outweigh considerations of reformation. To borrow in part from the words of Goldstone, JA in S v Shabalala supra which apply with equal force here the justifiable outrage of society must be a relevant factor in the imposition of a proper sentence in this kind of case. Such a sentence should act both as a deterrent to others, who may be tempted to murder and rob defenceless and innocent people it should also in a suitable case reflect the retribution which society demands in respect of crimes which reasonable persons regard shocking. Taking all relevant factors into account and blending therein a measure of mercy the sentences which the Court regards as appropriate both singly and in their cumulative effect, and which the Courts to each of triads factors their proper weight and which the Court hereby imposes on ACCUSED 1 is the following

1) In respect of his CONVICTION ON THE COUNT OF

MURDER IMPRISONMENT FOR A PERIOD OF 15
(FIFTEEN) YEARS.

- 2) In respect of his CONVICTION ON THE COUNT OF
ROBBERY IMPRISONMENT FOR A PERIOD OF 10
(TEN) YEARS.

Further in terms of Section 12(2) of the Arms and Ammunition
Act No 75 of 1969 ACCUSED 1 IS DECLARED TO BE UNFIT
TO POSSESS AN ARM as defined in that Act.

I pass on now to consideration of the case of accused 2. The
nature and severity of the crimes committed by him have
already been dealt with at some length. In his case there are
no factors which ameliorate his moral blameworthiness. On
the contrary there are factors present which go the other
direction, which aggravate the seriousness of his crimes and
his moral blameworthiness therein. These are the following:

- 1) The deceased – the victim of his crimes – was a
person whom he had known virtually throughout his
whole life, he was both a close friend of his and a
working colleague and like family to him, killing him
was the ultimate ingratitude and disrespect for that
friendship.

- 2) Accused 2 abused most vilely the position of trust

which his friendship with the deceased gave him. It was that trust which gained him entry into the house of the deceased, it was by virtue of that trust that the deceased unsuspectingly and innocently gave him access into his house, his sanctuary, only to have that trust abused by accused 2 in the heartless and brutal taking of his most precious possession of all, his life, a right guaranteed to him by the constitution of this country, together with several other paltry possessions.

- 3) Accused 2 played the dominant role in the attack on the deceased and in the succeeding events.

12/08/2010

pp IMMELMAN

IMMELMAN, AJ