

IN THE HIGH COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CASE NO: SS57/2008

DATE: 31 OCTOBER 2008

5 In the matter between:

THE STATE

and

EMILY VAN DALEN Accused 1

ANGELIQUE VAN DALEN Accused 2

10 CHRISTO PRETORIUS Accused 3

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SENTENCE

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NGEWU, AJ

The matter was postponed to today for sentence. In passing sentence the Court has to consider the following:

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The seriousness of the offence, the interests of the community and those of the accused. The Court will consider the personal circumstances of each accused as raised by their defence

counsel. All accused are first offenders. They all did not participate in the actual murder, however the Court will not turn a blind eye on the fact that the idea of murder was precipitated by them and was actually sold to Mr Roy Swan by them.

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The mastermind behind the murder was accused number 1. Accused number 1 and 2 were present when the deceased got murdered and did nothing to intervene or even frustrate the well orchestrated plan to have the deceased killed. The offence was a very serious one, the deceased was murdered in his home, where he was supposed to be protected from crime.

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I must further add that offences of this nature are becoming increasingly common in this division. The family of the deceased lost a member, and the community look to the Courts for the protection of their own interests. It is therefore the duty of the Court not to betray the trust the community lays on them by imposing inappropriate sentences. Appropriate sentences also serve to deter would be offenders. Of course the Court is to blend these sentences with a measure of mercy.

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It was brought to the attention of the Court that there was a minor child involved. The Court considered all the reports that were

filed on behalf of the best interests of the minor child. However, though it is a paramount consideration, that does not have to be accentuated at the expense of the other pillars of sentencing.

5 As a result of the plan the deceased was brutally assaulted at his own home. We have heard from the report that the minor child in question is quite happy living with the grandparents, and the eating disorders have since vanished. The person who compiled this report, I must say, was focusing only on the best interests of  
10 the child, without balancing all the relevant factors of sentencing. I must say of course that hers was a recommendation that serves to influence the Court but it is not to say that the Court would be bound by what the officer said. All that was required is that the Court must take into account the contents of the report.

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What is aggravating the offence is that accused number 1 was related, or had a domestic relationship with the deceased, they were married for some time, divorced and married and then divorced. It would seem that the deceased was in their way of  
20 happiness. There is an allegation, though not testified to, to the fact that the deceased abused accused number 2 as well.

Having considered every relevant aspect of sentencing the Court has arrived at the following sentence.

ACCUSED 1 you are SENTENCED TO UNDERGO A PERIOD  
5 OF 7 (SEVEN) YEARS DIRECT IMPRISONMENT;

In terms of Section 276(1)(i) of the Criminal Procedure Act the  
10 ACCUSED 2 IS SENTENCED TO UNDERGO 5 (FIVE) YEARS  
IMPRISONMENT.

ACCUSED 3 IS SENTENCED TO UNDERGO 7 (SEVEN) YEARS  
15 IMPRISONMENT.

  
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NGEWU, AJ