

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 150/2004

In the matter between:

REX

VS

AMON TIKI MDLULI

CORAM: Q.M.MABUZA -AJ

FOR CROWN: N. LUKHELE

FOR ACCUSED: IN PERSON

SENTENCE 3/2/06

In passing sentence in this matter I have taken into account the personal circumstances of the accused namely:

He is a first offender.

He is 48 years old.

He has a wife and small children for whose care and maintenance he is responsible.

That he was employed at the forests and that he is no longer gainfully employed. I presume that he lost his job because of the arrest and being in custody.

I also take into account the fact that the act of picking up the stone and throwing it at the children with fatal consequences was not premeditated but was an on the spur of the moment decision.

I was not shown the stone but the prosecutor gave me an idea of the size. He indicated that it was fairly big and it must have been if it was able to cause the death of the deceased.

To the relatives especially the mother it is not possible to bring back your child or to compensate you for the injury of her death. I also have to consider that the deceased was engaged in a naughty pass time that of stealing the accused's peaches. It is not clear how long this had been going on if at all but sometimes children can be very exasperating and the accused was defending his property from three young children who accompanied the deceased.

I have to also take the interest of society into account and send a warning to people who take the law into their own hands when there are other options that could have been followed that would not have resulted in death.

I also take into account the time that you spent in custody before you were admitted to bail.

In the circumstances I sentence you to 5 years imprisonment 3 years of which are suspended for a period of 3 years on condition that the accused is not convicted of an offence in which violence is an element committed during the period of suspension. The sentence is backdated to 1st December 2004.

Q.M. MABUZA

ACTING JUDGE