



THE HIGH COURT OF SWAZILAND
HELD AT MBABANE Criminal Case no. 158/2004
In the matter between
REX
vs

VUSI MUSAWENKHOSI DLAMINI

Coram

Banda, CJ

For the Crown

Mr. S. Fakudze

For the Respondent

Mr. B.J. Simelane

JUDGMENT

[1] The accused was originally charged in two counts. In the first count he was charged with the offence of murder where it was alleged that upon or about 23rd September 2001 at or

near Esibuyeni area in the district of Manzini the said accused did unlawfully and intentionally kill one Simanga Dlamini. In the second count the accused was charged with the offence of assault with intent to do grievous bodily harm. He pleaded not guilty to both counts but offered to plead guilty to the lesser offence of culpable homicide on the first count and to assault on the second count. Mr. Fakudze, who appeared for the Crown, accepted the pleas which were confirmed by Mr. Simelane as being in accordance with the accused instructions.

- [2] A statement of agreed facts was produced and read as part of the evidence. A post mortem report was also produced as part of the evidence. The accused was therefore found guilty on his own pleas of guilty on the lesser charges and was accordingly convicted. Mr. Simelane informed the court in mitigation that the accused was only 20 years old when he committed the offences and that they were committed because of frustrations he experienced in looking after his family, that he remained unemployed for long periods and this contributed to his helpless situation, that he has been in custody since he was arrested on 23rd September 2006 and Mr. Simelane has prayed that the sentence be backdated to this date.
- [3] The accused has been found guilty of a very serious offence of culpable homicide and the accused must regard himself

as very fortunate that the Crown accepted his plea of guilty of a lesser offence. The injuries were very serious indeed. The deceased was a child of only one month old and the accused used a knobkerrie to attack the child. It was a despicable and savage attack. While I have listened to what Mr. Simelane said on accused's behalf in mitigation none of it is excusable. In my view there can be only one sentence for the kind of crime the accused committed. He is sentenced to a term of imprisonment of ten (10) years on the first count and to a term of imprisonment of six (6) months imprisonment on the second count. The sentences will run concurrently and will take effect from 23rd September 2001.


R.A. ICE

Pronounced in open Court at Mbabane on this 16th day of July 2007.