

**IN THE HIGH COURT OF SWAZILAND**

**HELD AT MBABANE                      CRIMINAL                      TRIAL                      NO.**

**384/07**

In the matter between:

REX

VS

KENZIL NKOSINGIPHILE MANYATSI

CORAM

MONAGENG, J

FOR CROWN

MR. THABISO MASINA

ACCUSED

PRESENT IN PERSON

**JUDGMENT**  
**12<sup>th</sup> JUNE 2008**

[1] In this matter, the accused person pleaded guilty to the criminal offence of culpable homicide, it being alleged that on the 26<sup>th</sup> August 2007, he killed Bhekimpi Dlamini after a drinking spree.

[2] In mitigation the accused said what happened was a mistake and it was not on purpose. He said he did not have the intention of killing the deceased.

[3] He is a young man in the prime of his life. He should be spending his time productively instead of drinking irresponsibly.

[4] I however take into account the fact that the two men were drunk and that this led to this unfortunate incident. He is a first offender who has pleaded guilty and who seems to be remorseful. I, however take cognizance of the fact that a human life was lost.

[5] At the same time, Courts should be alive to their role of balancing society's expectations when one of them has been killed, with the need for rehabilitation of the accused, who is also one of its own and the possible reintegration of the accused into society. This is one of those rare occurrences where the Court should temper justice with mercy and do a proper balancing exercise.

[6] The accused is sentenced as follows:

1. He is sentenced to 5 years imprisonment.

2. 2 years shall be suspended for a period of 3 years on condition that he is not convicted of any offence of which violence of any kind is an element.

3. The sentence shall be backdated to 26<sup>th</sup> August 2007 when he was first incarcerated.

4. Right of appeal against severity of sentence only.

SM MONAGENG

JUDGE