

not reportable 1

IN THE SWAZILAND COURT OF APPEAL

APPEAL CASE NO.....

In the matter between

ISAAC MHLANGA

Appellant

And

THE KING

Respondent

CORAM

KOTZE, JP
SCHREINER, JA
BROWDE, JA

For Appellant
For Crown

In Person
Mrs. M. Dlamini

Judgment
(28/09/98)

The allegation being that on or about the 5th of September 1996 and at or near Nkanyezini Area in the Manzini District you unlawfully and intentionally killed Gabangani Zwane. The appellant pleaded guilty of culpable homicide and was found guilty in the High Court of murder with extenuating circumstances and sentenced to imprisonment for 12 years. He has informed us that he wishes only to appeal against the sentence which was imposed on him and he has told us that he is a man of 56 years of age and prior to this tragedy he had led alife.

Mrs. Dlamini who appears for the crown has pointed out correctly I think that there is no misdirection on the part of the trial judge. The question remains, however, whether the sentence imposed by the trial judge is so heavy that we feel that it is not a sentence which in the circumstances should have been imposed. If the disparity between what the trial judge imposed and that which the appeal court feels should have been imposed in the circumstances is so great that it warrants interference by the appeal court then that will happen. The facts of the case show that the deceased entered the place where the appellant was living and informed the appellant

that he, the deceased, had assaulted the appellant's mother and wished him to leave the place