

134/01-JduP

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SENTENCE

Sneller Verbatim/JduP

IN THE HIGH COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

JOHANNESBURG

CASE NO: 134/01

2002.03.20

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<b>DELETE WHICHEVER IS NOT APPLICABLE</b>	
(1) REPORTABLE	<del>YES</del> /NO
(2) OF INTEREST TO OTHER JUDGES	YES/NO
(3) REVISED	✓
DATE <u>23/2/2004</u>	SIGNATURE <u>[Signature]</u>

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In the matter between

THE STATE

and

JAMES RODERICK ALEXANDER DAMPIES

Accused

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SENTENCE

WILLIS, J: It is well settled in these courts, and reflects the accumulated wisdom of many generations, that sentence must fit the crime as well as the criminal, be fair to the state and to the accused, and be blended with a measure of mercy. It must also reflect the interests of society.

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The accused was 19 years of age at the time when he committed these offences, he has no previous convictions, and it is clear that he was considerably under the influence of alcohol at the time when he committed the offences. These factors operate in his

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favour. On the other hand, he has shown no remorse whatsoever. The accused completed a Std.10 education and was apparently busy with further studies at a Technikon at the time of his arrest.

The accused stooped very low to commit these crimes. A woman, still of relatively young years, had a life brutally taken away. Crimes of violence manifest themselves only too frequently in our society, and there is a strong demand from the community as a whole that crimes of this nature be severely punished. This much is indicated by the Criminal Law Amendment Act, 105 of 1997, which has prescribed certain minimum sentences for serious crimes. Fortunately for the accused these crimes were committed before that Act was passed.

In addition to what I have said in the opening lines of this judgment, sentence has the following five important functions:

1. It must act as a general deterrent. In other words, it must deter other members of the community from committing such acts, or even thinking that such acts may be worthwhile.
2. It must deter this particular individual from ever committing such an act again.
3. It must enable the possibility of correction, unless this is very clearly not likely in the circumstances.
4. It must be protective of society. In other words, society must be protected from those that do it harm.
5. It must satisfy society's desire for retribution. In other words, society's outrage at serious wrongdoing must be placated.

I have no doubt that, in respect of these crimes, the community

cries out aloud for a lengthy period of imprisonment in order to satisfy these functions. Indeed, the only reason why I would not impose life imprisonment is that I believe that by reason of the accused's youthfulness and the mitigating factors of his being under the influence of alcohol and having no previous convictions that he should, from the loneliness of his prison cell be able to catch a glimpse of freedom.

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Before handing down sentence I wish to record that in my view the crime of murder, and the crime of indecent assault, occurred sufficiently closely in time and place to justify an order that they are to run concurrently.

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Taking everything into account the following are the sentences which I impose:

Count 1: the murder count, you are sentenced to 20 years' imprisonment.

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Count 2: the count of indecent assault, you are sentenced to 6 years' imprisonment.

It is ordered that the sentence on count 2 is to run concurrently with the sentence on count 1. In other words the effective sentence is 20 years.

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ON BEHALF OF THE STATE:

ADV VAN VUUREN

ON BEHALF OF THE ACCUSED:

ADV HATTINGH