

Media Statement



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TO: ALL MEDIA

DATE: 14 OCTOBER 2016

RE: MAN SENTENCED TO 17 YEARS DIRECT IMPRISONMENT FOR A HATE CRIME

On Wednesday, 12 October 2016, the Western Cape High Court sentenced Christo Oncke to 17 years direct imprisonment for murder after Judge Siraj Desai found substantial and compelling circumstances which allowed him to deviate from the mandatory life imprisonment.

Oncke, 30, has been convicted of the murder of Dawid Olyne. Olyne, who was gay, was brutally assaulted, tied up and set alight while still alive. He succumbed to his injuries. The brutal murder which has been viewed as a hate crime by the court and the community sent shock waves throughout the Western Cape. During arguments in aggravation of sentence, Advocate Ntsoaki Mabilietse argued that the murder was very brutal. "The deceased was severely assaulted, strangled, tortured, tied up and set alight while still alive. The court ruled in its judgment that this was a hate crime. The gay community has a right to be protected as it has become common for members of this community to be assaulted every day. The court needs to give the accused a severe sentence. It must be punishment that fits the crime. I ask this court to improve life sentence", she said.

Judge Desai agreed with Advocate Mabilietse that the offence had the hallmarks of a hate crime and that issues of homophobia were common in that community. He even indicated that he has instructed the Human Rights Commission and the Department of Justice and Constitutional Development to run a programme on gender, gays and lesbian issues in that community. He also agreed that the murder was brutal and that he understood the anger of Advocate Mabilietse and the broader community. But, he disagreed that the accused was alone when he committed the crime. Judge Desai said while the accused initiated the assault, he didn't act alone. There were others who were

involved. He asked the investigating officer to keep the docket open and if evidence comes up of anyone who was involved in the murder, that person must be indicted.

The judge also found that the diminished intellectual capacity of the accused as shown in the psychology report that was submitted in court was a mitigating factor. He also said that, although the accused had six previous convictions which were all petty crimes, none were of violent crimes and nothing has displayed a tendency of him to commit violent crimes.

The judge said these were substantial and compelling circumstances which permitted him to deviate from the minimum sentence of life imprisonment.

Although the accused has been convicted and sentenced, he has maintained his innocence. He has admitted that he hit and kicked the deceased and that they had a physical fight but denied that he tied him up, burnt him or killing him. He alleges that he was walking down the road to a 'hokkie' in Ceres which youngsters visit to smoke drugs. He alleges that Olaine called him and they had a conversation and the deceased wanted to have sex with him.

He alleges that he was walking away when the deceased threw a stone at him and started swearing at him. He turned around, walked back to the deceased and was swearing back at him. He alleges that the deceased slapped him and they started fighting. He says the deceased was still alive when his cousin arrived and took him to his girlfriend. He went to his girlfriend's house, sang karaoke and went home afterwards. He says he heard allegations the next morning that he had killed a man the previous evening.

The boys who were making the allegation against him included his cousin. He was arrested and Advocate Mabilietse successfully prosecuted the matter.

The NPA welcomes the sentence.

Kind Regards,

Eric Ntabazalila

Regional Spokesperson: DPP Western Cape

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