ADEBANJO OGUNBANJO

V.

THE STATE

SUPREME COURT OF NIGERIA

SC. 2/72

LEX (1973) - SC. 2/72

OTHER CITATIONS

3PLR/1972/120 (SC)

1973 NMLR 257

**BEFORE THEIR LORDSHIPS:**

DAHUNSI OLUGBENI COKER, JSC

GEORGE SODEINDE SOWEMIMO, J.S.C.

AYO GABRIEL IRIKEFE, AG. J.S.C.

**ISSUES FROM THE CAUSE(S) OF ACTION**

CRIMINAL LAW – Murder – death of wife and son – Defence of insanity – How proved

CHILDREN AND WOMEN LAW: Women and Murder/Domestic Violence – Children and Murder – Soldier-husband accused of killing wife and eleven month old son – How treated

HEALTHCARE AND LAW:- Soldiers and mental healthcare – Consequences for law enforcement and justice administration

**MAIN JUDGMENT**

**COKER, J.S.C.,** (giving the reasons for dismissing the appeal):

The appellant had appealed against his conviction by Inko-Tariah, J. (High Court, Port Harcourt, Rivers State) of the murder on the 24th October, 1970, of one Florence George. At his trial, six witnesses gave evidence for the prosecution one of them being the Higher Registrar of the court who produced the autopsy report in the absence of the pathologist, and two of them being police officers who had been concerned in the investigation of the case against the appellant. One of the policemen, Okpara Fyneface (P.W. 4) was the cons­table on duty at the police station on the 25th October, 1970, and to whom the appellant had made a statement (admitted in evidence as Exhibit “C”) to the effect that Florence George was his wife and that he had stabbed her and her male child of some eleven months old to death. The appellant was apparently thereafter taken before another police officer, Benjamin Olowo, (P.W. 5) an Assistant Superintendent of Police, and before whom he had confirmed the correctness and voluntariness of the statement, Exhibit “C”. There were three soldiers among the prosecution witnesses. One of them, the brother of Florence George, identified her corpse to Dr. Eke who later performed the post-mortem examination on it. Another of the witnesses, by name Adeolu Iyaro (1st P.W.) testified to seeing the appellant in his house during the night of the 24th October, 1970, when the appellant came to him and reported that he had killed his wife. Adeolu Iyaro thereafter reported the matter to another soldier, Second-Lieute­nant Yekini Babalola, who went to the house of the appellant, forced open the door of the room which the appellant had locked after himself, recovered the blood-stained bayonet used by the appellant to slay his wife and child and eventually arrested the appellant. The witness Yekini Babalola (P.W. 2) further testified that in consequence of a search carried out at his request on the morning of the 25th October, 1970, the party, which included the witness, discovered the corpses of Florence George and her child “about 100 yards from the accused’s house”.

The appellant gave evidence in his defence at his trial and called two wit­nesses. He tried to resile from his statement Exhibit “C” and attempted to disown the contents. He narrated a story of his having been afflicted by some mental disorder as a result of which he obtained treatment in Lagos. He said he it was that had asked his wife to go back home but admitted under cross­-examination that he had killed her and his own son. As stated before, he called two witnesses, also soldiers. One of them was Yekini Babalola who was the 2nd prosecution witness. He stated in his evidence for the defence that he was a superior officer to the appellant who was serving under him and that on an occasion some time before October, 1970, he had sent the appellant back to his hometown, Ikorodu, for medical treatment as he was behaving like a mad­man. The other was Ola Olope, a sergeant in the Army. He testified that he had once accompanied the appellant to Ikorodu when he was sent home for treatment by Lieutenant Babalola some time in October, 1970.

The learned trial judge then closely considered the evidence in the case and gave some detailed consideration to the defence evidence. In this connec­tion he observed thus:­

“That accused knew that he was under an attack of his delusion and to go to Lieutenant Babalola and complain same in fact meant that he knew all that was happening and was in his sane mind. That he was in his sane mind is also borne out by the fact that he made statement to Police and signed it and in fact knew that he did so; he even identified the statement here in court.”

The learned trial judge then recounted the principal points in the defence evi­dence and isolated for consideration specific acts done by the appellant in the course of the stabbing of his wife and child and the disposal of their corpses. He concluded this part of his judgment saying that on the whole he considered that the defence or plea of insanity was not made out. The learned trial judge then considered in favour of the appellant the defence of provocation and eventually rejected- it. He convicted the appellant as stated and sentenced him to death.

This appeal was from that judgment and counsel assigned to argue the appeal was unable to find anything which he could usefully urge before us in support of the appeal. We thought that he was right. The appellant was a most inconsistent witness and it is inconceivable that if he was indeed insane he should be the person to give evidence of and describe the details of that in­sanity. As for his witnesses, the less said of them the better. Lieutenant Baba­Iola was also a prosecution witness. In the course of his evidence for the prose­cution, he did not say a word about the abnormal mental condition of the appellant which he intended to spot-light in the course of his evidence for the defence. He it was who had arrested the appellant and at that time had had to force open the door of the appellant’s apartment in order to effect his arrest. He later handed him over to the police and yet kept tucked away somewhere in his mind the knowledge of the appellant’s tendencies to madness. The other defence witness was apparently purposely called to Exhibit his own bias. It was not surprising therefore that the learned trial judge was unable to attach any particular probative values to their testimony.

The evidence clearly supported the verdict. Apart from the confessional statement of the appellant in which he told the story of his wife deciding to leave him and go back home and his own annoyance with her because she later returned home from the motor park whither he had accompanied her, there was the evidence of his own visit to the house of the 1st P.W., Adeolu Iyaro, a fellow soldier, on the night of the 24th October, 1970, and his unsolicited con­fession to him that he had killed his wife. Even in the court, at his trial, he ad­mitted that he had killed his wife with the bayonet produced in evidence. We were of the view that the learned trial judge could not have come to any other conclusion on the credible evidence before him other than that of the guilt of the appellant of the murder of his wife, Florence. It was obvious that the appellant, a soldier, in an outburst of exasperation got hold of his bayonet and brutally and mortally stabbed his wife. His annoyance at her presence on her reappearance after having been taken to the motor park is confirmed by his further action in getting hold of his own son, Segun George, a child of only eleven months, and killing him as well.

We concluded at the trial that the appeal had no substance and dismissed it. We now give our reasons for so doing.

Appeal dismissed.