

Ten years for shooting his friend

Behaviour 'grossly negligent'

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FORMER police captain Prebhashan Moodley's drawing of his service pistol while in full uniform and intoxicated at a friend's braai was a "narcissistic act".

This is how Durban Regional Court magistrate Delia Turner described his action yesterday.

In handing down a sentence of 10 years imprisonment, Turner said Moodley, 52, drew his firearm to show off his shooting skills, and felt this conduct was "grossly negligent".

"You are not a young teenager. You are a senior at 52, and was trained in the use of a firearm and aware that shots could ricochet," said Turner, addressing Moodley.

Last month, the former police captain was found guilty of culpable homicide and negligence in handling a firearm under the influence of alcohol.

Yesterday, Turner had taken both these counts as one when she passed a 10-year sentence.

She then granted Moodley's application for leave to appeal the sentence and had granted him R5 000 bail pending his appeal. Moodley had opened fire while out with friends at a braai on the night of November 2, 2013, at a home in Asherville.

He was taunted about Liverpool football club (the team he supports) following their 2-0 defeat to Arsenal that evening and admitted to shooting at targets (beer cans) on the side of the braai stand.

Moodley denied shooting at his friend of 20 years, 53-year-

old Kevin Maistry, or even noticing him in the line of fire.

Maistry's daughter, Raquel, had testified in aggravation of sentence on Monday and asked the court pass a prison sentence, claiming Moodley had not shown any remorse.

She testified about her family's grief and financial problems as her father was the breadwinner.

She also told the court Moodley had never approached her two brothers or herself to apologise or sympathise.

Through his defence counsel, advocate Jimmy Howse, Moodley said he had realised his behaviour was irresponsible and that it was not his intention to kill his friend.

Tragic

The correctional supervision report had asked for Moodley to be spared jail time.

Yesterday, Turner called the incident an extremely sad and tragic event, and said Moodley's conduct was "grossly negligent".

"You should have known better," she said to Moodley.

She also said he put other people in danger and referred to him being in full police uniform at the time.

"(Maistry) died an excruciating death, which had a huge effect on his family's lives. The court feels that a slap on the wrist, that is a non-custodial sentence, would be an injustice and send out a message that to behave in this manner is okay. It is not," she said.

The court gallery gasped as she handed down the 10-year prison sentence and also found him unfit to possess a firearm.

In his application for leave to appeal, Howse said on the particular facts of this case, there were strong prospects a court of appeal would disagree with the magistrate's sentence.

He argued that Maistry was not in Moodley's sights or line of fire, and also that the shooting was not in anger.

"(Maistry) was a loved one. On these grounds, a court of appeal is likely to come to another conclusion, and may suspend a portion of the sentence, as the court would find 10 years a heavy one," he said.

Prosecutor Krishen Shah did not oppose the application and said he found the court's sentence to be a just and fair one. Shah also did not object to Moodley being granted bail pending his appeal, saying the former policeman was not a flight risk.

Turner granted Moodley R5 000 bail on condition that: he does not change his residential address without informing the clerk of the court and the police; he surrenders his passport and any other travel documents and does not apply for a replacement; does not leave the province; does not visit any point of international departure; and that he reports every Monday to the Sydenham police station.

Maistry's son, Denzil, felt the 10-year jail sentence was a good one, but said they would now wait and see what the court of appeal found.

They attended the trial and sentencing and said it had been difficult as they had to relive what had happened.

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