



Case Alert

28 March 2023

ERRANT ZIM PRISON GUARDS PUNISHED FOR DELINQUENT CONDUCT

TWO errant prison officers have learnt it the hard way that delinquency does not pay after they lost some personal household property following a lawsuit in which they were sued by an aggrieved Harare resident, who claimed compensation for unlawful assault.

The two Zimbabwe Prisons and Correctional Services (ZPCS) officers **Michael Nduna** and **Florence Chihambakwe**, were sued for damages amounting to US\$5 250 in their personal capacity by Harare resident **Alex Tendai Gombedza** after they accused him of passing through a prohibited area and assaulted him together with his friend **Evidence Kutsawa**, while they were walking through Chikurubi Prison garden in Harare in January 2022.

After the assault, an aggrieved Gombedza engaged **Tinashe Chinopfukutwa** and **Paidamoyo Saurombe** of **Zimbabwe Lawyers for Human Rights**, who in August 2022 sued Nduna and Chihambakwe for damages amounting to US\$5 250 arising from the physical attack and ill-treatment for pain and suffering, humiliation, affront to dignity and embarrassment. Gombedza also cited Justice, Legal and Parliamentary Affairs Minister Hon. **Ziyambi Ziyambi** and ZPCS Commissioner-General Moses Chihobvu among the respondents.

During trial at Harare Civil Magistrates Court, Chinopfukutwa and Saurombe said Nduna and Chihambakwe instructed Gombedza and Kutsawa to lie down on the ground before assaulting them on their feet using wooden pick handles. After the assault, the ZPCS officers instructed some prisoners whom they were supervising to also assault the duo.

As a result, Gombedza and Kutsawa sustained severe injuries and had to seek medical attention.

In the case of Gombedza, he sustained injuries on his legs and feet and he was admitted at Parirenyatwa Group of Hospital for treatment.

The Harare resident suffered excruciating pain on his feet, which he still feels to date.

According to a medical reports, Gombedza suffered three percent residual disability as a result of the injuries, which he sustained from the assault.

Chinopfukutwa and Saurombe argued that their client felt greatly humiliated, embarrassed, dehumanised and degraded with the assaults and ill- treatment that he received at the hands of the ZPCS officers.

The human rights lawyers stated that Nduna and Chihambakwe treated Gombedza as if he was a dangerous criminal yet he was unarmed and posed no security threat whatsoever.

Furthermore, Chinopfukutwa and Saurombe argued that there was no justification for the excessive use of force against Gombedza as he had not committed any crime but was just going about his business walking on his way to Harare's central business centre.

In the end, Nduna and Chihambakwe were ordered to pay compensation amounting to US\$5 250 to Gombedza broken down as US\$2 500 for damages for humiliation, embarrassment, affront to dignity and contumelia, US\$2 500 for pain and suffering and **US\$250** being special damages for medical expenses which he incurred while being treated.

Now, Nduna and Chihambakwe have lost some household property, which was attached and removed by the Messenger of Court on Friday 23 March 2023 and will be auctioned to recover the judgment debt owed to Gombedza.

Among the household property which Nduna lost include some sofas, a deep freezer, a television set, a wardrobe and a printer.

Chihambakwe lost some sofas, a television set and a room divider.

ENDS

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