

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO : CC113/13

In the matter between:

THE STATE

and

OSCAR LEONARD CARL PISTORIUS

Accused

EXPLANATION OF PLEA IN TERMS OF SECTION 115 OF ACT 51 OF
1977

I, the undersigned,

OSCAR LEONARD CARL PISTORIUS

hereby furnish the following explanation of plea with reference to the charges to which I plead not guilty.

AD COUNT 1

MURDER – READ WITH THE PROVISIONS OF SECTION 51(1) OF ACT 105 OF 1977

1. In its formulation of this count, the State has contended that I

unlawfully and intentionally killed Reeve Steenkamp ("Reeva").

2. This allegation is denied in the strongest terms. In fact, at the time of the tragic accident which led to Reeve's death, we were in a loving relationship.
3. Whilst I admit that I inflicted the fatal gunshot wounds to Reeve, this occurrence was indeed an accident in that I had mistakenly believed that an intruder or intruders had entered my home and posed an imminent threat to Reeve and me.
4. In my application for bail, I concisely dealt with the events of 14 February 2013. I am advised that I will have an opportunity to deal with a comprehensive version of the events when I testify. For purposes of my plea explanation, I emphasise the following:
 - 4.1 During the early hours of the morning, I brought two fans in from the balcony. I had shortly before spoken to Reeve, who was in bed beside me.
 - 4.2 Unbeknown to me, Reeve must have gone to the toilet in the bathroom at the time when I brought in the fans, closed the

sliding doors and drew the blinds and the curtains.

- 4.3 I heard the bathroom window sliding open. I believed that an intruder or intruders had entered the bathroom through the bathroom window, which was not fitted with burglar bars.
 - 4.4 I approached the bathroom, armed with my firearm, so as to defend Reeve and I. At that time I believed Reeve was still in the bed.
 - 4.5 The discharging of my firearm was precipitated by a noise in the toilet, which I, in my fearful state, knowing that I was on my stumps, unable to run away or properly defend myself physically, believed to be the intruder/s coming out of the toilet to attack Reeve and me.
5. I respectfully believe that the State has no basis whatsoever for alleging that I wanted to take Reeve's life. I will demonstrate hereunder, that, notwithstanding, the fact that all the objective evidence will corroborate my version of the events. The State has embarked on a strategy to rely on unsubstantiated allegations in an endeavour to prove that I wanted to kill Reeve.

6. The strategy was also employed at my bail application. I will hereunder concisely deal with some of the material aspects to support my contention herein.

7. At my bail application, the State, *inter alia* contended that I had deliberately shot Reeve, whilst I was positioned at a distance of about 1.5 metres from the toilet door and whilst I was standing on my prosthesis. The allegation with reference to 1.5 metres and me wearing my prosthesis, was clearly designed to suggest that I had pursued Reeve to the toilet and that I therefore knew that Reeve was in the toilet, thus that I did not entertain any fear at a time, when it is alleged that I entered the bathroom.

8. The State has also by means of the evidence of the then Investigating Officer, Hilton Botha, sought to rely on a statement by a witness whom I am told is a certain Estelle van der Merwe, who claims to have heard what sounded like a woman's voice prior to the shooting, talking, non-stop like fighting. The witness did not say that the alleged talking came from Reeve nor that the sound so mentioned, emanated from my house.

9. The statement, it would appear, offered an opportunity for the State to

contend, at the bail hearing, that "... *there may have been an argument between the Applicant and the deceased and the evidence might point in that way ...*". This witness has since deposed to a further statement, which materially contradicts her first statement. In the further and better particulars the State disavows reliance on the first statement. The State has also conceded in the further and better particulars that they are not aware of any of the detail regarding the (alleged) argument and that it may become clear during the trial.

10. Van der Merwe's house is located approximately 105 metres from my bedroom, with my bedroom and bathroom windows facing in the opposite direction to van der Merwe's house. It would not have been possible for Van der Merwe to have heard anyone talking from my bedroom in their bedroom. The State is furthermore in possession of statements by a number of witnesses including witnesses resident in either the estate where I reside, or in an adjacent estate. None of these witnesses claim to have heard any argument between Reeva and I, nor any woman's voice talking, prior to the shooting, notwithstanding the fact that two of the witnesses (who live in closer proximity to my house than Van der Merwe) were awake at the time when Van der Merwe alleged that she had heard a woman's voice.

11. I refer to the above, as the State now alleges in the further particulars provided, that there was in fact an argument between Reeva and I and that I killed Reeva "*because of the argument*". I am unable to comprehend on what basis the State (at the bail application), could only rely on a possibility of an argument between Reeva and I, and now, with even less available evidence, (by disavowing Van Der Merwe's first statement), allege that there was in fact an argument and that I shot Reeva "*because of the argument*".
12. I deny this allegation and reiterate that there is no justification, whether legally or factually, for this unfair and incorrect allegation to have been made. The aforesaid allegation is also not supported by any of the statements disclosed to me by the State.
13. Furthermore, contrary to what was contended for by the State during the bail application, the State has now conceded that it cannot be contended as a fact that I was about 1.5 metres from the toilet door and that I had my prosthesis attached at the time when I discharged the firearm, any more.
14. The unfair approach adopted by The State, is further evident from the evidence given by Hilton Botha at the bail application, whose

evidence will be demonstrated to have been false in material respects. More particularly, that it was designed to falsely incriminate me on an allegation of premeditated murder. It will also be demonstrated during this trial, that whilst Botha was the investigating officer and tasked with preserving the scene, that the scene was contaminated, disturbed and tampered with. This feature of the State's case will be dealt with when Botha, amongst others, gives evidence.

15. I have been led to understand that it is unusual to challenge the State's case in my plea explanation to the extent that I do herein. However, I am left with no alternative but to explain my innocence with reference to the allegations levelled against me. The foregoing will be exposed by having regard to the State's intended approach in this trial. This approach is to not only seek to unfairly draw inferences from purported statements of fact, which are not supported by the objective facts, but also, by virtue of the statements disclosed to me by the State, to seek to introduce inadmissible character evidence, under the guise that such inadmissible evidence would be admissible similar fact evidence, to demonstrate that there was an alleged nexus between the (inadmissible) character evidence and the (non-existing)

argument, which allegedly led to me killing Reeva.

16. I am furthermore advised that, as the State is aware of the fact that it has no evidence to prove an alleged argument, and in particular, in view of the fact that the State has conceded that it does not know what the features or import of such alleged argument would have been, the only intended purpose of an attempt to introduce inadmissible character evidence would be to engineer and bring about an inadmissible attempted assassination of my character. I am advised that during the conduct of the trial, my legal representatives will object to the introduction of such inadmissible character evidence, on the basis as stated above.
17. I respectfully state that no truthful evidence can ever be tendered that I fired the shots, "*because of the argument*". I deny this allegation in the strongest terms because there was no argument.
18. The allegation that I wanted to shoot (or kill) Reeva, cannot be further from the truth.

AD COUNT 2

CONTRAVENTIONS OF SECTION 120(7) OF THE FIREARMS CONTROL ACT, NO. 60 OF 2000

ALTERNATIVELY TO COUNT 2

CONTRAVENTION OF SECTION 120(3)(b) OF THE FIREARMS CONTROL ACT, NO. 60 OF 2000

19. The allegations as formulated in the indictment with reference to this count, and the alternative count thereto, are denied.

AD COUNT 3

CONTRAVENTION OF SECTION 120(7) OF THE FIREARMS CONTROL ACT, NO. 60 OF 2000

FIRST ALTERNATIVE TO COUNT 3 : CONTRAVENTION OF SECTION 120(3)(a) OF THE FIREARMS CONTROL ACT, NO. 60 OF 2000

SECOND ALTERNATIVE TO COUNT 3 : CONTRAVENTION OF SECTION 120(4)(a) OF THE FIREARMS CONTROL ACT, NO. 60 OF 2000

20. I admit that whilst I was in possession of the firearm as alleged, a shot went off. Save as aforesaid, the remaining allegations as contained in this count are denied.

AD COUNT 4

CONTRAVENTION OF SECTION 90 OF THE FIREARMS CONTROL ACT,

NO. 60 OF 2000

21. I admit that at all times relevant to this count, I had not been issued with a licence to possess .38 calibre rounds of ammunition. Save as aforesaid, the remaining allegations as contained in this count are denied.

DATED at _____ on this _____ day of MARCH 2014.

O L C PISTORIUS
ACCUSED