

IN THE COURT MARTIAL OF LESOTHO

HELD AT MASERU

CASE NO. CM/T/01/15

In the matter between

Rex

V

N0.18536 Brigadier Mareka & 22 Others

On the 18/12/17, the court resumed in the following manner:

**Pres:** I am welcoming you this morning in the session of this court martial in which we have a case between **Rex v Brig Mareka and 22 others**. We will be assuming the proceedings today after a long adjournment since the 18 April 2017 in the same venue. You may all recall that these proceedings commenced in 2015 if I am not wrong. Since then we have been dealing with preliminary issues relating to the case up until such time we had to adjourn after having had the outcome of the Court Martial Appeal Court. Under given space and time, today we are gathered here to proceed after having issued notice of set down. I believe all the Counsel for defence received that notice in time. As such may I kindly refer to the prosecution to make presentation.

**Pros:** Mr President Sir, learned Judge Advocate, members of the court good morning. I am Major Sello appearing at the instance of prosecution. Your Lordship, first and foremost may the court note that Adv Suhr is not present today. The court will remember that Adv Suhr is duly appointed as the senior prosecutor in this matter, and is being assisted by me, Major Sello and Captain Nkuebe. However, we are ready to proceed with the matter in his absence and he has given us go ahead. May I ask the court to proceed with **Rule 20 of the Court Martial Procedure Rules of 1998**, which talks about arraignment of the accused.

Before their arraignment, let me bring into the attention of the court that accused No.1 (Brigadier Mareka) is not before the court. I have been duly informed by Adv Lephuthing who is representing Acc 1 that he is not before court and I think he can explain why he is not before court. As the court pleases.

**Adv Lephuthing:** I have advised my client not to come before the court because we have secured a court order from the High Court of Lesotho on the permanent stay of his prosecution.

**Pres:** We shall now dwell into arraignment of all accused present in terms of Rule 20 as stated by the prosecutor. You may all stand up

Accused no.2 Brig Motoa, are you guilty or not guilty?

**Acc 2:** Not guilty

**Pres:** Accused no.3 Col Stemere, guilty or not guilty?

**Acc 3:** Not guilty

**Pres:** Accused no.4, Col Kolisang?

**Acc 4:** Not guilty my Lord

**Pres:** Accused no. 5 Maj Makhetha?

**Acc 5:** Not guilty

**Pres:** Accused no.6, Capt Chaka?

**Acc 6:** Not guilty

**Pres:** Accused no. 7, 2Lt Mohasi?

**Acc 7:** Not guilty my Lord

**Pres:** Accused no. 8, Sgt Mokhobo?

**Acc 8:** Not guilty my Lord

**Pres:** Accused no. 9, Sgt Semakale

**Acc 9:** Not guilty

**Pres:** Accused no. 10, Sgt Lekhabunyane

**Acc 10:** Not guilty my Lord

**Pres:** Accused no. 11, Cpl Mokhorro

**Acc 11:** Not guilty

**Pres:** Accused no 12, Cpl Letsilane

**Acc 12:** Not guilty

**Pres:** Accused no.13, Cpl Lipoto

**Acc 13:** Not guilty.

**Pres:** Accused no. 14 Cpl Manaka

**Acc 14:** Not guilty



**Pres:** Accused no 15, Cpl Mohatlane.

**Acc 15:** Not guilty

**Pres:** Accused no. 16, Cpl Chele

**Acc 16:** Not guilty.

**Pres:** Accused no. 17, Cpl Motseko

**Acc 17:** Not guilty.

**Pres:** Accused no 18, Lcpl Jobo

**Acc 18:** Not guilty

**Pres:** Accused no. 19, Lcpl Molefi

**Acc 19:** Not guilty

**Pres:** Accused no 20, Lcpl Makhooane

**Acc 20:** Not guilty

**Pres:** Accused no. 21, Pvt Pama

**Acc 21:** Not guilty

**Pres:** Accused no. 22, Pvt Bolofo

**Acc 22:** Not guilty

**Pres:** Accused no. 23, Pvt Ralitlemo

**Acc 23:** Not guilty

**Def counsel:** we confirm that the pleas are in accordance with our instructions. As the court pleases. We further wish to apply for the court to find our clients not guilty and to discharge them.

**Pres:** Over to you Prosecution.

**Pros:** My Lords we have no objection to the application in respect of all accused on account that prosecution does not have evidence nor any witnesses anymore to proceed with matter.

**Judge Advocate's advise**

**JA:** The accused in this matter are charged as follows, Count I, the main charge of mutiny involving the use of or threat of violence contrary to **Sec 48 (1) (a) of the LDF Act**. There's also the first and second alternative counts. After the charge sheet had been served to all accused, they indicated in writing that they

deny the allegations made against them. On 17 Nov 17 Brig Mareka obtained a stay of execution so it is not necessary to deal with him here. The other accused tendered a plea of not guilty which were confirmed by their legal advisors. The prosecution did not adduce any evidence whatsoever and indicated that some of the witnesses were not competent to testify. It is not clear which problems the prosecutor experienced. It is also not relevant today. The matter started about 2 years ago. It was supposed to have taken three months. There were several delays in this matter and there's a saying that justice delayed is justice denied. I just want to put on record my unhappiness about the delay. Be that as it may, what is important is that there is no evidence before court martial justifying a conviction with regard to the present accused before this court. The legal team has applied for the acquittal of the accused. This application was not opposed by the prosecutor. My advice to this court is that in the circumstances all the accused before court are to be found not guilty.

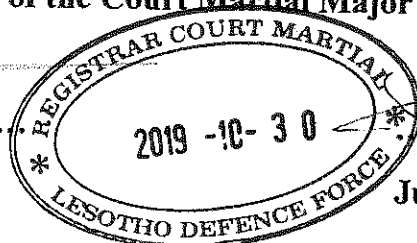
**Pres:** Thank you JA, the court will adjourn for three minutes to deliberate on the JA's advice

**Pres:** Honourable Counsels, the public in attendance, now I have come to the point of concluding my assignment which has been on my shoulders for over two years. In regard to all proceedings that have been going on here, we as the president and members of the court, we have considered the advice of the JA, on merits of this case and the court fully agrees with content thereof, being that there's no evidence to justify a conviction whether reflecting on the main count or those alternative counts as they appear on the charge sheet. Therefore, I am obliged to say that all accused are to be found not guilty and therefore discharged.

**Judgement delivered on the 18 day of December 2017**

**By president of the Court Martial Major General Letsoela**

.....  
Signature (President)



.....  
Judge Advocate

*Handwritten signature*  
30/10/2019