

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: P195/10

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED
2/3/2015	DATE
	SIGNATURE

In the matter between:

MIYENI TSHEPO HOPE

Applicant

and

THE STATE

Respondent

JUDGMENT

VICTOR J:

[1] The Applicant was convicted and sentenced by the Regional Magistrate, sitting at Wynberg.

[2] He applied for leave to appeal against conviction and sentence which was refused.

[3] He then petitioned to the Judge President of this Division for leave to appeal and which petition was refused.

[4] He has now brought an application for Leave to Appeal against the refusal of his petition. In the past the procedure followed by the Applicant was correct and accepted procedure.

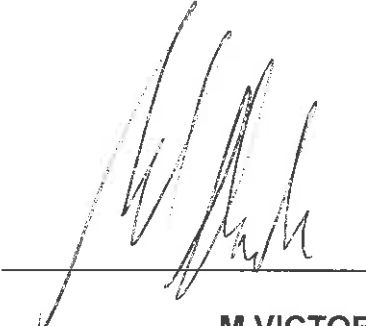
[5] Previously, in terms of Section 20 (4) (b) of The Supreme Court Act 59 of 1959, in cases where a petition was refused (as in this case), an applicant had the right to approach the High Court for Leave to Appeal against the refusal of his petition – the procedure followed in this instance. In the light of the Superior Courts Act 10 of 2013 this court no longer has jurisdiction to deal with an application of this nature.

[6] Section 16 (1) (b) of the Superior Courts Act reads 'Subject to section 15(1), the Constitution and any other law -... an appeal against any decision of a Division on appeal to it, lies to the Supreme Court of Appeal upon special leave having being granted by the Supreme Court of Appeal'.


[7] I conclude that we do not have jurisdiction to grant the relief sought. The applicants remedy is to approach the SCA under Section (16)(1)(b) of the Superior Courts Act for special leave to appeal to it.

ORDER

[8] The appellant is directed to approach the Supreme Court of Appeal for leave to appeal the refusal of the petition.


M VICTOR

**JUDGE OF THE SOUTH GAUTENG
HIGH COURT, JOHANNESBURG**


B.S SPILG

**JUDGE OF THE SOUTH GAUTENG
HIGH COURT, JOHANNESBURG**

2/3/2015.