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A329/2011
2012-07-31

JUDGMENT
LEAVE TO APPEAL

iAfrica Transcriptions (Pty) Limited

Annexure 'BSN 4'

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: A329/2011

DATE: 2012-07-31

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

(3) REVISED.

DATE

SIGNATURE

Bam 10/06/2015



10 In the matter between

BRENDAN SOLLY NDLOVU

Applicant

and

THE STATE

Respondent

J U D G M E N T (LEAVE TO APPEAL)

20 BAM J: The applicant Solly Brendan Ndlovu applies for leave to appeal against his conviction on a charge of rape and the life sentence which was imposed by the Regional court confirmed on appeal by this Court.

The judgment of the Magistrate is quite clear. I have perused it again and I have also perused the judgment of this court handed down by Sapphire AJ in which I concurred.

I am of the opinion that pertaining to any prospects that another court may interfere with the conviction, that no such prospects exist and accordingly the application for leave to appeal against the conviction should be refused.

Regarding the issue of the sentence it is so that the complainant was seriously injured by the applicant in this matter, and the fact that the Magistrate did not find any circumstances justifying a lesser sentence than the life sentence imposed.

My Brother Sapphire AJ and I agreed in that regard. Today it was however conceded by the State, represented by Advocate Scheepers, that there may be prospects that another court may interfere with the life sentence.

After having considered all the issues I am of the opinion that reasonable prospects exist that another Court may interfere with the sentence. Leave to appeal to the Supreme Court of Appeal against the sentence of life imprisonment should therefore be granted to the appellant.

POTTERILL J: I agree and it is so ordered.

COURT ADJOURNED



CASE NO: A329/2011

**IN THE NORTH GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)**

PRETORIA 31 July 2012

BEFORE THE HONOURABLE MR JUSTICE POTTERILL
AND THE HONOURABLE MR JUSTICE BAM, AJ

In the appeal of:

BRENDAN SOLLY NDLOVU

Appellant

And

THE STATE

Respondent

HAVING HEARD counsel(s) for the appellant(s) and respondent and having read the application for leave to appeal against the judgment of the honourable Justice SAPIRE, AJ delivered on 4 October 2011:

IT IS ORDERED

1. THAT leave to appeal against conviction be and is hereby dismissed;
2. THAT leave to appeal against sentence succeeds and leave to appeal is granted to the Supreme Court of Appeal.

1. The Magistrate
Private Bag X01016
PHALABORWA
1390

Lower Court No: RP29/08 (03/2011)

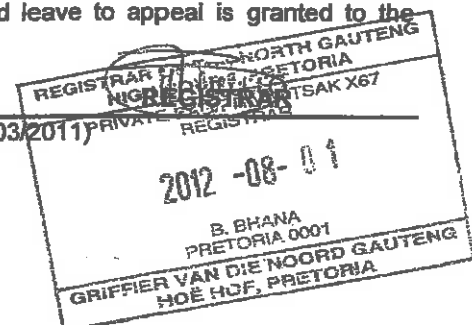
Your record is attached

2. The Commanding Officer
South African Criminal Bureau
Private Bag X308
PRETORIA, 0001

CR NO: NONE
FP NO: NONE

DOCKET NO: NONE
MR NO: 110/10/2007

3. The Station Commander
South African Police
Private Bag
LULEKANI
4. The Commissioner Correctional Services
Private Bag X136
PRETORIA, 0001
5. The Registrar of the Appeal Court
P O Box 258
BLOEMFONTEIN, 9000



**REGISTRAR
MX**