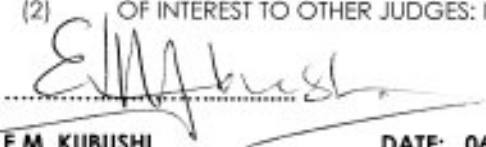




**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case Number: 28221/2020

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
	
E.M. KUBUSHI	DATE: 06 April 2021

In the matter between:

JANUSZ JAKUB WALUS

Applicant

and

MINISTER OF JUSTICE & CORRECTIONAL SERVICES

First Respondent

THE SOUTH AFRICAN COMMUNIST PARTY

Second Respondent

MRS LIMPHO HANI

Third Respondent

THE MINISTER OF HOME AFFAIRS

Fourth Respondent

JUDGMENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 10h00 on 6 April 2021.

KUBUSHI J

[1] This is an application for leave to appeal to the Supreme Court of Appeal against the whole of the judgment and order handed down electronically on 2 February 2021 refusing the relief sought by the applicant.

[2] The second, third and fourth respondents are not participating in this application. Furthermore, the matter is to be determined on the papers without oral hearing, as provided for in the Gauteng Division Consolidated Directives: re Court Operations during the National State of Disaster issued by the Judge President of this Division on 18 September 2020.

[3] The application for leave to appeal is made in terms of section 17 (1) (a) (i) of the Superior Courts Act,¹ ("the Act"), on the basis that the appeal would have a reasonable prospect of success and in terms of section 17 (1) (a) (ii) that there is a further compelling reason why the appeal should be heard, as a result of the infringement of the applicant's constitutional rights as a result of his continued incarceration.

¹ Act No. 10 of 2013.

[4] It is a trite principle of our law that leave to appeal may only be given where the Judge or Judges concerned are of the opinion that the appeal would have a reasonable prospect of success or where there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.²

[5] The grounds for the leave to appeal are succinctly stated in the applicant's notice of application for leave to appeal and need not be repeated in this judgment.

[6] The issues raised in the application for leave to appeal have been fully and satisfactorily covered and considered in the main judgment. On that basis it is the opinion of this court that:

- 6.1 there are no reasonable prospects of success of appeal when the reason proffered in the judgment for refusing the relief sought by the applicant therein, are considered. Put differently, this court is of the opinion that there is no prospect that another court may come to a different conclusion in this case.

² See section 17 (1) (a) (i) and (ii) of Act 10 of 2013.

6.2 there is not some other compelling reason (the alleged "infringement of the applicant's constitutional rights as a result of his continued incarceration") for granting of leave to appeal, in this matter.

Therefore, the application for leave to appeal the judgment falls to be dismissed.

[7] Insofar as leave to appeal against the costs order granted against the applicant, the first respondent has waived the costs order granted in his favour, and accordingly prays that the application for leave to appeal be dismissed, with no order as to costs.

[8] In the circumstances, the following order is granted:

1. The application for leave to appeal is dismissed.



E.M KUBUSHI

JUDGE OF THE HIGH COURT

Appearance:

Applicant's Counsel	: Adv. R. du Plessis SC Adv L. Kellermann SC
Appellant's Attorneys	: Julian Knight and Associates Inc.
1 st Respondent's Counsel	: Adv. M T K Moerane SC Adv. G Bester SC Adv. N Mteto
1 st Respondent's Attorneys :	The State Attorneys Johannesburg.
2 nd & 3 rd Respondents' Counsel	: Adv. G. Malindi SC Adv. N. Nyembe
2 nd & 3 rd Respondents' Attorneys	: Thaanyane Attorneys
4 th Respondent's Counsel	: No appearance
4 th Respondent's Attorneys	: The State Attorneys, Pretoria
Date of hearing	: 06 April 2021
Date of judgment	: 06 April 2021