THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Case No: 722/11

In the matter between:

GASTON SAVOI **APPELLANT**

and

THE STATE **RESPONDENT**

Neutral citation: *Savoi v State* (722/11) [2011] ZASCA 235 (1 December 2011)

Coram: HEHER, SNYDERS and WALLIS JJA

Heard: 29 November 2011

Delivered: 1 December 2011

Updated:

Summary: Criminal procedure – bail – amendment of conditions – change of circumstances – absence of objectivity of officials empowered to consent to overseas travel – discretion exercised in manner defeating the purpose of the condition.

ORDER

On appeal from: Northern Cape High Court (Kimberley) (Hughes-Madondo AJ sitting as court of first instance).

REASONS FOR JUDGMENT

HEHER JA (SNYDERS AND WALLIS JJA concurring):

[1] This is an appeal from a judgment of Hughes-Madondo AJ in the Northern Cape High Court in which the learned judge dismissed an application by the appellant, Mr Gaston Savoi, for a variation of bail conditions brought in terms of s 63 of the Criminal Procedure Act 51 of 1977.

[2] After hearing argument in the appeal we made an order in the following terms:

'The appeal is upheld and the order of the court a quo is set aside and substituted by the following order:

(1) Paragraphs 2, 4.2, 4.3 and 4.4 of the bail conditions imposed on the applicant in this matter (case no 1306/11) are hereby cancelled. The remaining conditions are confirmed.

(2) The applicant's bail conditions are amended by adding thereto the following further conditions:

(a) The applicant shall surrender all his valid travel documents including his passports to Col T Pillay of the Directorate of Priority Crime Investigations, Bellville who shall retain possession thereof, except as provided for hereunder;

(b) The applicant must notify the investigating officer or his branch commander in writing of any proposed travel outside the country for business purposes, which notification must reach the investigating officer or his branch commander at least ten days before the proposed date of departure.

(c) Col T Pillay must return the applicant's passport to him to enable him to travel outside South Africa for business purposes within 24 hours after such notification.

(d) The applicant shall furnish the investigating officer with a full itinerary of his intended travel at least seven days before his departure;

(e) The applicant may only travel outside the Republic of South Africa for business purposes and each such trip shall not exceed 14 (fourteen) days, inclusive of the date of departure and the date of return.

(f) The applicant must return his passport to Col T Pillay within 24 hours after his return to South Africa.'

[3] We indicated that reasons for the order would be furnished. These are the reasons.

[4] The existing conditions are those imposed in case number B798/11 in the magistrate's court, Kimberley on 18 March 2011. On that occasion the appellant was released on bail of R50 000,00 'on the same conditions as before and the said conditions be made the order of this court'. It is common cause that 'the same conditions as before' refers to an order made in the same court in case number B4265/10 on 10 November 2010 when the appellant, arrested on different charges, was granted bail of R100 000,00 on the following conditions:

'1. The Accused shall not change his physical residential address without prior permission of the Investigating Officer or his Branch Commander, which permission shall not be unreasonably withheld with due regard being had to the proposed new physical residence to be

occupied by the Applicant.

2. That the Accused shall surrender to the Investigating Officer or Branch Commander his passports and/or travel documents.

3. That the Accused shall not contact or communicate in any way, whether directly or indirectly, with the witnesses and/or directly or indirectly interfere, threaten or intimidate witnesses who are the State witnesses referred to in a list of witnesses attached hereto, as will be amended from time to time.

4. Upon application by the Prosecuting Counsel, further conditions:

4.1 That the Accused must attend Court timeously before 09:00 and remain in attendance until excused by the Court / Presiding Officer on all court dates until the case is finalised.

4.2 Accused shall not apply for any travel documents throughout the duration of this matter, unless it is with the approval of the Court upon application.

4.3 The Accused is not permitted to leave the Republic of South Africa without prior written consent of the Director of Public Prosecutions, Northern Cape and/or Investigating Officer and/or his Branch Commander who would issue such written consent in consultation with the Director of Public Prosecutions.

4.4 The Accused is not permitted to enter the premises of any port of entry or departure without the prior written consent of the Director of Public Prosecutions, Northern Cape and/or Investigating Officer and/or his Branch Commander who would issue such a written consent in consultation with the Director of Public Prosecutions, Northern Cape.'

[5] On 15 August 2011 the appellant applied to the Northern Cape High Court for an order in the following terms:

'1. That the bail conditions contained in **paragraphs 2, 4.2, 4.3 and 4.4** of the order made by the Magistrate, Kimberley in case no. B4265/10 and which were *mutatis mutandis* made applicable to the Applicant, when bail was granted to him in this matter on 18 March 2011 by the Magistrate, Kimberley, are hereby cancelled.

2. The Applicant's bail conditions in this matter are amended by adding thereto the

following further conditions:

2.1 The Applicant's Attorneys, Edward Nathan Sonnenbergs, Cape Town, shall retain the Applicant's passport which shall only be returned to the Applicant for business related travel.

2.2 The Applicant shall notify the Investigating Officer in writing of proposed travel outside the Republic of South Africa at least 10 days before his proposed date of departure.

2.3 The Applicant shall furnish the Investigating Officer with a full itinerary of his intended travel at least 7 days before departure.

2.4 The Applicant may only travel outside the Republic of South Africa for business purposes and each such trip shall not exceed 14 days, inclusive of the date of departure and the date of return.'

It was this application that was dismissed by Hughes-Madondo AJ on 7 October 2011.

[6] In his notice of appeal to this court, dated 1 November 2011 the appellant's attorneys, while not abandoning the terms of the relief originally sought, suggested the possibility of a different order that they framed as follows:

'1 That the bail conditions contained in paragraphs 2, 4.2, 4.3 and 4.4 of the order made by the Magistrate, Kimberley in case no. B4265/10 and which were *mutatis mutandis* made applicable to the applicant, when bail was granted to him in this matter on 18 March 2011 by the Magistrate, Kimberley, are hereby cancelled.

2 The applicant's bail conditions in this matter are amended by adding thereto the following further conditions:

2.1 the applicant shall surrender his passport to the investigating officer or his branch commander who shall retain possession thereof, except as provided for hereunder;

2.2 the investigating officer or his branch commander must return the applicant's passport to him to enable him to travel outside South Africa for business purposes within 24 hours after the applicant has notified the investigating officer or his branch commander in writing of such proposed travel outside the country, which notification much reach the investigating officer or

his branch commander at least ten days before the proposed date of departure;

2.3 the applicant shall furnish the investigating officer with a full itinerary of his intended travel at least seven days before his departure;

2.4 the applicant may only travel outside the Republic of South Africa for business purposes and each such trip shall not exceed 14 days, inclusive of the date of departure and the date of return;

2.5 the applicant must return his passport to the investigating officer within 24 hours after his return to South Africa.'

[7] In his notice of motion the appellant appeared to be trying to kill two birds with one stone and the alternative order follows that approach. Section 63(1) however, restricts the jurisdiction to amend bail conditions on application to 'any court before which a charge is pending in respect of which bail has been granted . . . whether imposed by that court or any other court'. While it appears that case number B798/11 has been transferred to the Kimberley High Court and the charge is, therefore, pending before it, the appellant's founding affidavit alleges that '[t]he matter under case no B4265/10 is still pending in the Magistrate's Court, Kimberley'. The application to have the conditions made applicable in that case amended would accordingly have been still-born. Counsel however disavowed any intention to set aside the order in case B4265/10. In what follows I restrict consideration to case number B798/11, which has, so we are informed, become case number 1306/11 in the high court.

[8] The motivation for the amendment, as it appears from the founding affidavit, has two aspects:

1. The circumstances have changed since the conditions were imposed because the Director of Public Prosecutions, Northern Cape, the investigating officer and his branch commander, who were designated as the decision-makers in relation to any

application by the appellant to leave the country temporarily, have shown themselves unwilling to apply or incapable of applying an objective judgment to the exercise of that power.

2. The evidence concerning the purported exercise of the power demonstrates such a lack of objectivity that it warrants the amendment of the conditions in a manner consistent with the intention and spirit of the bail order to which the functionaries were supposed to give effect.

[9] If the circumstances have altered in the respects relied on by the appellant such an alteration would represent a material ground for reconsideration of the existing conditions. Simply stated, the designated officials would no longer be persons properly able to give effect to the terms.

[10] The question which has thus to be decided is whether the evidence establishes that the three designated officials are unwilling to exercise or incapable of properly exercising the power conferred on them. It may be noted at the outset that each official appears to consult with and to some extent defer to the others. In so doing they make common cause and share the same strengths and weaknesses.

[11] The learned judge regarded only those conditions that were the subject of the proposed amendment as pertinent to the proceedings before her. I respectfully disagree. Those conditions form part of the broader bail order and are designed to make the order work. A decision on whether they have been properly applied must have regard to the whole.

Identifying the nature of the power

[12] According to the conditions the designated officials (or one of them):

1. may grant permission for a change of the appellant's residential address;

2. shall take possession of the appellant's passports and travel documents;

3. may issue prior written consent for the appellant to leave the Republic;

4. may issue prior written consent for the appellant to enter any port of entry or departure.

The first of these powers has not given rise to dispute and is not at present in question.

The appellant's complaints about the exercise of the power

[13] It is common cause that the appellant is a businessman who operates principally under the umbrella of the Intaka group of companies. The business of the companies apparently includes the sale of water purifiers, their installation and perhaps maintenance, and the sale of pharmaceuticals. The charges of fraud and racketeering that have been preferred against him seem, as far as one can determine, to arise from his activities as an executive of those companies. Some R140 million has been secured by the National Prosecuting Authority under the Prevention of Organised Crime Act 121 of 1998 and the Intaka group has been placed under curatorship. Nevertheless its continued pursuit of its legitimate activities is by common accord in the interest of the State, the companies themselves and the appellant. An important customer is the Government of Angola. The appellant is the key negotiator for the group and his expertise and personal contacts are vital to its survival and prosperity.

[14] In paragraphs 13 and 14 of his founding affidavit the appellant deposed as follows:

'13. As was stated by the curator in his report to Court, my ability to trade in pharmaceuticals has to a large extent provided the continued inflow of capital to keep the business alive. It remains my concern to provide capital to the group as far as I possibly can. I feel personally responsible to the employees that are relying on the group for their financial survival.

14. Three of the four major clients to whom I sell pharmaceuticals on behalf of the company

conduct business in Brazil whilst the fourth client conducts its business in Argentina. It is imperative for the continued business relationship that I travel to Brazil and Argentina from time to time to visit these clients. It is a fact that business in the pharmaceutical industry is by and large based on personal relationships and interaction. It was for this very reason that I had to travel to Paris last year to attend the pharmaceutical conference that was held in that city. I submit that it is absolutely essential that I am able to travel to Brazil and Argentina for business purposes from time to time. As was demonstrated hereinabove I am also required to travel to Angola. I also intend to travel to certain other African states, such as Uganda, to which states Intaka can hopefully extend its business with the purpose of promoting the sale of the equipment Intaka manufactures. Furthermore, I will have to travel to Europe again to attend the annual pharmaceutical fair which I attended last year. The suppliers of the pharmaceuticals we order, are in Europe and I need to pay them visits too. It is for these reasons that I travelled as often as I did prior to my arrest.

[15] The response of Detective Lieutenant Colonel Dylan Perumal, the investigating officer, goes to the heart of the complaint. He said, simply:

'The averments have no relevance to the point in issue.'

On the contrary, it seems to me, the allegations in paras 13 and 14 explain why the appellant needs to travel outside of South Africa, has done so repeatedly and will need to do so in the future. They provide the context in which each application to the designated officials for consent to leave the Republic is to be understood and evaluated.

[16] Lt Col Perumal is the investigating officer in a number of cases involving the appellant. He is attached to the Directorate for Priority Crime Investigations ('the Hawks') and is the Commander of the Anti-Corruption Investigation Team, Northern Cape.

[17] Col Clarence Jones is also attached to the Hawks. He is the KZN Head of the

Anti- Corruption Task Team and National Project Manager. He would appear to fulfil the role allotted to the branch commander of Lt Col Perumal in terms of the bail conditions. He deposed to an affidavit in answer to the application. As he did not address paras 13 and 14 of the founding affidavit or express dissent from Perumal's response one is driven to conclude that he shares the same attitude to its relevance.

[18] According to his founding affidavit the appellant became aware of the investigations against him some 4½ years previously. Since then he has travelled abroad on more than forty occasions and has always returned and made himself available to the police and prosecution. In answer the respondent avers that, according to the official records, the appellant has only left the country twenty-three times (and failed to return on the last occasion!). In reply, the appellant admits that his original estimate was inaccurate and provides chapter and verse for fifty overseas visits. The numbers do matter. It is clear that such trips were frequent, and that the appellant has returned on each occasion without giving rise to dissatisfaction on the part of the investigating team. One may readily infer that the purpose not only of granting him bail but of providing mechanisms for undertaking such travel was to facilitate the carrying on of his business activities in the context to which I have earlier referred.

[19] The appellant's counsel has furnished a chronology of the events surrounding the application. It will conduce to a better understanding of the role played by the responsible officials if I set out the more important of those events here and thereafter draw brief attention to the deponent's evidence concerning certain of them.

[20]

1. November 2006	Appellant became aware of the investigation against him
2. 30 July 2010	Appellant volunteers his surrender
3. 25 August 2010	Appellant arrested, brought before Regional Court,

	Bellville and matter transferred to Regional Court Pietermaritzburg. Preservation order and application for same served on appellant.
4. September 2010	Appellant again arrested and appeared in the Regional Court Pietermaritzburg – released on warning.
5. September 2010	Appellant granted permission by the Director of Public Prosecutions, KwaZulu, Natal, to travel to Paris, France, between 2 October and 11 October 2010.
6. 2 – 11 October 2010	Appellant travels to Paris, France and returns to South Africa.
7. October 2010	Appellant granted permission to travel to Luanda in Angola for meeting on 22 October 2010.
8. 4 November 2010	Appellant again arrested and transported in custody to Kimberley.
9. 5 November 2010	Appellant's first appearance in the Kimberley Magistrate's Court. Matter postponed to 9 November 2010 for bail application, appellant to remain in custody.
10. 9 November 2010	Appellant granted bail in the amount of R100 000,00 on the conditions as set out.
11. 18 March 2011	Appellant again arrested in Kimberley in respect of the charges presently pending in the High Court, Kimberley. Released on bail of R50 000,00 on same conditions.
12. March 2011	Appellant applies for permission to travel to Angola for business purposes.
13. 22 June 2011	Appellant brought application for leave to travel to Angola in the Pietermaritzburg Regional Court and granted permission to travel to Angola between 4 and 8 July 2011.
14. June 2011	The investigating officer in the Northern Cape refuses appellant permission to travel to Angola.
15. 27 June 2011	Application for permission to travel to Angola brought in the Magistrate's Court Kimberley and permission granted.
16. 30 June 2011	Notice of Appeal by the State in application for permission to travel.
17. 6 July 2011	State's appeal struck from the roll.

18. 6 July 2011	Notwithstanding court orders Col. Clarence Jones threatened to arrest the appellant should he travel to Angola.
19. 6 – 8 July 2011	Appellant's attorneys complain to General Dramat.
20. 12 August 2011	Appellant lodges application to amend his bail conditions to allow him to travel without prior permission.

The context in which the designated officials considered the appellant's applications for permission to leave the country

[21] The appellant was and is not regarded as a flight risk. The respondent does not say in its affidavits that he was so regarded at any time. The learned judge said in her judgment that so much was common cause between the parties. That finding was attacked in argument on appeal but counsel was unable to point to any factual allegation by Lt Col Perumal that he had grounds for thinking the appellant to be a flight risk, or, indeed, any allegation that despite the absence of grounds, he believed that the applicant was a flight risk. Although the appellant's applications for consent were directed solely to business trips the terms of the bail conditions did not limit the discretion to such purposes although counsel were agreed that only business travel was intended.

[22] It may be accepted that the danger of a bailed accused avoiding attendance at his trial can never be entirely ruled out. But courts must determine cases according to the facts and whether an accused person will or will not attend in due course is entirely a question of fact and inference from fact. The facts must be relevant to the conclusion. Thus the absence of an extradition treaty with a given country is of itself meaningless; it only becomes meaningful if there is reason to believe that the accused may take advantage of that fact. By contrast, an increase in the number and seriousness of the charges that an accused faces may of itself be a relevant factor as exercising a new

influence on a previously compliant accused. So also might the proximity of a trial in which an accused faces a real prospect of a term of imprisonment. But in all these cases not only must the facts be established but also the reliance on them by the functionary, since otherwise it becomes merely counsel's speculation as to how the facts could or might have affected the application to the functionary. As I have pointed out, none of the three decision-makers under the existing bail conditions made any pretensions to being influenced by facts relevant to the refusal of the application.

[23] It should further be emphasised that the officials in question were well aware (or should have been) that the appellant, his wife, two of his sons and his grandchildren live in Cape Town; the appellant came to this country in 1999 and has been permanently resident since 2004; his family trust has invested heavily in immovable property here; the companies through which he operates his business are registered here and have very substantial assets (although presently under legal restraint).

[24] There is a history of correspondence between the legal representatives of the appellant and the prosecution and police authorities. In this there is to be found no expression of doubt as to the intention of the appellant to stand his trial.

[25] The appellant's reasons for leaving the Republic on business have been motivated on each occasion and the relevant officials have not raised genuine or serious grounds for questioning them.

[26] The discretion conferred on the officials did not require them to look for reasons why the appellant should not be allowed to leave but rather to consider whether, on the *facts* known to them, there were such reasons. That decision had to be rationally connected with the facts.

How the designated officials exercised their powers

[27] Intaka sold 71 water purification plants destined for the Angolan government and

it has certain ongoing obligations in respect thereof. The agreement of sale provided for the installation and commissioning of the plants as well as for training of people to maintain and operate the plants.

[28] Appellant had to travel to Angola personally to deal with problems that have arisen with regard to the execution of the contract. He would also have been able to market and negotiate for the supply of further water purification plants to the Angolan government. As he is the face of Intaka, and these negotiations are based on personal relationships, it was absolutely essential that he personally travelled to Angola to prevent major losses of revenue on the existing contract and to attempt to procure further business for Intaka.

[29] In compliance with his bail conditions, the appellant wrote to Lt Col Perumal during March 2011 to obtain permission to travel to Angola. Perumal suggested that he obtain confirmation from the Angolan government that the visit was required. This was done and the letter from the Angolan government was forwarded to Perumal on 2 June 2011.

[30] Perumal requested further information from the appellant's attorneys on 7 June 2011. On the following day the attorneys furnished the information and the next day stressed the urgency of the matter.

[31] When the required permission was not forthcoming, the appellant was advised to apply to court in both KwaZulu-Natal and the Northern Cape for permission to travel to Angola. The prosecution in KwaZulu-Natal had no objection to the proposed travel to Angola and consented to an order in this regard. Perumal, however, refused to grant the appellant permission to travel, despite the Court order taken by consent in KwaZulu-Natal. The only reason he advanced for his refusal was that it was not essential for appellant to travel to Angola.

[32] Perumal stated that he discussed the issue with the lead prosecutor in the Northern Cape matters, Adv Tshweu, who told him that the appellant must apply to Court and that such an application would be opposed, before he had even seen the application.

[33] The appellant accordingly brought an application in the magistrates court, Kimberley, where the matter was then pending, to allow him to travel to Angola between 4 and 8 July 2011. This application was opposed by the State.

[34] A belated attempt to hand in an answering affidavit by Perumal was not successful. However, it is clear from this affidavit, which is before us, that there was no just cause for refusing appellant permission to travel to Angola and the Court granted him permission to travel to Angola.

[35] The State decided to appeal against the magistrate's decision to the Northern Cape High Court in terms of section 65A of the Act. The prosecutor, aware that he would need the leave of a judge in chambers in terms of section 310A of the Criminal Procedure Act, 1977, before such an appeal could be brought, filed a notice of appeal the very next day, 30 June 2011, without first applying for leave.

[36] The urgency in filing this defective notice of appeal was apparently to prevent the appellant from travelling until the appeal was heard, on the basis that an appeal suspends the execution of a judgment (this despite the absence of leave to appeal). The appeal was set down for 6 July 2011, whilst the court order allowed the appellant to travel to Angola between 4 to 8 July 2011.

[37] Col Jones threatened to arrest the appellant on further possible charges, should the appellant attempt to travel to Angola before the hearing of the appeal. As a result, the appellant decided to await the outcome of the appeal on 6 July 2011.

[38] On 6 July 2011, the High Court struck the defective appeal from the roll. The

appellant was thus free to travel to Angola between 6 July 2011 and 8 July 2011.

[39] Col Jones thereupon informed the appellant's junior counsel that the appeal had been struck from the roll and told him that should the appellant travel, he would, despite the Court order, be arrested. Jones said that he had personally arranged for the appellant's arrest by the border control authorities, should he attempt to travel in terms of the court order.

[40] There can be no question that this was an abuse of power by Jones to thwart the court orders of both KwaZulu-Natal and the Northern Cape Courts, which granted the appellant leave to travel to Angola during the period 4 to 8 July 2011. This is also what the court a quo found.

[41] It is against this background that appellant brought the application in the court a quo and submitted that the Director of Public Prosecutions, the investigating officer (Perumal) and his commander (Jones) have demonstrated that they cannot be relied upon to consider requests by the appellant to travel in a reasonable and just manner as was expected that they would when the court initially imposed the bail condition that their consent be obtained for travel outside the borders of South Africa.

[42] In the answering affidavit deposed to by him Lt Col Perumal states:

'I submit that no compelling reasons or explanations were forwarded to me to indicate that it was imperative for the applicant to travel to Angola . . . I was not convinced that it was necessary for the applicant to travel to Angola . . . It is common cause that the applicant is a Uruguayan national and that he is facing charges of racketeering, fraud, corruption and money laundering separately in two provinces. These are charges of serious magnitude. The applicant is a common denominator in all three court cases and failure to stand trial will seriously affect the administration of justice. South Africa has no extradition agreement with countries such as Angola, Brazil and Uruguay.'

[43] The affidavit of Col Jones carried the matter no further.

[44] The objection derived from the alleged failure to demonstrate the essentiality of travel is the only one put forward. It is not relevant to compliance with the bail conditions. Nor was it within the proper exercise of the discretion to limit travel to business that could only be carried out by the appellant. Significantly, Lt Col Perumal did not suggest that he had reason to believe that the so-called 'business' was a pretext.

[45] It is apparent that the investigation team has not now and did not have at any earlier time any sustainable factual objection related to the breach of his bail conditions to the appellant leaving South Africa for business purposes. Equally clear is that they were aware of their inability to meet his applications on grounds related to such conditions. Instead they resorted to delay and obstruction albeit that their motives may have been pure. Their response was arbitrary and inappropriate and not such as the public is entitled to expect from persons in their positions. It may fairly be described as an abuse of power. If the court were not to amend the order the appellant could not be assured of a fair, expeditious and objective assessment of future applications.

The reasons of the court below

[46] The learned judge, recognised that the appellant was not regarded by the State as a flight risk and that the officials had not acted as contemplated by the bail conditions refused the application. She found that this amounted to a change in circumstances that justified an alteration of his bail conditions. Nonetheless she refused the application. Her reasoning was two fold. First, whereas such conditions should be subject to the control and scrutiny of the authorities, the conditions proposed by the applicant brought about a shift of power and control over his movements from the State to his own attorney. Second, bail conditions should be in the interest of justice and

practically feasible: *R v Fourie* 1947 (2) SA 547 (O) at 577. The learned judge concluded, however, that the exercise of amendment in the terms applied for by the appellant would be futile and ineffective because there would be

(a) a co-existence of different conditions imposed in different courts giving rise to practical problems such as different persons holding or being entitled to hold the same passports;

(b) an absence of monitoring, control and scrutiny by the authorities thereby defeating the purpose of bail.

[47] The task of the trial judge was primarily to consider the interests of justice in the case before her. If she was satisfied that the rights of the appellant were being frustrated by the manner in which the designated officials were carrying out their duties, as she was, the terms of the order could have been adapted to meet the perceived difficulties with due regard to the maintenance of adequate State oversight. That, no doubt, is why the appellant, in its notion of appeal, suggested a revised formulation. In so far as an inconsistency might have arisen with orders made in other courts, unless the conflict was irreconcilable (which it was not) that was a matter that could be left to the parties to sort out.

[48] Taking all the factors to which I have referred into consideration we were satisfied that the interests of justice required changes to the conditions of bail. The order made will better honour the spirit of the original grant of bail without prejudicing the State. Should the respondent have reason to fear a breach of the terms of bail it will have ample time to pre-empt any planned overseas travel by the appellant. In that case the onus rests upon it to apply for an amendment of the terms.

J A Heher
Judge of Appeal

APPEARANCES

APPELLANT:	H F Van Zyl SC (with him J Howes)
	Edward Nathan Sonnenbergs, c/o Haarhoffs Inc, Kimberley
	Symington & De Kok Attorneys, Bloemfontein
RESPONDENT:	K M Vorster (with her T Chitha)
	Director of Public Prosecutions, Kimberley
	Director of Public Prosecutions, Bloemfontein