

IN THE HIGH COURT OF SOUTH AFRICA**(WESTERN CAPE HIGH COURT, CAPE TOWN)****CASE NUMBER:**

A730/2007

5 **DATE:**

8 JUNE 2010

In the matter between:

SAID MOHAMMED

Applicant

and

10 **THE STATE**

Respondent

J U D G M E N T**Application for Leave to Appeal**

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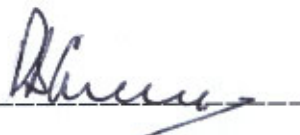
CLEAVER, J:

This is an application for leave to appeal against the judgment handed down by this Court on 16 May 2008, in which the conviction and sentence of the appellant in the regional court was confirmed, the conviction being that of robbery with aggravating circumstances and sentence being the minimum prescribed sentence of 15 years.

25 The issue in the appeal and the application before us is the
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identification of the appellant. No identification parade took place and the appellant was identified by the two State witnesses some five months after the event. In doing so, the witnesses relied on their memory and had not given any description of the appellant to the police. The State resisted the application before us on the basis that the two witnesses had sufficient time to identify the appellant, but in our view another Court might reasonably come to a conclusion that the failure of the witnesses to record any description of the appellant, coupled with the time which elapsed before the appellant was identified and the frailty of human memory, may be such as to render their identification suspect.

In the circumstances leave to appeal against the conviction and sentence to the Supreme Court of Appeal is granted.



CLEAVER, J

BRUSSER, AJ: I agree.



for BRUSSER, AJ