

IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE, HIGH COURT, CAPE TOWN)

CASE NUMBER:

SS93/08

DATUM:

23 MARCH 2010

5 In the matter between:

MTHETHELELI GONI

Applicant

and

THE STATE

Respondent

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JUDGMENT

(Application for leave to appeal)

LOUW, J:

15 The applicant in this matter was accused 1 in the trial. He was
 found guilty on a number of counts arising from events which
 took place on the night of 30 September 2006. The applicant
 raised an alibi, gave evidence to that effect and called a
 witness. I found that the evidence of the applicant and his
 witness was not reasonably possibly true in the light of all the
 20 evidence regarding identity which placed him on the scene on
 the night in question.

This is, however, a matter I believe where there is a
 reasonable prospect that another court may come to a different

conclusion and in my view leave to appeal should be granted on the convictions.

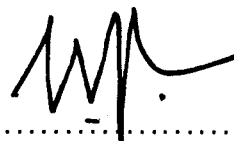
Turning to the application for leave to appeal against the sentences imposed, two life sentences were imposed. Again, this is a case where another court may reasonably come to another conclusion in regard to the appropriate sentence and I believe that leave to appeal against the sentences imposed should also be granted.

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I therefore make the following order:

The application for leave to appeal against the convictions and sentences succeed and LEAVE TO APPEAL IS GRANTED to the Full Bench of this division against both the convictions and the sentences imposed.

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LOUW, J