

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

A413/2010

5 **DATE:**

26 MAY 2011

In the matter between:

LEONARDUS GROBLER AKA BREEDT

Applicant

and

10 **THE STATE**

Respondent

J U D G M E N T**Application for Leave to Appeal**15 **CLEAVER, J:**

The applicant seeks leave to appeal against the dismissal of his appeal against the conviction of contravening section 5(b) of the Drugs & Drug Trafficking Act 140 of 1992, which appeal
20 was dismissed by us on 25 February 2011. Although slightly different arguments were advanced on the applicant's behalf this morning, the arguments are, in effect, no different from those which had been advanced at the time of the appeal and which were dealt with in the judgment.

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Two grounds were raised in particular this morning. The first is in accordance with the previous attack on the conviction, which relates to the unsatisfactory evidence of the police officers in regard to the identification of the sealed bags containing ~~in~~ the bullets which had been excreted by the applicant. While it is true that the evidence of the police officers can be criticised, and that was dealt with in the judgment, the overall effect was that seven bags of excreted bullets had been taken in by Combrink and that these seven bags had been handed in to the SAP 13 register.

It was pointed out by counsel for the state this morning, that the only aspect in relation to these seven bags which had been placed in dispute at the time of the trial, was whether it was the bullets which had been excreted by the applicant which had been placed in the seven bags. There can be no doubt that that was so on the evidence given by Combrink.

Whatever technical differences there may be in regard to the specific identification of the serial numbers, I am satisfied that on a conspectus of all the evidence, the seven bags which were collected from the applicant, were the seven bags which were handed in to the SAP 13 register and the bags which were ultimately tested by Mbula.

The second point concerned the lapse of time, namely six or seven months before the bags were ultimately opened and tested by Mbula. I am not persuaded that that length of time *per se* is sufficient to disturb the *prima facie* value of the certificate and in the circumstances I am not persuaded that a case has been made out that another court might reasonably come to a different conclusion.

THE APPLICATION FOR LEAVE TO APPEAL IS REFUSED.


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CLEAVER, J

15 KOEN, J: I agree.

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for KOENAJ