

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

**CASE NUMBER:**

SS219/2007

5 **DATE:**

15 SEPTEMBER 2011

In the matter between:

**MICHAEL MQWABULO**

Applicant

and

10 **THE STATE**

Respondent

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**J U D G M E N T**

**Application for Leave to Appeal**

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**HLOPHE, JP:**

20 This is an application for leave to appeal against sentence which I imposed. It is coupled with an application for condonation for the late prosecution of an appeal. It is trite law that one of the factors that the court takes into account in deciding whether or not to grant condonation for the late prosecution of an appeal, is whether or not there are reasonable prospects of success on appeal.

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Mr De Jongh, who appeared for the state, argued that there are no reasonable prospects of success on appeal. Mr Seboeng argued that the court should condone the late prosecution of an appeal for reasons stated in the affidavit. I am of the view that there are no reasonable prospects of success on appeal. If anything the sentence that was imposed was fair in the circumstances. The court found that there were substantial and compelling circumstances factors warranting a deviation from the prescribed minimum sentence of life imprisonment.

It follows, in my judgment, that the application for condonation must be refused, because there are no reasonable prospects of success on appeal. The order which the court makes is as follows:

1. The application for condonation is hereby refused.
2. Leave to appeal against sentence is equally refused.

That is the order of court.

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HLOPHE, JP

23/1/2012