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

Appeal Case Number: A02/2022
Lower Court Case Number: A482/2021

In the matter between:

SIMPHIWE MATWA	First Appellant
LWANDISO LUCAS LENTO	Second Appellant
MASIXOLE DOLOMA	Third Appellant
SAKHELE NKABI	Fourth Appellant

and

THE STATE	Respondent

Date of Judgment: This judgment was handed down electronically by circulation to the parties' legal representatives by email and by release to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 11 May 2022

JUDGMENT

DE WET, AJ:

INTRODUCTION:

1. This is a bail appeal in terms of section 65(4) of the Criminal Procedure Act 51 of 1977 ("the CPA") against the refusal of bail by the Oudtshoorn magistrate's court on 27 August 2021.

2. It is common cause that all four the appellants were arrested and charged with four charges relating to an armed robbery (with aggravating circumstances) that was committed on 19 July 2021 at or near the BP garage, Atlantic Oil, Bridgeton, Oudtshoorn.

3. All four the appellants were legally represented in the court *a quo* and applied for bail by way of affidavit, as they are entitled to. In their respective founding affidavits, the appellants set out their personal circumstances, indicated that they will plead not guilty to the charges and they all alleged that there are exceptional circumstances as to why they should be released on bail.

4. In opposition to the applications, the state filed a bail opposition report by way of an affidavit deposed to by the investigating officer, Mr Buqa, who was at that time a member of the National Priority Violent Crimes Team. In his affidavit he confirmed that the unit prevents, combats and investigatse cash-in-transit related incidents that occur in the Southern Cape and that his offices had to deal with "a spate of cash-in-transit robberies in the last year" and that the bail application will deal with at least two of these incidents. His report was accepted into evidence, without any objection to the content thereof, and it dealt extensively with the evidence in possession of the state in respect of the charges against the four appellants.

THE FACTUAL BACKGROUND:

5. According to the report and in accordance with the charges it is alleged that on 19 July 2021, all the accused, acting in common purpose with one another, between 11h04 and 11h10, robbed a fidelity cash solution vehicle which stopped at a BP garage in George to collect money. Whilst one of the fidelity guards went inside the garage, a white Toyota Tazz with CBL registration plates, arrived at the garage. There were three people in the car. Two African males wearing jeans got out of the car and when the fidelity guard returned to the vehicle and was waiting for the driver

to unlock the back of the vehicle, the African males approached him. One of the males held a firearm to the head of the fidelity guard whilst the second one robbed him of his firearm and the bag of money collected from the garage. A detailed description of the men is set out in the affidavit. The two men then ran to the Toyota Tazz and the vehicle left the scene. The entire incident was witnessed by several persons who deposed to affidavits. One civilian followed the Toyota Tazz and witnessed it parking in front of a silver blue Nissan Sentra with CW number plates. The occupants of the Toyota Tazz climbed out of the vehicle and replaced the CBL number plates with CF number plates.

6. The CW number plates on the Nissan Sentra were replaced with CX number plates. One person got into the Toyota Tazz and the other two persons got into the Nissan Sentra, which had its own driver. The vehicles went in different directions and the witness returned to the garage. The silver blue Nissan Sentra was pulled off at the Harold's Bay turn off. The first appellant was the driver, the second appellant was in the front passenger seat and the third appellant was in the back seat. The vehicle was searched and two firearms and a bag of money still sealed were recovered. The one firearm's serial number was obliterated. The bag with money was identified by fidelity as the bag that was robbed and the amount of R86,690.00 was recovered. One of the firearms, the Arcus 9 mm semi-automatic pistol with serial number 29 TS 500536 was identified as the firearm that was robbed from the fidelity guard earlier that day at the BP garage. The three appellants were arrested and charged.

7. It was further stated that the owner of the Toyota Tazz with registration number [....] had dropped the vehicle at the third appellant's home in Thembalethu as he, being a mechanic, was going to do repairs to the vehicle.

8. Two days before the incident, the fourth appellant contacted a friend of his that resides in Oudtshoorn and requested the use of the said person's garage to store boxes of liquor on the Monday, 19 July 2021. The friend's residence is located near the infantry school where the fourth appellant is employed.

9. On Monday 19 July 2021, the day of the robbery and at about 11h30, a person parked the Toyota Tazz in the garage of the fourth applicant's friend. The

owner of the property returned and found the Toyota Tazz, instead of the boxes of alcohol, inside his garage. He contacted the fourth appellant who told him that he had parked the vehicle in the garage and that he would collect same on Friday, 23 July 2021. The friend contacted him again on 21 July 2021 and required him to collect the vehicle. The fourth appellant told him that he had lost the key. The friend of the fourth appellant then reported the fact that the Toyota Tazz was parked in his garage to the police. The police found the CBL number plates inside the Toyota Tazz. The fingerprints of the fourth appellant were found on the Nissan Sentra. A full SANDF uniform with a 10-year loyal service badge in the name of the fourth appellant was also found in the Nissan Sentra. The first appellant advised the police that the uniform belonged to his friend, the fourth appellant, who use his vehicle on occasion. The fourth appellant was only arrested after the Toyota Tazz was found in the garage of his friend.

PERSONAL CIRCUMSTANCES:

10. It does not appear from the grounds of appeal nor from the submissions made in this application that the court *a quo* had erred in its recording or understanding of the personal circumstances of the four appellants as set out in their respective affidavits, save that it was not specifically recorded that the third appellant has a disabled child which he supports.

11. In summary the first appellant was 41 years old at the time of his arrest and resided at a fixed address known as [....] Mahe, Zone 9, Thembalethu, George with his girlfriend. He disputes the charges against him. He passed grade 11, is unmarried but has three dependents of which one is a four-month old baby. He is unemployed but owns a house in Port Elizabeth from which he earns rental income. He also works as a part-time driver. He has no previous convictions, no pending matters, and no outstanding warrants for his arrest. In his affidavit he alleges that the aforesaid facts establish exceptional circumstances, and he should be released on bail to support his family as he is the sole breadwinner.

12. The second appellant was 35 years old at the date of his arrest, lived at a fixed address known as [....] Gusha, Zone 9, Thembalethu, George. He disputes the

charges against him. He stated he owns this property and a tavern known as Thulie's Tavern where he employs various employees on a permanent basis. He also rents a second tavern known as Nathan's Tavern wherefrom he earns a monthly rental. The second appellant is married with three children and further has a daughter from a previous relationship who lives with her mother. He has no previous convictions, no pending cases and no outstanding warrants of arrest. He reported that there was an incident approximately 15 years ago where a mechanic repaired his motorcycle and gave him the run around which led to him taking the mechanics "bakkie" which was reported to the police. This resulted in charges being laid against him, but the matter did not proceed any further. According to him he is the breadwinner of the household, and the family would be destitute should he not be released on bail.

13. The third appellant was 27 years old when he was arrested and was residing at [....] Gusha Street, Zone 9, Thembalethu, George. He disputes the charges against him. He lives with his girlfriend and has an alternative address where he could stay with his mother. He is not married but has two dependents who lives in Middleburg. One of these children is disabled. He supports his mother who is ill and suffers from hypertension. He is a self-employed mechanic and has no passport or travelling documents. He has no previous convictions, no pending cases and no outstanding warrants for his arrest. According to him the following facts are exceptional circumstances which permitted his release on bail: he is a sole breadwinner, and he has a disabled child that he has to support.

14. The fourth appellant was 36 years old at the time he was arrested and was residing at [....] Ngcakani Road, Phelandaba, Thembalethu, George. He disputes the charges against him. According to him he had lived at this aforesaid address for approximately 11 months with his girlfriend. He had passed grade 12, is not married but has five dependents, which includes his parents. He is a captain in the South African Defence Force where he has been employed for the last 16 years. His passport has expired, he has no previous convictions, no pending cases or outstanding warrants of arrest. The exceptional circumstances relied upon by him in his affidavit was the fact that he is the sole breadwinner, he had to support his ill mother and in the event of him remaining in custody, he will lose his job.

15. Further relevant facts appearing in the opposing affidavit of Mr Buqo are:

15.1. the first appellant was a former employee of Fidelity Cash Solutions, George, and rents an informal structure with his girlfriend on the address provided by him. He had told the investigating officer that he is not working;

15.2. during 3 September 2020, whilst the first appellant was still working at Fidelity Cash Solutions, an armed robbery and kidnapping of a fidelity security guard who was transporting cash at the Thembalethu Square, took place. On the day of the robbery he did not arrive for work and was untraceable for several days. As a result of video footage and cell data information, he was charged at a disciplinary hearing on 6 January 2021 with, *inter alia*: “Negligence, withholding information you had about an armed robbery whereby fidelity Cash Solutions were robbed of R1.3 million during the month of September 2020. You admitted that you had contact with one of the robbers before and even after the robbery occurred.” The first appellant pleaded guilty to this charge and was dismissed;

15.3. The vehicle that was used to transport the robbers was that of the second appellant;

15.4. the first appellant was in contact with the fourth appellant before and after the robbery;

15.5. the firearm that was stolen at the scene is similar to the one firearm that had been recovered in the Nissan Sentra and an attempt is being made to recover the serial number on the weapon found;

15.6. the investigation in respect of the aforesaid robbery is still ongoing under Thembalethu CAS 9/9/2020;

15.7. the third appellant was arrested for a business robbery on 19 February 2021 under Thembalethu CAS 165/01/2021. Although the case against him

was provisionally withdrawn, he did not dispute that a blue VW Polo, which was used in the commission of the robbery as identified by way of CCTV footage, was left by the owner thereof in his care as a mechanic, during the period the robbery took place;

15.8. the fourth appellant was not at work on the day of the robbery and was responsible for the return of any unused ammunition;

15.9. the fourth appellant was also questioned in request of Thembalethu CAS 9/9/2020 but not charged. He now stays in a rented room with his girlfriend in Thembalethu.

16. Only the second appellant filed a replying affidavit wherein he pointed out that the investigation under Thembalethu CAS 9/9/2020 has now been ongoing for 18 months and no arrests have been made and further that the 2012 criminal record referred to must be the incident he made reference to in his founding affidavit.

17. On behalf of the fourth appellant, it was submitted that the state had a "weak" case as it was based on circumstantial evidence and that he would, so the argument goes, probably be acquitted at trial. I will return to this aspect of the appeal later herein.

THE CHARGES AND THE TEST ON APPEAL:

18. The charges against the appellants fall in the category of the schedule 6 offences and the bail application in the court *a quo* was brought in terms of s 60(11)(a) of the CPA which provides that:

> "Notwithstanding any provision of this Act, where an accused is charged with an offence referred to in Schedule 6, the court shall order that the accused be detained in custody until he or she is dealt with in accordance with the law, unless the accused, having been given a reasonable opportunity to do so, adduces evidence which satisfies the court that exceptional circumstances exist which in the interest of justice permit his or her release."

19. As pointed out by Binns-Ward J in the matter of Killian v The State[1] the effect of s 60 (11)(a) was exhaustively discussed and elucidated in the Constitutional Court's judgment of S v Dlamini; S v Dladla; S v Joubert; S v Schietekat 1999(2) SACR 51 (CC) and an onus is imposed on an applicant for bail to adduce evidence to prove to the satisfaction of the court the existence of exceptional circumstances justifying his release on bail. Furthermore, the court must be satisfied that the release of the accused is in the interests of justice and the standard proof is on a balance of probabilities.

20. It has further been held that exceptional denotes something "unusual, extraordinary, remarkable, peculiar or simply different.[2]

21. In determining this application, the court has to be mindful of its powers which is set out in s 65(4) being: "The Court or Judge hearing the appeal shall not set aside the decision against which the appeal is brought, unless such Court or Judge is satisfied that the decision was wrong, in which event the Court or Judge shall give the decision which in its or his opinion the lower court should have given."

22. In the matter of S v Barber,[3] Hefer J remarked as follows in this regard: "It is well known that the powers of this Court are largely limited where the matter comes before it on appeal and not as a substantive application for bail. This Court has to be persuaded that the magistrate exercised the discretion which he has wrongly. Accordingly, although this court may have a different view, it should not substitute its own view for that of the magistrate because that would be an unfair interference with the magistrate's exercise of his discretion. I think it should be stressed that, no matter what this Court's own views are, the real question is whether it can be said that the magistrate who had the discretion to grant bail exercised that discretion wrongly."[4]

---

1 Case A 87/2021

2 See S v Petersen 2008 (2) SACR355 (C) S v Josephs 2001 (1) SACR 659 (c) at 6681 and S v Viljoen 2002 (2) SACR 550 SCA

3 1979(4) SA 218 (D) at 220 E-H

4 Also see S v Mbelel and Another 1996(1) SACR212 (W) 221 H-J.

GROUNDS OF APPEAL:

23. In summary, the alleged misdirections committed by the court *a quo* were:

23.1. failing to find that exceptional circumstances exist in respect of each of the appellants and failing to attach sufficient weight to the appellants' respective personal circumstances;

23.2. finding that there is a likelihood that the appellants would attempt to evade their trial;

23.3. finding a likelihood that the appellants would commit a schedule 1 offence;

23.4. finding a likelihood that the appellants would influence or intimidate witnesses;

23.5. finding a likelihood that the appellants would disturb public order and undermine the criminal justice system;

23.6. over-emphasising the merits of the matter whilst it was a bail application and not a trial;

23.7. not attaching sufficient weight that the appellants disputed their involvement in the alleged offence;

23.8. making a negative inference in respect of the fact that the appellants applied for bail by way of affidavit rather than adducing oral evidence; and

23.9. not considering the appellants enshrined Constitutional right in terms of s 35.

24. As set out above, the appellants in the court *a quo* solely relied on their personal circumstances in order to establish exceptional circumstances.

25. The state relied mainly on the fact that it had a strong case against the appellants and that their personal circumstances do not amount to exceptional circumstances which will justify their release on bail.

26. I was urged by counsel to be mindful of the fact that the fourth appellant was implicated in the alleged robbery by way of circumstantial evidence only. In this regard and in the matter of S v Botha & Another,[5] it was held:

> "Na my mening sou bewys deur 'n beskuldigde dat hy waarskynlik onskuldig bevind sal word, en wel as "buitengewone omstandighede kan dien."[6]

27. In S v Jones,[7] Horn AJ held that "exceptional circumstances" are established when an accused is able to deduce acceptable evidence that the case against him is non-existent, or subject to serious doubt and as follows:

> "The term "exceptional circumstances" is not defined. There can be as many circumstances which are exceptional as the term in essence implies. An urgent serious medical operation necessitating the accused's absence is one that springs to mind. A terminal illness may be another. It would be futile to attempt to provide a list of possibilities which will constitute such exceptional circumstances. To my mind, to incarcerate an innocent person for an offence which he did not commit could also be viewed as an exceptional circumstance. Where a man is charged with the commission of a Schedule 6 offence when everything points to the fact that he could not have committed the offence e.g. he has a cast iron alibi, this would likewise constitute an exceptional circumstance."

28. I was also referred to the matter of Napoleon and Others v S,[8] where His Lordship Pickering J held:

---

5 2002 (1) SACR 222 (SCA) at 21

6 See further: S v Mauk 1999 (2) SACR 479 at 488A- B; S v Mohammed 1989 (2) SACR 507 C at 517I-J; S v Yanta 2000 (1) SACR 237 (TK) at p. 243 J; S v Mohammed (supra) at 515C-D

7 1998 (2) SACR 673, at 687e-j

8 (CA&R 206/2015 [2105] ZAECGHC 76 (20 August 2015)

"[31] In my view, however, the magistrate erred in his approach to the matter. The highwater mark of his finding was that the strong prima facie case and the possibility of the appellants being in prison for a long time 'may provide a temptation to the applicants to evade their trial". This is not the test. As appears from sub-para (b) it must be established that there was a 'likelihood' that the appellants would attempt to evade their trial. The word 'likelihood' connotes something much more than a mere temptation. It is defined in the Concise Oxford English dictionary as meaning a 'probability'. In S v Tshabalala 1998 (2) SACR 259 (C) the following was stated at 271e-f: 'In this context it simply means probability. In cases not governed by section 60(11), if bail is to be denied, the state would have to establish or the court would have to find a probability that the applicant for bail, if released, would attempt to influence or intimidate witnesses …'"

29. In Panayiotou v S[9] the Court held as follows:

"[56] There is no obligation on the part of the applicant for bail to challenge the strength of the state case. It is not necessary to do so in order to establish exceptional circumstances. Exceptional circumstances warranting the release of an applicant on bail can be established without challenging the strength of the state case (S v Mathebula 2010(1) SACR 55 (SCA) at para12). However, if an accused person challenges the strength of the state case against him in the bail proceedings, then in that event the challenge attracts a burden of proof to show that there is a real likelihood that he will be acquitted at trial (S v Mathebula (supra))".

30. Against this background I therefore must decide whether the court *a quo's* decision not to grant bail to the four appellants was wrong and if so, to conduct a fresh inquiry, on the information on record, whether bail should be granted.[10]

ANALYSIS:

[9] CA &R 06/2015 ZAECGJC 73 (28 July 2015)
[10] See S v Vanqa 2000 (2) SACR 371 (Tk)

31. In the judgment the court *a quo* correctly considered the particularly important constitutional right as enshrined in s 35(1)(f) that “Everyone who is arrested for allegedly committing an offence has the right to be released from detention if the interest of justice permits, subject to reasonable conditions”. This right allows an accused, who must be presumed innocent until proven guilty in the context of a trial, the opportunity to continue with his or her life, be with his or her family and have the opportunity to be economically active in society.

32. The previously mentioned right is however subject to the legal and constitutional framework relevant to bail applications in terms of s 60(11) (a) of the CPA which places an onus on an accused to satisfy the court on a balance of probabilities that exceptional circumstances exist, which in the interest of justice, permits his or her release on bail.

33. It was submitted by the state in the court *a quo* that to release the appellants on bail would endanger the safety of the public with reference to s 60(4)(a) in light of the following factors:

33.1. the degree of threat showed during the incident was extreme in that one of the robbers, in broad daylight and in the presence of several witnesses, had cocked a firearm and pointed it and then put it against the head of one of the security guards;

33.2. the appellants were all previously questioned in cases of a similar nature although the charges were provisionally withdrawn for lack of evidence;

33.3. the type of crime (“cash in-transit robberies”) is on the increase in the Southern Cape and the community needs to be protected from it. In this regard reference was made to a fidelity security guard that was robbed and shot in cold blood in Knysna during 2021.

34. In respect of ss 60(4)(b) and (c) of the CPA, it was submitted on behalf of the state that the appellants all face very serious charges in which minimum sentences are applicable and may result in long term imprisonment. The state has a strong case against the appellants given the facts set out in the report. It further appears from the evidence that some of the state witnesses are well known the appellants, such as the friend of the fourth appellant, co-workers of the first appellant at Fidelity Cash Solutions, George and the owner of the Toyota Tazz who left the vehicle with the third appellant for repairs during the time the robbery was committed.

35. The courts attention was also drawn to the fact that when dealing with a group of people, if out on bail, they can make it impossible for the case to be finalised by taking turns not to appear or by agreeing that some of the accused will not attend court.

36. The appellants, whilst disputing their involvement in the commission of the offence, did not dispute the very strong evidence adduced by the state during the bail application.[11]

37. The court *a quo* therefore correctly found that the appellants adduced no **exonerating** evidence. The evidence, which was placed before the court *a quo*, if proven at trial, will result in the appellants serving lengthy sentences. The court *a quo* would have been remiss had it not considered the merits of the state's case as it is relevant in the context of an inquiry into whether exceptional circumstances exist.

38. The state's case is also relevant for the court *a quo* (and this court should there have been a misdirection) to evaluate the factors set out in section 60(4)(a), read with section 60(5) of the CPA.[12]

---

[11] In Solomons v S (A121/10) [2010] ZAWCHC 53 (23 March 2010), the court stated: "25 The appellant, in my view, had to decide whether he would enter the arena and dispute the strength of the case against him – he elected not to do so. That is his right, but in the absence of evidence to the contrary, regard must be had to the evidence of inspector May to the effect that the case against the appellant is very strong."

[12] Section 60(5) reads as follows:

> "In considering whether the ground in subsection (4)(a) has been established, the court may, where applicable, take into account the following factors, namely –
> (a) the degree of violence towards others implicit in the charge against the accused;
> (b) any threat of violence which the accused may have made to any person;

39. The court *a quo* in my view correctly considered the prevalence of the offence and the public interest in matters of this nature.

40. In my view the state, p*rima facie*, has a strong case against all the accused and investigations are still on-going. A *prima facie* case is not a basis in itself to refuse bail and the Constitutional Court in the matter of S v Dlamini (supra) at para 11 explained the position as follows:

> "An important point to note here about bail proceedings is so self-evidence that it is often overlooked. It is that there is a fundamental difference between the objective of bail proceedings and that of the trial. A bail application enquiry is not really concerned with the question of guilt. That is the task of the trial court. The court hearing the bail application is concerned with the question of possible guilt only to the extent that it may bear on where the interest of justice lies in regard to bail. The focus at the bail stage is to decide whether the interest of juristic permit the release of the accused pending trial, and that entails in the main protecting the investigation and prosecution of the case against hindrance."

41. It appears from the facts set out in the opposing affidavit filed by the state that this robbery was carefully and meticulously planned and it was committed in a brazen and violent manner.

42. The fourth appellant in this application challenged the strength of the state's case against him. This challenge attracts a burden of proof that there is a real likelihood or probability that he will be acquitted. The fourth appellant did not adduce any evidence in his affidavit, nor did he file a reply to the opposing affidavit and simply relies on the evidence of the state to argue that the state's case is "weak" due

---

(c) any resentment the accused is alleged to harbour against any person;
(d) any disposition to violence on the part of the accused, as is evident from his or her past conduct;
(e) any disposition of the accused to commit offences referred to in Schedule 1, as is evident from his or her past conduct;
(f) the prevalence of a particular type of offence;
(g) any evidence that the accused previously committed an offence referred in the Schedule 1 while released on bail; or
(h) any other factor which in the opinion of the court should be taken into account."

to the fact that it is allegedly based on only circumstantial evidence. I disagree. Firstly, it is not clear from the record whether the case against the fourth appellant is indeed only based on circumstantial evidence. Several witnesses were present during the commission of the offence and at least one witness saw the perpetrators when they were changing the number plates on the vehicles' used during the commission of the offence. Secondly, although he was not arrested with the other three appellants whilst in the Nissan Sentra vehicle wherein the stolen money and firearm was found, there is a strong link on the available evidence between the fourth appellant and the commission of the offence. To name but a few: he made prior arrangements with a friend for a storage facility on the day the offence was committed, he was not at work on the day the offence was committed, his fingerprints was found in one of the vehicle's used in the commission of the offence, his SANDF uniform was found in one of the vehicle's used in the commission of the offence, he had various discussions with his friend after the Toyota Tazz was parked in the garage about why it had not been collected by him – missing keys.

43. I cannot fault the court *a quo* in finding that there is a likelihood that these appellants, given the circumstances of the offence, will influence witnesses or make it difficult for the matter to be finalised. There is a pattern of conduct shown by the state in the commissioning of these crimes and all the appellants are implicated one way or the other. The first appellant previously worked for Fidelity Cash Solutions and is friends with the fourth appellant. The third respondent had the car, used in another robbery, in his possession for repairs during the commission of that offence and similarly, in this matter, the Toyota Tazz was left in his possession by the owner thereof for repairs during the time of the commissioning of this offence. The vehicle of the second appellant was also used during a robbery of a fidelity vehicle during 2020. The investigation is still ongoing, and the state is awaiting DNA evidence, cell phone records and fingerprint results.

44. The robbery occurred in broad daylight and in public. It does not appear that the perpetrators wore masks at any stage, so brazen their attitudes. They clearly had very little fear of being caught or prosecuted. The way the robbery took place shows that the perpetrators have a propensity to violence and a disregard for the law. Whilst I am mindful of the test applied by our courts in respect of hearsay and

circumstantial evidence[13], a bail application is not a trial. The likelihood of the appellants interfering with the investigation and prosecution, whilst only one of the factors to be considered, has in my view been established.

45. An analysis of all the evidence before the court *a quo*, supports the finding that the appellants had failed to establish exceptional circumstances and that it would not be in the interest of justice to release them on bail. Although I do not agree that a likelihood was established that the appellants would continue to commit armed robberies if granted bail, this finding does not persuade me that the magistrate exercised his discretion wrongly in denying bail to the appellants.

46. The appellants' personal circumstances are not in any way exceptional and was correctly and fully stated and considered by the court *a quo.*

47. In the circumstances I cannot find that the decision of the court *a quo* was wrong. In the result, the following order is made:

The appeals of the first to fourth appellants are dismissed.

DE WET, AJ

Coram	De Wet AJ
Date of Hearing:	24 February 2022, both parties submitted further written submissions during March 2022
Date of Judgement:	10 May 2022
Counsel for the Appellants:	Adv R Liddell
Attorneys for the Appellants:	Mathewson Gess Inc – Per A Berinato Email: taryn@mgia.co.za
Counsel for the Respondent:	Adv. F Van Heerden Email: frankvh@npa.gov.za

[13] See R v Blom 1939 AD 188 at 202 and 203

Attorneys for the Respondent: Director of Public Prosecutions, Western Cape