

SOUTH AFRICA / JUDGMENT

Goni v S (SS93/08) [2010]

ZAWCHC 373 (23 March 2010)

[2010] ZAWCHC 373

COURT

Western Cape High Court, Cape Town

BEFORE

Louw

CASE / FILE NUMBER

SS93/08

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IN THE HIGH COURT OF
SOUTH AFRICA
(WESTERN CAPE, HIGH
COURT, CAPE TOWN)
CASE
NUMBER: SS93/08

DATUM:

23
MARCH 2010

In the matter between:

MTHETHELELI
GONI
.....Applicant
and
THE
STATE
.....Respondent

JUDGMENT

(Application for leave to appeal) LOUW, J: 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 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. 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. LOUW, J

JUDGMENT

(Application for leave to appeal)

LOUW, J:

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 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.

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.

LOUW, J

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