

SOUTH AFRICA / JUDGMENT

Sevier v S (Bail Appeal) (A(B)03/2024) [2025] ZAWCHC 161 (25 March 2025)

[2025] ZAWCHC 161

COURT

Western Cape High Court, Cape Town

BEFORE

Adams

CASE / FILE NUMBER

A(B)03/2024

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

SAFLII

Note: Certain

personal/private details of parties or witnesses have been
redacted from this document in compliance with the law
and SAFLII

Policy

FLYNOTES:

CRIMINAL – Extradition – Bail pending outcome –
Conspiracy
to supply controlled drugs – Whether refusal of bail was
justified – Appellant’s credibility
is a significant
concern – Inconsistencies in affidavits – Unexplained
fraudulent passport stamps – Failure
to disclose true legal
status – United Kingdom’s strong case against
appellant – Likelihood of lengthy
sentence if convicted –
High risk of absconding – Conduct demonstrates a propensity
to evade justice –
Appeal dismissed – Criminal
Procedure Act 51 of 1977, s 60(11) – Extradition Act 67 of
1962.
IN
THE HIGH COURT OF SOUTH AFRICA
(WESTERN
CAPE DIVISION, CAPE TOWN)
Case
no: A(B)03/2024
In

the matter between: CAROLINE
SEVIER
Appellant
and
THE
STATE
Respondent

Heard: 13 February 2025

Delivered: 25 March 2025

JUDGMENT

ADAMS, AJ

Introduction

[1] Individuals facing extradition may apply for bail pending the outcome of their extradition proceedings. Bail applications in extradition cases are governed by the Extradition Act 67 of 1962 and the general principles of bail under the Criminal Procedure Act 51 of 1977 (“the CPA”). Courts carefully evaluate each application to balance

the applicant’s rights with South Africa’s international legal obligations.

[2] This is an appeal in terms of Section 65(1) of the CPA against the magistrate’s refusal of bail pending the finalization of extradition proceedings against the appellant. The State opposes the appeal.

Background to the Appeal

[3] The appellant was arrested on 26 January 2024 on a warrant issued by the Cape Town magistrate under Section 5(1)(b) of the Extradition Act 67 of 1962. The warrant was executed in Greenpoint by Interpol.

[4] The appellant brought an application for her release on bail on 6 March 2024. At the hearing of the bail application, it was accepted by the Magistrate on the strength of an agreement between the parties that the proceedings should be dealt with in terms of Schedule 5 of the CPA, rendering the provisions of s 60(11) applicable to the

proceedings. In terms of this section, the Appellant was expected to present evidence to the satisfaction of the court that the interests of justice permitted her release. This was the basis upon which the application was determined by the Magistrate in the court a quo.

Details of the charges in the requesting state

[5] The extradition of the appellant is sought by the UK for her to stand trial on the following charges:

Count 1

Conspiracy to supply cocaine, a controlled drug of class A, contrary to section 1(1) of the Criminal Law Act 1977. It is alleged that between 1 January 2016 and 21 March 2017 at Hastings in East Sussex the appellant conspired together with Callum Gower, Tyler Leisch and Danielle Lodge to supply cocaine.

Count 2

Conspiracy to supply MDMA (Methylenedioxymethamphetamine), a controlled drug of class A, contrary to section 1(1) of the Criminal Law Act 1977. It is alleged that between 1 January 2016 and 21 March 2017 at Hastings in East Sussex the appellant conspired together with Callum Gower, Tyler Leisch and Danielle Lodge to supply Methylenedioxymethamphetamine (MDMA).

Count 3

Conspiracy to supply cannabis, a controlled drug of class B contrary to section 1(1) of the Criminal Law Act 1977. It is alleged that between 1 January 2016 and 21 March 2017 at Hastings in East Sussex the appellant conspired together with Callum Gower, Tyler Leisch and Danielle Lodge to supply cannabis.

The evidence adduced at the bail hearing

- [6] The appellant and the respondent elected to present evidence at the bail hearing by way of affidavit. The following affidavits were presented in the court a quo:
- [7] The Appellant presented affidavits deposed to by herself, a letter from SAMI, an affidavit deposed to by Ethan De Kock and a pre-trial report by social worker, Arina Smit. In addition, an affidavit as well as Charne Theunissen and other documentation such as emails relating to her claims of being employed and articles relating to corruption among and the arrest of home affairs officials, were also included. The evidence presented by the appellant sets out her personal circumstances as well as that of her family. These aspects will be dealt with later in this judgment.
- [8] The respondent presented affidavits deposed to by Captain Hendry Mahope, an affidavit by Home Affairs official, Ivan Klaasen, affidavits by Gerrit Smit as well as other relevant documents in support of their opposition to the release of the appellant.
- [9] The evidence presented shows the salient facts regarding the matter in the UK and the conduct of the appellant in South Africa to be as follows:

The appellant was arrested in the United Kingdom (UK) on 21 March 2017. She was stopped by the police in a rental vehicle and consequent upon a search of the vehicle they discovered a large quantity of cocaine and cannabis in the car

- [10] On 22 March 2017 the appellant was released on police bail, subject to certain conditions. In June 2017, the appellant was released under investigation and bail conditions no longer applied.
- [11] During 2017, the appellant ostensibly started working for Belgravia Wealth Management in Turkey.[1] In this regard it must be noted that the confirmatory email is not evidence under oath, nor did it include any details relating to when the appellant started working in Turkey or what the conditions of employment were.
- [12] On or about 6 November 2017 British authorities discovered that the appellant was no longer in the UK and since they were under the impression that she was somewhere in Europe, evidence was presented by the British police to the UK Crown Prosecution Service on 10 April 2018 to apply for a European warrant for the appellant.
- [13] The police investigations in the UK were finalised around 6 August 2018 and the Crown Prosecution Service authorised the charges against the appellant and applied for a European warrant.
- [14] On 27 January 2019 details of the appellant were circulated internationally in line with the European arrest warrant. On 28 August 2019 appellant travelled on Turkish airlines from Istanbul to Cape Town. Her British passport carried no stamp endorsement to indicate when and from where she left the United Kingdom.
- [15] In August 2019 appellant entered South Africa at Cape Town International Airport (stamp 709) on a visitor's visa which was valid until 26 November 2019. The appellant's entry into South Africa was captured in the Home Affairs records. On 10 November 2019 the appellant exited South Africa (stamp 261) to Zimbabwe via Beit Bridge but her passport had no validity date endorsement for her stay in Zimbabwe. Home Affairs did not have a stamp issued with the number 261.
- [16] On 15 November 2019 a warrant of arrest was issued for the appellant by the Westminster Magistrate's Court in support of the extradition process.
- On 19 November 2019 the appellant applied, with the assistance of South African Migration International (SAMI) and employee Miriam Mushuamba, for a change in her visitor's Visa conditions to the South African authority to obtain a medical Visa.
- [17] On 25 November 2020 the appellant appealed the decision in respect of her application to change her Visa and on 21 February 2021 that application was rejected too. In November 2020 Miriam Musuamba left SAMI on maternity leave and never returned.
- [18] The rejection of the application for a change in the appellant's visitor's Visa was served on her on 12 March 2020. It is common cause that throughout these processes the British police regarded the appellant as released under investigation.

- [19] On 2 March 2021 the appellant entered South Africa from Zimbabwe via Beit Bridge and endorsement in her passport with stamp 656 and permit stamp 159. Home Affairs has no record of the entry. The endorsement stamp was issued to a person who died in December 2022.
- [20] On 1 June 2021 the appellant exited South Africa via Beit Bridge (Stamp 286) to Zimbabwe. Home Affairs has no record of her movement, and the stamp belonged to an old register not currently issued. The appellant's passport showed no validity date for a stay in the neighboring state.
- [21] SAMI records reflect that on 1 June 2021 the appellant applied for a medical visa in terms of section 17 of the Immigration Act, the outcome was not collected.
- [22] On 16 August 2021 appellant exited Zimbabwe and entered South Africa via Beit Bridge (stamp 286). Home Affairs has no record of entry into South Africa and the stamp belonged to an old register not currently issued. Permit stamp 26 also belonged to an old register and was not current.
- [23] On 31 October 2021 appellant exited South Africa (stamp 486) via Oliver Tambo Airport. Home Affairs has no record of her exiting South Africa and no record of the appellant re-entering South Africa. The stamp belonged to an old register not current. On the same day the appellant entered Namibia. Her passport carried no stamp to indicate when she left Namibia.
- [24] On 6 November 2021 the appellant entered South Africa (stamp 313) via Cape Town International Airport without a Visa validity date and left on 15 November 2021 via Beit Bridge. Home Affairs has no record of the movement into and exiting South Africa. Stamp 313 reflected in her passport was discontinued on 4 November 2011 and handed in administration. The way in which the date was set out on the authentic stamp number 313 of Home Affairs started with a year, month and day unlike the endorsement stamp found in the passport of the appellant.
- [25] In February 2022 according to information contained in the affidavit of Ethan De Kock, he started working for the appellant. On 15 December 2022 the appellant entered Namibia with no departure endorsement in her passport. On 22 December 2022 the appellant entered South Africa at Vioolsdrift without a Visa validity date and no record by Home Affairs of her movements into South Africa.
- [26] On 22 February 2023 a new warrant of arrest was issued by the Magistrate's Court at Sussex in the UK and on 2 March 2023 the first instance warrant was issued by Westminster Magistrate's Court in the UK.
- [27] On 7 June 2020 SAMI issued what appears to be a general letter which the appellant attaches to her papers. The letter indicates that:

“Applicants whose applications are still pending: long-term visa holders (Work, Business, Study, Relative And Accompany Spouse) who form part of the 62692 visa backlog applications, be granted a temporary extension until 31 December 2023 of the current Visa status...” [2]

The appellant makes no averment indicating that she had a Visa application pending in the period between 7 June to 31 December 2023.

- [28] The appellant entered into a lease agreement on or about 20 June 2023 with the Phoenix Trust to rent a property located at 1[...] W[...] Apartments Mouille Point, Cape Town from 1 September 2023 to 31 August 2024. The rental amount was R50,000 per month and a rental deposit of R100,000 was payable in terms of the agreement. At this stage SAMI had no official instruction to act on behalf of the appellant. The appellant entered into this agreement without the assurance that her legal status in South Africa had been regularized for the period in question.
- [29] In addition, on 20 June 2023 when she entered into the lease agreement, the appellant had a bank account with First National Bank account number 6[...]. There is no explanation from the appellant how she managed to open a bank account in South Africa without a valid visa.
- [30] On 29 October 2023 appellant exited to Zimbabwe. Home Affairs has no recordal of her exit through a border post. On the same day the appellant entered South Africa via Beit Bridge with a vehicle and had a valid visa until 27 January 2024. This movement was captured in the Home Affairs records.
- [31] On 26 January 2024 SAMI applied for the extension of her visitor permit on behalf of the appellant. The appellant was arrested in the extradition matter while an application for a retirement visa was under consideration. At the time of her arrest, she had no valid visa to be in South Africa.
- [32] These recordals of what is captured in the passport of the appellant were set out in the affidavit of an official of Home Affairs, Ivan Klaassen[3] who also noted that due to the warrant of arrest issued in the UK, the appellant became a prohibited person in terms of section 29 (1)(b) of the Immigration Act 13 of 2002 (the immigration Act). He noted that the absence of capturing certain movements meant the passport was not scanned at the ports of entry and the stamps were endorsed fraudulently. He picked up the same pattern of fraudulent entry and exit endorsements when examining the passport of the son and co-accused of the appellant.
- [33] On 6 February 2024 Home Affairs was in the process of serving the appellant with a declaration as an undesirable person in terms of section 30 (1)(a) of the Immigration Act.
- [1] See email from Julie Trainers on page A99 Volume 4
- [2] volume 5 page A237
- [3] Page A270 of Volume 6

-
- [4] Page A265 of Volume 6
- [5] page A106 of the record
- [6] See in this regard the authority referred to by appellant's counsel, namely *S v Mpofana* 1998 (1)SACR 40(Tk) and *S v Van Wyk* 2005(1)SACR 41 (SCA)
- [7] 2022
- (2) SACR 311 (WCC)
- [8] 1979
- (4) SA 218 (D) at page 220 E-H
- [9] 1969(4)SA 175(N)
- [10] *S v Schietekat* 1998
- (2) SACR 707 (C) at 713h-713Jj
- [11] 1977(1) SA 257 (C)
- [12] 2005 (1) SACR 41 (SCA)
-

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAWCHC/2025/161.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/sevier-v-s-unknown-topic-awchc-2025>

Prepared on 9 October 2026 · Esheria