



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Not Reportable

Case no: 704/2023

In the matter between:

SAHIL RAMTHAL

APPELLANT

and

THE STATE

RESPONDENT

Neutral citation: *Ramthal v The State* (704/2023) 2024 ZASCA 124 (13 September 2024)

Coram: MABINDLA-BOQWANA and KGOELE JJA and MANTAME AJA

Heard: 19 August 2024

Delivered: 13 September 2024

Summary: Petition procedure – Criminal Procedure Act 51 of 1977 – s 309C – appeal against refusal of petition for leave to appeal by high court against conviction and sentence imposed by the regional court.

ORDER

On appeal from: KwaZulu-Natal Division of the High Court, Pietermaritzburg
(Bedderson J and Sibisi AJ, sitting as judges considering petition from the regional court)

1 The appeal is upheld.

2 The order of the high court dismissing the appellant's application for leave to appeal is set aside and substituted with the following:

‘The appellant is granted leave to appeal to the KwaZulu-Natal Division of the High Court, Pietermaritzburg, against his conviction and sentence in the Verulam Regional Court.’

JUDGMENT

Mabindla-Boqwana JA (Kgoele JA concurring):

[1] The appellant, Mr Sahil Ramthal, stood trial in the Verulam Regional Court, KwaZulu-Natal (the regional court), on one charge of murder. The State alleged that on 27 January 2019, at Phoenix, the appellant unlawfully and intentionally killed Senzo Dlamini (the deceased). The appellant pleaded not guilty to the charge. In amplification of his plea, he stated that he shot the deceased in private defence of his colleague and himself. Pursuant to the trial, he was found guilty and sentenced to eight years' imprisonment.

[2] The appellant applied for leave to appeal against both his conviction and sentence, which was refused by the regional court. He then sought the respective leave to appeal in the KwaZulu-Natal Division of the High Court, Pietermaritzburg (the high court), which was also refused. Special leave to appeal against the refusal of leave to appeal by the high court was granted by this Court on 26 June 2023.

[3] In an appeal of this kind, this Court does not determine the merits of the matter. The ‘issue to be determined is not whether the appeal against conviction and sentence should succeed, but whether the high court should have granted leave, which in turn depends on whether the appellant could be said to have reasonable prospects of success on appeal’.¹

[4] The only question is whether the appellant has established a reasonable prospect of success on appeal. In *Smith v S*,² the test was formulated as follows:

‘What the test of reasonable prospects of success postulates is a dispassionate decision, based on the facts and the law, that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In order to succeed, therefore, the appellant must convince this court on proper grounds that he has prospects of success on appeal and that those prospects are not remote but have a realistic chance of succeeding. More is required to be established than that there is a mere possibility of success, that the case is arguable on appeal or that the case cannot be categorised as hopeless. There must, in other words, be a sound, rational basis for the conclusion that there are prospects of success on appeal.’³

¹ *Tonkin v The State* [2013] ZASCA 179; 2014 (1) SACR 583 (SCA) para 3, quoting Leach AJA in *S v Matshona* [2008] ZASCA 58; [2008] 4 All SA 68 (SCA); 2013 (2) SACR 126 (SCA) para 4. See also *S v Kriel* [2011] ZASCA 113; 2012 (1) SACR 1 (SCA) paras 11-12, *Smith v S* [2011] ZASCA 15; 2012 (1) SACR 567 (SCA) paras 2-3, *AD v The State* [2011] ZASCA 215 paras 3-6.

² *Smith v S* [2011] ZASCA 15; 2012 (1) SACR 567 (SCA).

³ *Ibid* para 7.

[5] To determine whether prospects of success on appeal exist, it is important to briefly sketch the relevant evidence. The State led the evidence of two witnesses, Mr Kesaven Atchuden and Dr Lesego Ipeleng Tsikwe. Mr Atchuden testified that he was self-employed as a panel beater and the deceased worked for him. The deceased lived in one of the vehicles outside his house. He had asked to live there because he had a problem with his biological father.

[6] On the day of the incident, at approximately 22h30, while coming back home from visiting a friend, Mr Atchuden noticed his nephew talking to the deceased outside the house in the yard. He told the nephew to come inside because it was late. The nephew obliged, locked the gate and informed him that the deceased ‘was not right’.

[7] The deceased was making a funny sound, screaming out to himself and running towards Mr Atchuden in slow motion. He shook the gate wanting to get inside the house. Mr Atchuden asked him what the problem was, but the deceased did not answer. His eyes were red, and he had a ‘scary’ look. The deceased walked back and forth towards the house, talking to himself in isiZulu saying ‘*shiya mina, shiya mina*’ (‘[l]eave me alone, leave me alone’, as understood by Mr Atchuden). He urged the deceased to read the Bible and go to sleep.

[8] At that point he was scared and asked the friend that he had visited that night to call Reaction Unit South Africa (Reaction), a security company, for help. A security officer, Mr Samuel Malasamy arrived within minutes. The deceased asked Mr Malasamy to pass on to him a cigarette that he was smoking, which he did. Mr Atchuden then requested Mr Malasamy to ask the deceased to leave. Mr Malasamy did so, but the deceased started to fight with him. The deceased picked up

Mr Malasamy, who was a big-sized man and threw him on the floor. Mr Atchuden got scared and requested Reaction to send backup. He told them that the deceased was too aggressive and was fighting with Mr Malasamy. Five to ten minutes later, backup arrived. The appellant was a backup officer.

[9] Mr Atchuden further testified that the appellant asked the deceased to sit down and to stop assaulting Mr Malasamy. The deceased did not listen, instead, he walked towards the appellant. It was quite dark. Mr Atchuden saw the appellant pointing his firearm at the floor and firing one shot. He was about ten steps from where the appellant was. Mr Atchuden got scared and ran into the house and locked the gate. He left the officers with the deceased and could not see them. He heard two further shots after that. He however did not observe the gunshots. Thereafter, he noticed the deceased walking towards the yard and sitting inside the yard. He then saw blood coming out of the deceased's shirt just above his stomach.

[10] Police officers, who were called by Reaction, arrived and took a statement from Mr Atchuden. As the events unfolded, his nephew was inside the house because he was scared. He only came out of the house when the police arrived, to see what was happening. In the two months that the deceased had worked for Mr Atchuden, he had never behaved in the manner he did that day.

[11] Dr Tsikwe conducted a post-mortem on the deceased. She testified that the deceased had a gunshot wound to the chest with associated injuries to the left chest cavity, along the anterior (front) axilla left lung as well as the left-sided haemothorax. This wound resembled the distant entry gunshot wound, there was no firearm discharge residue evident on the skin surrounding the wound. There was also

a gunshot wound to the left lower limb. She concluded that the chest wound was the fatal one.

[12] The appellant testified in his case and called Mr Malasamy, who was the first officer on the scene, to testify on his behalf. The appellant's testimony was that on the day of the incident, he was the response officer patrolling the Phoenix Industrial Park area. He heard Mr Malasamy requesting for backup and proceeded out of the area to assist him. At the time, the appellant was armed with a nine-millimetre Taurus firearm with 13 rounds of ammunition, which was used by Reaction.

[13] On his arrival at the place of the incident, it was raining and very dark. The road was narrow with lots of trees. He noticed Mr Malasamy's vehicle parked outside the premises. Mr Malasamy lay on the ground with a man, wrestling on top of him. The man was punching and assaulting him. Mr Malasamy was screaming for help. The man was pulling Mr Malasamy's firearm out from his holster which was located on his thigh. The appellant was approximately 'four to five metres' away as this was taking place.

[14] The appellant drew out his firearm to assist Mr Malasamy, as the deceased had managed to overpower and take Mr Malasamy's firearm from him. That is when the appellant fired his first warning shot on the ground. The deceased tried to come towards the appellant while pointing the firearm at the appellant's direction. The appellant fired the second warning shot, which was to the deceased's knee. After the second shot, the deceased still had the firearm pointing towards the appellant's direction. That is when the appellant fired the third shot. The third shot struck the deceased on his chest. The interval between the shots was quick, it was a few seconds.

[15] The deceased then dropped Mr Malasamy's firearm from his hands, which fell next to Mr Malasamy. The deceased then walked back into the yard of the premises and sat against the wall. That is when the appellant saw Mr Atchuden coming out of the house, when everything had calmed down. Mr Atchuden went towards the deceased and noticed that he was injured. The appellant also noticed that Mr Malasamy was injured. The appellant noticed that the deceased was bleeding and spoke to Reaction's control room, via the radio, asking them to dispatch the company's ambulance. Two ambulances arrived. One of the paramedics treated Mr Malasamy and others went to the deceased.

[16] A few minutes later the appellant was informed that the deceased had passed away due to his injuries. Shortly thereafter, members of the South African Police Service arrived and instructed the appellant not to leave the scene. The appellant was taken to the police station and charged.

[17] Mr Malasamy testified that on the day of the incident, while on duty, he received a call from the control room about a suspect on the property in Eastbury and he responded to the call. When he arrived at the scene, he jumped out of his vehicle and proceeded to the driveway and saw the deceased in the premises of the yard. Mr Atchuden told him that he needed the deceased to be removed because he was causing a disturbance. The deceased sat down on the ground while breathing heavily. As he was speaking to Mr Atchuden's nephew, the deceased ran towards him and punched him. A fight broke between them. Mr Atchuden and his nephew fled and locked themselves inside the yard.

[18] Mr Malasamy got hold of his pepper spray that was on his vest and used it. The spray unfortunately also came unto him, and he started choking. That is when he got into a tussle and the deceased threw him on the floor. He managed to get hold of his radio which was on his vest to communicate with the control room, as well as other members that were on duty for the night, to call for backup. As this was happening, he was lying flat on his back, while the deceased was on top of him punching his face and overpowering him. He did not know when backup arrived.

[19] While Mr Malasamy was tussling with the deceased, he felt the deceased's hand unclipping his firearm from the holster. He tried to hold onto the retainer that was hooked onto the firearm. That is when he heard screams and felt relieved, as backup had arrived. He kept screaming 'he has my firearm with him, and it is one up in'. He was saying this to whoever was screaming at the time. The firearm was on the left-hand side of the deceased. He did not know what the intention of the deceased was when he pulled off the firearm from him. After he screamed, he heard two to three gunshots, afterwhich he got up and saw the deceased walking towards the white Isuzu bakkie. The deceased sat against the wall and fell. The firearm fell off the deceased's hand onto the ground.

[20] Mr Malasamy's retainer had bust off his belt. He was injured, with a bust bottom lip. He also had some scratches on the hands, fingers and elbows. Reaction's medical services attended to him. Mr Atchuden and his nephew were inside the premises. They only came out of the house when they saw the deceased lying on the floor in the driveway. He never got a chance to see the appellant until he got back to work three days after the incident.

[21] While acknowledging that Mr Atchuden was a single witness, the regional court was impressed with his evidence and accepted it. It rejected the appellant's version of private defence as one beset with contradictions. As regards the sentence, it found substantial and compelling circumstances to deviate from the prescribed sentence of 15 years' imprisonment and imposed a sentence of eight years' imprisonment. These included the fact that the offence was committed while the appellant was performing his duties as a security officer. It found that the appellant '*did not set out to kill anybody*, and in particular, the fact that the deceased himself behaved in a manner that [was] disgraceful, and appeared to be possessed, as the complainant told us, *it is also quite clear* that when you shot the deceased, the deceased was approaching you.' (Emphasis added.)

[22] The appellant contends that the high court erred by refusing leave to appeal for several reasons. Firstly, the regional court had erred by drawing an inference on the limited evidence of the State's single witness, Mr Atchuden and concluding that the appellant unlawfully and intentionally killed the deceased. This misdirection is underscored by the fact that Mr Atchuden clearly stated that he only witnessed the first warning shot, justifiably fired onto the ground by the appellant. He did not witness either of the shots which thereafter struck the deceased. The regional court was accordingly in no position to find that the appellant did not fire the fatal shot in private defence (of himself and/or his colleague, Mr Malasamy). It misdirected itself when it found that Mr Atchuden's single evidence negated the evidence of the appellant and Mr Malasamy that the fatal shot was fired legitimately in private defence.

[23] Secondly, the regional court misdirected itself when finding that the appellant and Mr Malasamy were poor witnesses who contradicted themselves and each other.

According to the appellant, the record proves otherwise and reveals that he and Mr Malasamy gave credible, irreconcilable versions which fully justified a finding of private defence. Above all, there was no basis upon which the regional court could prefer Mr Atchuden's evidence above that of the appellant and Mr Malasamy, on the very limited issue where their versions differed.

[24] Even if the regional court's acceptance of Mr Atchuden's evidence above that of the appellant and Mr Malasamy were found to be correct, there is no basis for the finding that the appellant did not act in private defence, so it is contended. According to the appellant, Mr Atchuden's evidence, was clear to the effect that Mr Malasamy was being attacked by the deceased and the appellant was under threat of attack from the deceased.

[25] It is further submitted that the regional court materially misdirected itself when convicting the appellant on the basis that there was no credible evidence indicating that the appellant faced '*imminent danger to his life*' warranting him to shoot at the deceased. Counsel for the appellant argues that it is not a legal requirement of private defence that there must be imminent danger to life. According to him, this misdirection was exacerbated by the regional court's further statement that the appellant's version that he shot the deceased because he was advancing towards him, does not comply with the requirements of private defence. In this regard, so it is contended, it is trite that there need not be imminent danger to life before shooting a person in private defence. The correct standard is a threat of serious bodily injury. It is common cause in this matter that the deceased had already inflicted serious bodily injury on Mr Malasamy and was directing irrational aggression to everyone in his path including the appellant.

[26] In the alternative, the appellant contends that the regional court misdirected itself by failing to give any consideration to culpable homicide as a competent verdict to murder.

[27] The State contends that the defensive act employed by the appellant was not proportional to the attack, thereby exceeding the bounds of private defence, even if indeed the deceased was armed and advanced towards him. The basis of the State's contention is the trajectory of the fatal wound, which was downward from the left, under the armpit. According to the State, this indicates that he was on the ground when the shot was fired.

[28] As to the question of sentence, the appellant submits that the regional court failed to consider the following important issues. Firstly, that the deceased was acting irrationally and conducting himself as a man 'possessed'. There were no options open to the appellant other than firing a warning shot followed by a non-fatal shot and thereafter the fatal shot.

[29] Secondly, the regional court showed no appreciation of the fact that the appellant used the least invasive means to repel the attack of the deceased in the circumstances. Thirdly, insufficient consideration was given to the appellant's favourable personal circumstances and his prospects of rehabilitation where he has no previous convictions. Fourthly, insufficient consideration was given to the imposition of correctional supervision under s 276(1)(h) or (i) of the Criminal Procedure Act 51 of 1977. In this regard, counsel for the appellant emphasised that the degree of blameworthiness ought to have been measured, as is the question of what the appellant ought to have done in the circumstances. Moreso that, the latter

issue was not put to the appellant by the prosecutor. This question, he contends, impacts on the sentence. Lastly, the sentence of eight years direct imprisonment was so disproportionate to the crime committed by the appellant that it induces a sense of shock.

[30] The State's submission on the sentence is effectively that the sentence imposed by the regional court is not startling, shocking or disproportionate entitling an appeal court to interfere nor was there a misdirection in regard thereto.

[31] In my view, the alleged shortcomings in the treatment of the evidence by the regional court, in relation to the alleged ground of justification, ie private defence, could result in a court of appeal reasonably arriving at a different conclusion than that of the regional court. Without wishing to comment on the merits in any detail, given the outcome of this appeal, the alleged errors in the analysis of evidence, can be said to be sufficiently weighty to justify that conclusion.

[32] As to the question of sentence, considering the possibility of the appeal court finding that a competent verdict to murder ought to have been found, or that other grounds as alleged by the appellant, exist to consider a different sentence, it is prudent to grant leave also in respect of sentence.

[33] In the result, the following order is made:

- 1 The appeal is upheld.
- 2 The order of the high court dismissing the appellant's application for leave to appeal is set aside and substituted with the following:

‘The appellant is granted leave to appeal to the KwaZulu-Natal Division of the High Court, Pietermaritzburg, against his conviction and sentence in the Verulam Regional Court.’

N P MABINDLA-BOQWANA
JUDGE OF APPEAL

Mantame AJA (dissenting)

[34] I have read the judgment of my colleague Mabindla-Boqwana JA and graciously disagree with the conclusion reached and the order issued. The grounds of appeal and evidence giving rise to this application for leave to appeal have been set out. However, I will highlight certain aspects of the evidence that will support the reasons for my conclusion.

[35] The deceased, Mr Senzo Dlamini was indeed employed by Mr Kesaven Atchuden (Mr Atchuden) in his panel-beating shop. The deceased resided in one of the customer’s vehicles that was parked outside Mr Atchuden’s neighbour’s house. Mr Atchuden, after arriving home from a friend’s place, received a report from his nephew, Mr Craig Pillay (Mr Pillay) that the deceased was ‘not right’ and had witnessed the deceased making a funny sound, screaming out to himself and running towards him in slow motion. Mr Pillay then ran to the house and locked the burglar gate. The deceased then shook the burglar gate wanting to gain access to the house

which scared Mr Atchuden, and in his wisdom proceeded to call the Reaction Security Company for assistance.

[36] Despite the alleged unusual behaviour of the deceased, when the Reaction Security Officer Mr Samuel Malasamy (Mr Malasamy) arrived at the house, according to Mr Atchuden's testimony, the deceased was able to ask Mr Malasamy for a cigarette and proceeded to smoke the cigarette while outside of the house.

[37] It appears that all hell broke loose when Mr Atchuden asked Mr Malasamy to request the deceased to leave his premises and come back when he is 'okay'. At the same time, he instructed his neighbour to give the deceased his clothes and a packet. That is when the deceased started fighting with Mr Malasamy. When it was clear that the deceased was overpowering him, Mr Atchuden called for backup. However, the appellant testified that he responded to Mr Malasamy's radio call for backup.

[38] The appellant arrived with his colleague Mr Honest Matume (Mr Matume). Mr Atchuden stated that on arrival, the appellant asked the deceased to sit down and stop hitting Mr Malasamy. He then saw the appellant pointing the firearm on the floor and he fired one shot. At that moment the deceased was standing about five steps from him. The deceased was between him and the appellant. He then got scared and ran to the house.

[39] The appellant's version was that when he was about four to five metres away, he could observe Mr Malasamy being assaulted by the deceased. He got off the

vehicle to assist Mr Malasamy who was screaming for help and stated that the deceased was reaching for his gun and his gun was 'one up'. At that point the deceased was attempting to pull out Mr Malasamy's firearm from his holster which was on his thigh. The appellant immediately drew his firearm from his holster as well. As he got closer, the deceased while on top of Mr Malasamy managed to break the firearm free from Mr Malasamy's holster. After pulling out the firearm, the deceased turned towards the appellant's direction and pointed the firearm at him.

[40] It was the appellant's evidence that Mr Malasamy's firearm was in the deceased's left hand. That is when the appellant decided to fire his first warning shot on the ground. These are the two versions from both Mr Atchuden and the appellant leading to the first warning shot by the appellant.

[41] The appellant proceeded to state that, regardless of the warning shot, the deceased proceeded to come towards him, while pointing a firearm at his direction. He then fired the second shot on his knee. Regardless of the second shot, the appellant stated that the deceased still had the firearm in his hand pointing towards his direction. He proceeded to fire a third shot, which was on his upper body in the chest area. According to the appellant, this all happened rapidly and in seconds. After the third shot, the firearm dropped from the deceased's hand and fell next to Mr Malasamy.

[42] Mr Malasamy's version confirmed that a fight broke out between himself and the deceased. During the tussle, he felt the deceased getting hold of his retainer, which holds the firearm. He then screamed that his firearm was 'one up' in chamber.

The deceased pulled out his firearm and held it in his left arm. Whilst still screaming, he heard two to three gunshots being fired and nothing more, nothing less.

[43] Dr Tsikwe) gave a detailed testimony of how she made conclusions in her post-mortem report. Dr Tsikwe identified the fatal wound as a gunshot wound to the chest with associated injuries to the left chest cavity, left lung as well as the left-sided haemothorax. Another gunshot wound was to the left lower limb on the soft tissues.

[44] The doctor highlighted that the fatal wound passed from front to back, top to bottom and left to right in the anatomical position. She went on to state that a person is dynamic, so the movement is associated with the injuries noted on the body. For instance, regarding the shot on the knee, the tract entered through a defect on the anterior media aspect of the left distal thigh, and this involved the soft tissues and exited through a skin defect on the posterior lateral aspect of the left knee. The fatal wound, the bullet went through the tenth rib, perforated the lung and came out in the back area. This was in keeping with him being shot from the left.

[45] In bringing this application, the appellant stated that the magistrate misdirected himself by failing to give any consideration to a conviction of culpable homicide as a competent verdict to murder in circumstances where the appellant's conduct conforms to that of a reasonable man acting in private defence would have done. Regarding sentence, it was stated that the sentence of eight years' imprisonment is disproportionate and does not fit the crime committed.

[46] The respondent opposed the legitimate private defence that was alluded to by the appellant and went on to state that neither the appellant nor his colleague was under attack. Even if they were, the use of deadly force upon the deceased was unwarranted. The Court was drawn to the shots that were fired by the appellant in succession. It was said that the first shot was a warning shot, the second shot was from the left distal thigh and exited on the back and the third and the last shot was in a downward position under the armpit. The tract entered through a defect on the antero-lateral aspect of the left chest along the anterior axilla line, through the left third intercostal muscle and exited through a fracture defect on the left tenth rib on the posterior aspect. These injuries were associated with a left sided haemothorax and a collapsed lung. The wound tract passed from front to back, from top to bottom and from left to right in anatomical position. Most probably, argued the respondent, the deceased's wound trajectory suggest that he was already on the ground when these shots were fired.

[47] The respondent contended that the appellant was correctly convicted for murder as he formed an intention to kill the deceased. The force used was not proportional to the perceived attack. The appellant escaped a mandatory sentence of 15 years. Due to the existence of substantial and compelling circumstances, he was only sentenced to eight years' imprisonment.

[48] The legal position is that '[a] person acts in private defence, and her act is therefore lawful if she uses force to repel an unlawful attack which has commenced, or is imminently threatening, upon her or somebody else's life, bodily integrity, property or other interest which deserves to be protected, provided the defensive act

is necessary to protect the interest threatened, is directed against the attacker, and is not more harmful than necessary to ward off the attack'.⁴

[49] This Court has to determine whether the high court correctly refused the petition, and whether the appellant has reasonable prospects of success on appeal against the conviction and sentence. A reasonable prospect of success is a stringent test which must not be applied carelessly. This requires a balanced exercise based on the facts and the law. As stated in *Smith v S*, '... the appellant must convince this court on proper grounds that he has prospects of success on appeal and that these prospects are not remote but have a realistic chance of succeeding. . . There must, in other words, be a sound, rational basis for the conclusion that there are prospects of success on appeal.'⁵

[50] Be that as it may, when deciding on this matter, much focus should not be on the appellant's version alone. Due regard should be had on the evidence adduced before the magistrate holistically and the attendant conclusion should be based on the entire facts and applicable law.

[51] It appears that the revisitation of this matter on appeal would be a futile exercise if due regard would be had on these facts and the applicable legislation. If, for a moment, one would accept that the deceased was aggressive and 'possessed', it would therefore be arguable whether this is an issue that could have been resolved by three gunshots from a security officer in succession. The online Merriam – Webster. Com / dictionary define 'possessed' as –

⁴ *S v Engelbrecht* 2005 (2) SACR 41 (W) para 228; *Steyn v S* [2009] ZASCA 152; 2010 (1) SACR 411 (SCA) para 16. See also *Botha v S* [2018] ZASCA 149; [2019] 1 All SA 42 (SCA); 2019 (1) SACR 127 (SCA) para 34.

⁵ *Smith v S* fn 2 above para 7. See also *Rohde v S* [2019] ZASCA 193; 2020 (1) SACR 329 (SCA) para 23.

‘1 a (1): influenced or controlled by something (such as an evil spirit, a passion, or an idea
(2): mad, crazed
b: urgently desirous to do or have something.’

[52] In my view, the high court was correct in its refusal of a petition. There are no reasonable prospects of success on both conviction and sentence on appeal. The magistrate bent over backwards to accommodate the appellant despite convicting him of murder. Instead of sentencing him to a mandatory sentence of 15 years in terms of s 51(2) of the Criminal Law Amendment Act 105 of 1997, his sentence was reduced to eight years due to the magistrate’s finding that there were substantial and compelling circumstances justifying the deviation from the prescribed minimum sentence.

[53] For these reasons, I would make an order dismissing the appeal.

B P MANTAME
ACTING JUDGE OF APPEAL

Appearances

For the appellant: J E Howse SC

Instructed by: R. K. Nathalal & Company, Verulam
Blair Attorneys, Bloemfontein

For the respondent: S I Sokhela

Instructed by: National Prosecuting Authority, Pietermaritzburg
National Prosecuting Authority, Bloemfontein.