

Reportable:	YES / NO
Circulate to Judges:	YES / NO
Circulate to Magistrates:	YES / NO
Circulate to Regional Magistrates:	YES / NO

**IN THE HIGH COURT OF SOUTH AFRICA
(Northern Cape High Court, Kimberley)**

Case Nr: CA&R99/2014

Date: 07/05/2016

In the matter between:

PASEKA WILLIAM SELALETSI

APPELLANT

and

THE STATE

RESPONDENT

Coram: Olivier, J

JUDGMENT

Olivier J:

In this matter the proceedings have not been fully transcribed. This includes the plea proceedings, the evidence of the complainant, part of the evidence of the witness Mohale and part of the appellant's evidence. The transcribed portion of the record stops midway through a lengthy questioning by the Regional Magistrate of Mohale, at paginated page 22, and at paginated page 23 it continues at some point during the cross examination by the Prosecutor of the appellant.

The file does contain what appears to be a typed version of the Regional Magistrate's notes, but this does not mean that a proper transcription of all the recorded proceedings is not possible.

It in any event appears that whoever typed the notes was unable to decipher all of the Regional Magistrate's notes, especially as far as the complainant's evidence is concerned.

The notes do not reflect the interaction between the Regional Magistrate and the appellant's legal representative. That there had been interaction is, however, clear from the partial transcription of the appellant's evidence. Because this is a point that is being raised on behalf of the appellant, it is important also for this reason that the proceedings be transcribed fully.

The following orders are therefore made:

1. THE APPEAL IS POSTPONED *SINE DIE*;
2. STEPS MUST BE TAKEN BY THE CLERK OF THE COURT TO ENSURE THAT ALL OF THE RECORDED PROCEEDINGS ARE PROPERLY TRANSCRIBED AND, SHOULD THIS APPEAR NOT TO BE POSSIBLE, THE CLERK OF THE COURT MUST EXPLAIN THE REASON FOR THIS IN WRITING AND MUST THEN TAKE STEPS TO PROPERLY RECONSTRUCT THE RECORD IN CONJUNCTION WITH NOT ONLY THE REGIONAL MAGISTRATE, BUT ALSO THE APPELLANT'S LEGAL REPRESENTATIVE AT THE TIME, THE PROSECUTOR AND THE INTERPRETER, *INTER ALIA* BY HAVING REGARD OF THE REGIONAL MAGISTRATE'S NOTES.

C J OLIVIER
JUDGE
NORTHERN CAPE DIVISION

I agree:

S ERASMUS
ACTING JUDGE
NORTHERN CAPE DIVISION

For the Appellant:	ADV. N M MAZIBUKWANA
Instructed by:	LEGAL AID SOUTH AFRICA
For the Respondent:	ADV. N MXABO
Instructed by:	DIRECTOR OF PUBLIC PROSECUTION