

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Appeal No.: A231/2012

In the matter between:

ALBERTO A DE SOUSA

Appellant

and

THE STATE

Respondent

CORAM: DAFFUE, J et LEKALE, J

HEARD ON: 7 JUNE 2013

JUDGMENT BY: LEKALE, J

DELIVERED ON: 12 JUNE 2013

- [1] On 13 December 2012 Thamage AJ and I dismissed the applicant's appeal against convictions on two counts of indecent assault. The appeal succeeded in respect of the sentence relating to the second count in that the sentence of the regional court was set aside and replaced by a sentence of 7 years imprisonment. We ordered that the sentences in respect of the two counts should run concurrently with the result that an effective sentence of 7 years imprisonment was imposed. Appellant feels aggrieved by the dismissal of his

appeal against the convictions only and now approaches us for leave to appeal the same to the Supreme Court of Appeal on, inter alia, the ground that there exists reasonable prospect that another court could come to a different conclusion on the evidence forming the basis of the convictions.

[2] The application is opposed by the state on, inter alia, the basis that the contemplated appeal has no merit insofar as the criticisms levelled against the relevant evidence was never put to the relevant witnesses to enable them to deal with the same.

[3] We are, however, persuaded that the matter enjoys reasonable prospects of success on appeal. (See **Smith v S** 2012 (1) SACR 567 (SCA) at 570b-c.)

ORDER

[4] Leave is granted to the applicant to appeal to the Supreme Court of Appeal against the convictions.

L. J. LEKALE, J

I concur.

J. P. DAFFUE, J

On behalf of applicant:

Adv. J. Nel
Instructed by:
E G Cooper Majiedt Inc
BLOEMFONTEIN

On behalf of respondent:

Adv. W. J. Harrington
Instructed by:
The Director: Public Prosecutions
BLOEMFONTEIN

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