

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: SS106/2022

DATE: 09-05-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES / ☒ NO

(2) OF INTEREST TO OTHER JUDGES: YES / ☒ NO

(3) REVISED. ☒

DATE 09/05/25

SIGNATURE [REDACTED]

10 In the matter between

DR DLAKAW BONGANI

Applicant 1

THATO M MORAKE

Applicant 2

and

STATE

Respondent

J U D G M E N T

LEAVE TO APPEAL

20 KUMALO, J:

Let us start with the issue of condonation. I believe it is fair and just that condonation be granted for the late filing, if there is a late filing of the leave to appeal. V I believe so, in the sense that in all honesty, perhaps for accused 1, or

appellant 1, there was an application in that regard, although it was not in accordance with the law, but I will accept that. So condonation is granted insofar as that is concerned and so is for appellant 2.

However, when it comes to the leave to appeal, I unfortunately have a different view to what has been put by the appellants' counsels. For starters, insofar as accused 1 is concerned, there is not much really that he puts up as a
10 fight, you know, insofar as there is concern. I do not think that it would serve any purpose to grant any leave when I am of the view that no other Court will arrive at a different conclusion.

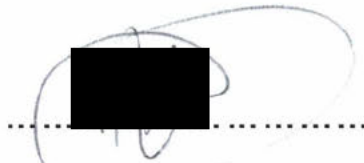
Now, when it comes to accused 2 or appellant 2, the unfortunate part, whilst counsel's argument makes sense, the only problem is that counsel is nitpicking and I understand he was not involved in the matter. There were a number of other things that were done or that were said and in fact, as
20 the state indicated, there was a witness on behalf of the accused persons, there was a witness on behalf of the accused persons, who on that particular day allegedly travelled with them to the so-called place in Togosa, who testified.

If you had read my judgment properly, that witness was quite amazing because he was able to describe, to give vividly, the directions that were taken to go to, but then, at the end of the day he did not know where they stopped in Togosa and the worst part was that these people were traveling during the high time of lockdown. They claimed they passed two roadblocks and they were not stopped, whilst they had a person in the boot. Now I hear counsel when he says that well, if you look at the state of the mind, basically, at the end
10 of the day, it was this Court's finding that the missing person was killed and they knew very much about that.

It also relates also to the issue of defeating the hands of justice, because up to now I have never heard that the body had been found or that he has been found, in terms of the allegation that was made to say that he was seen somewhere, this was an EFF plot and all of that. I do not believe, with the facts and the evidence that was led in Court, that any other Court would arrive at a different conclusion.

20

In the circumstances, APPLICATION FOR LEAVE TO APPEAL IS DENIED.



KUMALO, J

JUDGE OF THE HIGH COURT

DATE: 09/05/25