

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NUMBER: A439/2012

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) NOT REVISED

17 September 2025

DATE

SIGNATURE

In the matter between:

BALLAND, ARNOLD

Appellant

and

THE STATE

Respondent

JUDGMENT

YACOOB J: (KUNY J CONCURRING)

- [1] This appeal served on our criminal appeal roll on 11 August 2025. No heads of argument were filed. The State had filed a notice of intention to have the matter struck off the roll due to the failure to file heads of argument.
- [2] In addition, a notice of surrender and detention warrant was uploaded as part of the record, dated 10 April 2024. This indicated that the appeal was

previously struck from the roll, on 20 November 2014, and Mr Balland, the appellant, who was apparently on bail pending appeal, had been at large for almost ten years.

- [3] The court then requested the State Advocate, Ms Moseki, to establish whether Mr Balland was in fact still at large, and if so how it was that his attorney procured a power of attorney and managed to get the appeal set down again.
- [4] It was our view that it would not be in the interests of justice to simply strike the matter from the roll without more. If Mr Balland was at large, his attorney would have to be ordered to explain how a power of attorney was obtained, and an order would be made that the matter may not be re-enrolled until he was once again in custody. If Mr Balland was in custody, a different order would be appropriate.
- [5] Ms Moseki's enquiries were fruitless for almost a month. However, on 12 September 2025, an affidavit was provided from a Clerk of the Court, Protea Magistrates Court, confirming that in fact Mr Balland, the appellant, had been re-arrested on 19 April 2024, 9 days after the warrant was issued, and was currently serving his sentence at the Kutama Sinthumule Correctional Centre.
- [6] In those circumstances many of our concerns fall away. However, we must still do more than simply remove or strike the matter, to avoid a situation where the matter is repeatedly enrolled and removed without being determined.
- [7] For these reasons, we make the following order:

1. The appeal is struck from the roll.
2. The appeal may not be re-enrolled unless the appellant files:
 - a. An application for condonation, setting out in full the reasons for non-compliance and why it is in the interests of justice to enroll the appeal.
 - b. Heads of argument on the merits of the appeal.


JUDGE S YACOOB

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

I AGREE.

A signature that has been redacted with a black rectangular box.

JUDGE S KUNY
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

This judgment is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 17 September 2025.

APPEARANCES

ON BEHALF OF APPELLANT:

No appearance

ON BEHALF OF THE RESPONDENT:

E Moseki

Office of the Director of Public
Prosecutions, Johannesburg