



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: A15/2025

In the matter between:

THLOLOHELO DAZ SEJAM

APPELLANT

and

THE STATE

RESPONDENT

Neutral citation: *Sejam v S* (A15/2025) [2025] ZAFSHC 276 (1 September 2025)

Coram: Opperman J *et De la Rey* AJ

Heard: 14 August 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 16h15 on 1 September 2025.

Summary: Appeal against sentence – rape and abduction of 11-year-old girl – no substantial and compelling circumstances to deviate from life sentence imposed.

ORDER

- 1 Condonation is granted for the late filing of the appeal.
 - 2 The appeal against the sentence of life imprisonment is dismissed.
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JUDGMENT

Opperman J (De La Rey AJ concurring)

[1] The stark reality on which the appellant wants for a reduction of a sentence of life imprisonment¹ here revolves around the fact that he raped a little girl of 11-years-old. She was raped in heinous circumstances. He is very well known to her and she trusted him when he lured her into a premises under the guise to collect a surprise gift for her cousin. He, apart from the rape, further assaulted her. She sustained injuries to her face, neck, and more. After the rape, she was abducted and held captive by the appellant. Her family rescued her by breaking into the building where he kept her.

[2] The incident not only impacted the victim but the trauma circled to the family; their lives were devastated. The appellant now claims in his grounds for appeal that:

- '1.1 The Honourable Court erred in finding that there were no substantial and compelling circumstances in order to deviate from the prescribed minimum sentence.

¹ The trial was in the Regional Court and the appellant enjoys an automatic right to appeal the sentence of life imprisonment and the appeal is directed against the sentence of life imprisonment only. The appellant was convicted of the rape of a minor on the 27th of March 2023. The incident that occurred on 1 January 2018 also caused a conviction of the abduction of the same minor. He was sentence to three years' imprisonment on the first count of abduction and to life imprisonment in terms of s 51(1) of the Criminal Law Amendment Act 105 of 1977 on the rape. Section 50 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 mandates that the particulars of persons who have committed sexual offences must be included in a National Register for Sex Offenders. The Court *a quo* correctly ordered as such.

- 1.2 The appellant's personal circumstances were taken into account however the Honourable Court placed too much emphasis on the seriousness and prevalence of the offence as well as the interests of the community and thus minimised the appellants personal circumstances.
- 1.3 The Honourable Court overemphasised the deterrence factor in punishment.
- 1.4. The appellant handed himself over to the police initially on the 7th of January 2018 and was released on Bail in February 2018, the Honourable Court failed to take the time he spent awaiting his release on bail into account when sentencing.
- 1.4.1 The appellant was also sent for a time for mental observation prior to the commencement of the trial and the Honourable Court failed to take this time into account when imposing the sentences. The appellant also attempted to commit suicide twice; the Honourable Court did not take this into account during sentencing.
- 1.5. The Appellant's name is added to the National Register of sex offenders and thus upon his eventual release from incarceration it will be almost impossible for him to acquire meaningful employment and thus aspects of retribution will continue long after his release from incarceration.'

[3] The appellant was 28 years old at the time of his sentence and 23 years old at the time of the incident. He is unmarried, his highest qualification is grade 12 and a N4 certificate. He is a first offender, was raised by his mother as his parents got divorced when he was young and his family circumstances violent at times; he attempted suicide twice, is unemployed but helps his mother with domestic tasks. He was incarcerated from January 2018 to February 2018 awaiting trial. He was referred for observation in terms of ss 77, 78 and 79 of the Criminal Procedure Act 51 of 1977.

[4] The Court *a quo* handed down a well-considered judgment with an eye on the legislation and case law; the learned judge regarded equity and the constitutional rights of the accused, the community, the victim, as well as the interests of justice. Her statement in conclusion is beyond criticism when she noted that the cumulative effect of all the mitigating circumstances does not morph into substantial and compelling circumstances. The aggravating circumstances prevail. The appellant raped, strangled, abducted, and held captured an 11-year-old girl.

[5] In *S v PB*,² in line with *S v Matyityi*,³ the Supreme Court of Appeal emphasised that prescribed minimum sentences should not be departed from lightly, or for flimsy reasons. Life imprisonment is the ultimate penalty that the courts can impose and should not be imposed lightly, but there is no reason to interfere with the discretion exercised by the learned regional magistrate here. Bearing in mind the seriousness of the offence, it is required that the elements of retribution and deterrence should come to the fore and that the rehabilitation of the appellant should be accorded a smaller role as emphasised by the Supreme Court of Appeal in *S v Kekana*.⁴

[6] Two peripheral issues must be regarded and that is the application for condonation for the late filing of the appeal and the missing portion of the record. The explanation for the late filing of the appeal was accepted by Court and not opposed by the State. Condonation was granted. The part of the record that was not transcribed is not material to the issue of the appeal on the sentence.⁵ The finalisation of the appeal will be delayed unreasonably and to the detriment of the administration of justice if the matter is referred for reconstruction of the record. The parties were also in agreement that it will have no effect on the actual adjudication of the case as a whole.

[7] **Order**

- 1 Condonation is granted for the late filing of the appeal.
- 2 The appeal against the sentence of life imprisonment is dismissed.


ML OPPERMAN
JUDGE OF THE HIGH COURT

² *S v PB* [2012] ZASCA 154; 2013 (2) SACR 533 (SCA) para 20.

³ *S v Matyityi* [2010] ZASCA 127; 2011 (1) SACR 40 (SCA) para 23.

⁴ *Kekana v S* (37/2018) [2018] ZASCA 148 (31 October 2018); *S v Kekana* 2019 (1) SACR 1 (SCA) paras 39-42.

⁵ *S v Chabedi* (497/04) [2005] ZASCA 5; 2005 (1) SACR 415 (SCA) (3 March 2005) para 5.

I concur.



HE DE LA REY
ACTING JUDGE OF THE HIGH COURT

Appearances

For the Appellant:

P Mokoena

Instructed by:

Legal Aid, South Africa, Bloemfontein.

For the Respondent:

AM Ferreira

Instructed by:

Director of Public Prosecutions, Bloemfontein.