



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not Reportable

CASE NO: CA15/2018

Regional Magistrates Case No: SOR144/2014

In the matter between:

THABANG JOHANNES MOHLALA

APPELLANT

and

THE STATE

RESPONDENT

Coram: Hendricks JP and Petersen ADJP

Date of hearing: 19 March 2026 (on the papers)

Delivered: This judgment was handed down electronically, circulated to the parties' representatives via email, uploaded to CaseLines, and released to SAFLII. The date and time for the handing down of the judgment are deemed to be 10h00 on 24 March 2026.

Summary: Criminal appeal — attempted robbery with aggravating circumstances — appeal against sentence only — mootness — appellant had served full term of imprisonment prior to hearing — appellant's own legal representatives conceding matter was moot — no exceptional circumstances

justifying exercise of jurisdiction — no enduring legal consequence surviving sentence — appeal dismissed as moot — matter removed from roll — *obiter*: even on the merits, sentence of ten years' imprisonment not disturbingly inappropriate — prior conviction for robbery with aggravating circumstances — appellant on parole at time of offence — sentencing triad properly applied — no misdirection identified.

JUDGMENT

PETERSEN ADJP (HENDRICKS JP concurring)

Introduction

[1] This is an appeal against sentence. The appellant, Thabang Johannes Mohlala, was convicted in the Regional Court, Bafokeng (sitting at Tlhabane), of attempted robbery with aggravating circumstances. On 28 January 2015, he was sentenced to ten years' imprisonment. He appeals against sentence only. The appeal was initially enrolled for hearing on 04 April 2025. Since the panel assigned by the Judge President regrettably failed to hand down a judgment timeously, the files were recalled and the present panel assigned.

[2] A preliminary issue presents itself. The appellant has, by the time of hearing, already served the full term of imprisonment imposed upon him. The central question is therefore whether this appeal remains capable of adjudication, or whether it has been rendered moot by the effluxion of time.

Background

[3] The appellant, together with an accomplice, attempted to rob the complainant, a Somali national who operated a tuck shop. A knife was used during the incident. The complainant, in the course of the attempted robbery, shot the appellant in the leg. The appellant fled but subsequently surrendered himself to the police on 07 November 2014 and made a confession. He pleaded guilty and was convicted on the strength of a statement tendered in terms of s 112(2) of the Criminal Procedure Act 51 of 1977.

[4] At the time of sentencing, the appellant was 38 years old. He was not without antecedent: he had been convicted in 2005 of robbery with aggravating circumstances and had received a sentence of 15 years' imprisonment. He was on parole from that sentence when he committed the present offence.

[5] The trial court, after hearing submissions in mitigation and aggravation, sentenced the appellant to ten years' imprisonment, with effect from 28 January 2015.

The appeal and the issue of mootness

[6] The appeal is directed at sentence only. However, the matter reached this Court in circumstances where the appellant had already completed his sentence. In the Joint Practice Note filed on 26 March 2025, the appellant's legal representatives stated the following:

'7.2. The 10 year sentence would have come to an end on the 28 January 2025.

7.3. The appeal application is moot as the appellant's sentence has lapsed.

8.1. No, matter should be removed from the roll.'

[7] The respondent adopted a different position. In its Practice Note and Heads of Argument, the respondent submitted that the appeal against sentence has no legal basis and ought to be dismissed on its merits. The respondent contended that the trial court committed no misdirection, that the appellant had a relevant prior conviction for robbery, that he was on parole when the present offence was committed, and that the sentence of ten years was appropriate.

Discussion

[8] The foundational question is whether this Court ought to exercise its jurisdiction in circumstances where the sentence has been fully served. The principle is well settled. A court should decline to exercise its jurisdiction where the matter is moot and no practical or legal effect can be given to any order it might make.¹

¹ *National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs and Others* 2000 (2) SA 1 (CC) at para 8.

[9] A matter is moot when a decision by the court will have no practical effect on the parties and when there is no live controversy between them capable of resolution by judicial intervention. This is not a jurisdictional bar in the strict sense; courts retain a discretion to entertain moot matters in exceptional circumstances, such as where a matter raises a constitutional issue of public importance that would otherwise evade review.

[10] In the present matter, no such exceptional circumstance arises. The appellant's own legal representatives have conceded that the appeal is moot. The sentence expired on 28 January 2025. The appeal was heard more than two months thereafter. There is no indication of any enduring legal consequence, such as a declaration of a habitual criminal, or a continuing disqualification, that would survive the sentence and justify this Court entertaining the matter.

[11] It is therefore unnecessary to pronounce definitively upon the merits. This Court would, however, observe in passing that even had the appeal been live, it would have faced considerable difficulty. The trial court properly addressed itself to the sentencing triad, the nature and gravity of the offence, the personal circumstances of the offender, and the interests of society.

[12] The appellant had a directly analogous previous conviction for robbery with aggravating circumstances, for which he had received fifteen years' imprisonment. He was on parole when he committed the present offence. These are aggravating features of a serious order. A court of appeal would not lightly interfere with a sentence unless it is satisfied that the sentencing court misdirected itself or that the sentence induces a sense of shock.

[13] The sentence of ten years' imprisonment cannot be said to have been disturbingly inappropriate. The trial court was plainly aware of the mitigating factors, including the guilty plea, the cooperation with the police, and the fact that the complainant recovered his property. These were weighed against the aggravating features. No misdirection has been identified. The appeal would not have succeeded on its merits.

[14] In the result, the appeal must be dismissed as moot and the matter removed from the roll.

Order

[15] In the result the following order is made:

1. The appeal is dismissed as moot.
2. The matter is removed from the roll.



A H PETERSEN
ACTING DEPUTY JUDGE PRESIDENT OF THE HIGH COURT OF
SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG

I agree.



R D HENDRICKS
JUDGE PRESIDENT OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG

Appearances

For the appellant: Adv M Nduli
Instructed by: Legal Aid South Africa
Mahikeng

For the respondent: Adv KE Mampo
Instructed by: Director of Public Prosecutions
Mahikeng