



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION)**

Case number: A38/2025

In the matter between:

DANIEL BRUINERS

Appellant

And

THE STATE

Respondent

Coram: Pangarker J et Mgengwana, AJ

Hearing date: 24 April 2026

Judgment delivered: 31 August 2026

Summary: Appeal in terms section 309(1)(a) of the Criminal Procedure Act 51 of 1997 – Hearing of the appeal to be dealt with in terms of section 19(a) of Superior Courts Act No. 10 of 2013 – Appellant convicted of murder committed with common purpose – Application of section 51(1) of the Criminal Law Amendment Act 105 of 1997 - Whether Court a quo erred in failing to consider cumulative effect of the appellant's personal circumstances plus the period of nearly 4 years

while awaiting trial and concluding that they did not amount to substantial and compelling circumstances justifying a lesser sentence – Whether the life sentence imposed by Court *a quo* induces sense of outrage

ORDER

The appeal is dismissed and the sentence of life imprisonment is confirmed.

JUDGMENT

MGENGWANA AJ (PANGARKER J concurring)

Introduction

[1] This appeal against sentence is instituted in terms of the proviso to section 309(1)(a) of the Criminal Procedure Act 51 of 1977 (CPA) with notice given in writing after the finalisation of trial. On 18 November 2021, the George Regional Court sentenced the Appellant to life imprisonment on a single count of premeditated murder after making a finding that the Appellant committed such murder while being part of a group of persons acting in the execution and furtherance of common purpose or conspiracy.

[2] As a result of the medical incapacity of counsel for the Appellant, this Court resolved to deal with these proceedings in terms of section 19(a) of the Superior Courts Act 10 of 2013 without the hearing of oral argument.

[3] The Appellant was legally represented during the Regional Court trial and elected to plead not guilty to the charge of murder in terms of section 115 of the CPA. It is noted that the Appellant was informed that section 51(1) of the Criminal Law Amendment Act 105 of 1997 (CLA) applied to the murder charge and that he might be sentenced to life imprisonment on conviction before the commencement of trial.

The charges

[4] The Appellant was arrested in December 2017 and the charge against him is summarized as follows:

Count 1 – Murder read with section 51(1) and Schedule 2, part 1 of the Criminal Law Amendment Act 105 of 1997 in that on or about 1 December 2017 and at or near Pacaltsdorp, George in the Regional Division of the Western Cape, the accused did unlawfully and intentionally kill Graham Fielies, a male by kicking and hitting him with unbeknown objects. Further it is alleged that the accused acted in concert in the furtherance of a common purpose and the minimum sentence applicable if life sentence.

Brief background

[5] The Appellant, Mr. Daniel Bruiners who was 43 years old at the time, and four other accused were found guilty of the premeditated murder of Mr. Graham Fielies (the deceased), an adult male who was 37 years old at the time. The deceased was found to have succumbed to death after being repeatedly beaten with blunt objects by the Appellant and four of the accused. The Appellant had pleaded not guilty to the charge and had testified that he never participated in the

beating of the deceased as at the time of the beating he was busy smoking pipe and mandrax with Accused 8, his nephew.

[6] He said that the incident took place at around 14h00 at approximately 30 metres from Accused 8's home and he did not go to the incident scene. He was only told by Accused No. 8 that it was the deceased who was laying there. His version was corroborated by Accused No. 8. He also testified that he did not see any of the Accused near the place where the incident took place and that he did not have any reason to injure the deceased as they were acquaintances who smoked together. However, the court *a quo* found that the evidence presented by the Appellant and the Accused 8 was improbable without stating how.

[7] Instead, the court *a quo* accepted the evidence of the Ms. Lourens and Mr. Bruintjies who had testified that the Appellant was part and parcel of the group that had gone to Mr. Bruintjies' home to seek out the deceased while carrying blunt objects shortly before the beating of the deceased. The court *a quo* also accepted Ms. Lourens and Mr. Bruintjies' evidence that the Appellant had taken part in the beating of the deceased with blunt objects which ultimately led to the demise of the deceased.

[8] Hence, on 25 August 2021, the court *a quo* convicted the Appellant and the other three Accused of premeditated murder while discharging Accused 8 on the grounds that he is not guilty.

Previous convictions

[9] After conviction, the State proved the following recent previous against the Appellant:

29 July 2014 – possession of drugs – cautioned and discharged;

26 January 2015 – possession of drugs – cautioned and discharged;

19 March 2015 – possession of drugs – R300 fine or 30 days imprisonment.

The Appellant admitted these previous convictions.

Pre-sentencing report, appellant's apology and sentencing options

[10] No pre-sentencing report was made available to the court *a quo* but his legal representative made submissions in mitigation of the Appellant's sentence in the court *a quo*. I summarize the salient aspects of Appellant's counsel submissions below.

[11] The Appellant was born on 17 March 1974 in Kwaggasdorp. He was therefore 47 years when he was sentenced. He is single and has two dependants, an 18-year-old daughter who resides with her mother and a twenty-six-year-old daughter who is dependent on him for financial support. He also has a sister and three brothers.

[12] Although the Appellant is suffering from hypertension, he was gainfully employed at the time of his arrest and was earning a monthly salary of R7 500. From this amount he paid R5000 to his dependants and contributed R500 to his family.

[13] It was also submitted that the Appellant has been in custody since 2017 before conviction and sentencing. It was submitted that this is a compelling circumstance which should be considered by the court *a quo* when making a finding on whether to it should deviate or not from the minimum sentence.

[14] Nothing was said about Appellant's remorse nor was there anything said about the sentencing options that would be appropriate for the Appellant during the pre-sentencing proceedings.

Judgment of the Court *a quo*

[15] After hearing counsel for the Appellant, the court *a quo* to dealt with the personal circumstances of the Appellant by recording that he is 37 years old, single, has four siblings (a sister and three brothers), two children (18 and 26 years old), suffers from hypertension, was employed at the time of his arrest and was earning an amount of R7500.00 per month with R5000.00 going towards his dependants.

[16] The court *a quo* held that the only substantial circumstances posited to it by counsel for the Appellant was that the Appellant has been in custody since 2017 and that he had made an error of judgement when he participated in the incident for which he was convicted.

[17] After the above, the court *a quo* went to record that the kind of brutality portrayed by the Appellant and his co-accused is regrettably too regularly becoming a part of life in this country. Having lamented the behaviour of the Appellant and his co-accused she made it clear that in circumstances of this nature, the Court is expected to send out a clear message that this kind of behaviour will be met with the full force and effect of the law.

[18] The court *a quo* stated that the law required her to impose a minimum sentence of life imprisonment on the Appellant unless she is satisfied that there are substantial and compelling circumstances justifying the imposition of a lesser sentence. She also said that the court should only depart from imposing the minimum sentence if its rigid application will result in a shocking injustice. Having said this, the court *a quo* went on to accept that the time spent in custody is a compelling circumstance but same cannot be looked at in isolation but should rather be looked at together with other factors in existence at the time of making a determination on the appropriate sentence to mete out.

[19] When considering the issue of rehabilitation, the court *a quo* found that the Appellant has been previously sentenced on many occasions and if he was serious about rehabilitation, he should have rehabilitated by now from the previous convictions and sentences imposed. Having found as above, she went on to find that she has not been presented with substantial and compelling circumstances and thus found herself with no other option but to impose the life sentence.

Grounds of appeal

[20] The grounds of appeal have not been made available; it has been submitted by both the Appellant and the Respondent that the notice to appeal has been

attached to the record but same has not been found. Based on that, this Court therefore had to infer from the Appellant's Heads of Argument that the grounds of appeal are as follows:

- (i) The Regional Magistrate failed to have regard to the triad of factors, and these consist of the crime itself, the offender and the interest of the community when sentencing the Appellant.
- (ii) The Regional Magistrate failed to strike a balance within the triad.
- (iii) The Regional Magistrate erred in not finding that the cumulative effect of the fact that the Appellant was 43 years old at the time of the commission of the offence, had been in custody for almost four years awaiting trial and the totality of Appellant's personal circumstances amount to substantial and compelling circumstances justifying a lesser sentence.
- (iv) The Regional Magistrate erred in imposing a disproportionate sentence through its failure to consider the cumulative effect of the respective ages of the Appellant when he committed the offence and at the time of sentencing, and the time he spent in custody while awaiting trial and his personal circumstances.
- (v) The Regional Magistrate erred in not infusing the element of mercy in its sentence.
- (vi) The Regional Magistrate erred in seeking to punish the Appellant instead of imposing a corrective punishment on him.

Appellant's submissions

[21] The Appellant's counsel made the following terse submissions in his Heads of Argument dated April 2025:

- (a) it is a well-established principle in our law that when a court imposes sentence it must have regard to the triad of the matter consisting of the crime itself, the offender and the interests of the community. Of paramount importance is the balance that must be struck within the triad in all probabilities towards a fair and just sentence.
- (b) this Court was called upon to consider whether the following

submissions will be sufficient to persuade it to deviate from the minimum sentence legislation as substantial and compelling circumstances:

- (i) the Appellant was 47 years old at the time of the sentence and 43 years old at the time of the commission of the offence, he is currently 54 years old and has served over 3 years and 4 months of his sentence;
 - (ii) the Appellant has been incarcerated since his arrest in December 2017 until his sentence, in other words he has been in custody for over 3 years 8 months;
 - (iii) the Appellant has been gainfully employed upon his arrest. He was financially responsible for his two kids (18 and 26 years) and his sister, he has two brothers as well.
 - (iv) the Appellant has hypertension.
- (c) Appellant's age of 47 years should be thoroughly considered as one of the material factors in dealing with the appropriateness of the current life sentence. The question to be asked is what the chances of the Appellant re-offending on release are? It is therefore argued that there are far less chances of that happening, a material consideration that may persuade this Court to conclude that the current sentence is a disproportionate punishment. The fact that he has been incarcerated for almost 4 years while awaiting trial should be added to this.
- (d) Despite the fact that the Appellant committed a serious offence with aggravating circumstances however, the courts should always strive to show an element of mercy towards offenders as courts are not there to punish but to unleash a corrective punishment to offenders such as the Appellant.

In conclusion, this Court was requested to come to a just and appropriate sentence.

Respondent's submissions

[22] Respondent's counsel submitted as follows in her Heads of Argument:

- (i) This Court can only interfere with the sentence of the trial court on very limited grounds, i.e. if the sentence imposed by the trial court is vitiated by a material misdirection or where disparity between the sentence of the trial court and the sentence of the appellate court would have imposed, had it been a trial court, is so marked that it can be described as 'shocking', 'startling', or 'disturbingly inappropriate'.
- (ii) In addition to the above, factors to be considered and the weight to be attached thereto, is also for the trial court to decide.
- (iii) As the trial court imposed the prescribed minimum sentence after finding that there are no substantial and compelling circumstances, the only question left to ask by this Court is whether the trial court erred in making these findings.
- (iv) It is conceded that, on first consideration of the cumulative effect of the circumstances of the matter, it can be argued that it is not the "worst of the worst" and therefore a sentence of life imprisonment may be disproportionate to the crime. However, in the matter at hand, the premeditated attack committed by a group of persons acting in the execution or furtherance of a common purpose amounts to vigilante action. In civil society governed by the constitution that guarantees the rights of all citizens such cases ought not to exist. It is indeed each citizen's right not only to be free from all forms of violence from either public or private sources. Each citizen is also granted the opportunity to a fair trial, to be regarded as innocent until proven guilty and to defend him/herself in a Court of Law. Furthermore, this Court must consider sentence in the matter at hand against the fact that a prescribed minimum sentence of life imprisonment is applicable.
- (v) That deterrence has indeed become the most important aspect of sentencing in this country – not only of a particular offender but also likeminded individuals.
- (vi) The issue of possible rehabilitation of the Appellant was considered
- (vii) The trial court applied sentencing principles in her judgement on sentence wherein she took the following into consideration:
 - (a) The purpose of sentence in general;
 - (b) The discretion of a sentencing court when deciding on an appropriate sentence especially in view of the applicable provisions of Act 105 of 1997;
 - (c) The seriousness of the crime committed, i.e. type of crime and the circumstances under which the crime was committed;
 - (d) The personal circumstances of the Appellant;
 - (e) The interest of society and prevalence of this type of crimes;
 - (f) The time spent in custody awaiting finalisation of the trial; and
 - (g) The possibility of rehabilitation.

[23] Respondent then submitted that the trial court considered all the facts and circumstances of the case and correctly found that there are no substantial and compelling circumstances.

Applicable Law

[24] Section 309(1)(a) provides as follows:

“Subject to section 84 of the Child Justice Act, 2008 (Act 75 of 2008), any person convicted of any offence by any lower court (including a person discharged after conviction) may, subject to leave to appeal being granted in terms of section 309B or 309C, appeal against such conviction and against any resultant sentence or order to the High Court having jurisdiction: Provided that if that person was sentenced to imprisonment for life by a regional court under section 51 (1) of the Criminal Law Amendment Act, 1997 (Act 105 of 1997), he or she may note such an appeal without having to apply for leave in terms of section 309B”

[25] Hughes JA held as follows when writing for the majority in *Ncitha v S*¹:

“..As a result, from 1 April 2010, a person sentenced to life imprisonment by a regional court has an automatic right of appeal to the high court and does not require leave to appeal.

[17] Thus, an automatic right of appeal is provided for in terms of s 309(1)(a) of the CPA in cases where the convicted person was sentenced to life imprisonment. According, to the section, a person convicted by a lower court or regional court to life imprisonment may note an appeal without seeking leave to appeal in terms of s 309B of the CPA. On interpreting the provision, in context, its wording and syntax, it’s abundantly clear that the automatic right of appeal is in respect of both conviction and the resultant sentence or order.”

¹ *Ncitha v S* (987/2024) [2026] ZASCA 53 (15 April 2026) at par 16 - 17

[26] Holmes JA in *S v Rabie*² provided a guideline to appeal Courts as to when interference in the Court *a quo*'s sentence is permissible:

- “1. In every appeal against sentence, whether imposed by a magistrate or a Judge, the Court hearing the appeal-
 - (a) should be guided by the principle that punishment is “pre-eminently a matter for the discretion of the trial Court”; and
 - (b) should be careful not to erode such discretion: hence the further principle that the sentence should only be altered if the discretion has not been “judicially and properly exercised”.
2. The test under (b) is whether the sentence is vitiated by irregularity or misdirection or is disturbingly inappropriate.”

[27] Further grounds justifying interference on appeal in the sentencing discretion to the of the Court *a quo* has been described as a sentence so out of proportion to the magnitude of the offence and a disparate sentence, meaning that no reasonable Court would have imposed it³. Thus, the extent to which this Court may interfere in the Regional Court's discretion in imposing sentence is circumscribed. A court may therefore not substitute the sentence which it thinks appropriate merely because it does not accord with the sentence imposed by the trial court or because it prefers it to that sentence.⁴

[28] Marais JA held as follows in *S v Malgas*:

“The mental process in which courts engage when considering questions of sentence depends upon the task at hand. Subject of course to any limitations imposed by legislation or binding

² *S v Rabie* 1975 (4) SA 855 (A) at 857D-F

³ *S v Romer* 2011 (2) SACR 153 (SCA) par [22]

⁴ *S v Malgas* 2001 (2) SA 1222 (SCA) par 12

judicial precedent, a trial court will consider the particular circumstances of the case in the light of the well-known triad of factors relevant to sentence and impose what it considers to be a just and appropriate sentence.”⁵

[29] Ponnan held as follows in *Moswathupha v S*:

“In determining an appropriate sentence, the court should be mindful of the foundational sentencing principle that ‘punishment should fit the criminal as well as the crime, be fair to society, and be blended with a measure of mercy’. In addition to that the court must also consider the main purposes of punishment, which are deterrent, preventive, reformatory and retributive. In the exercise of its sentencing discretion a court must strive to achieve a judicious balance between all relevant factors ‘in order to ensure that one element is not unduly accentuated at the expense of and to the exclusion of the others’”⁶

[30] Section 51(1) of the CLA provides as follows when dealing with discretionary minimum sentences that may be imposed by the courts in respect of certain serious offences:

“Notwithstanding any other law, but subject to subsections (3) and (6), a regional court or a High Court shall sentence a person it has convicted of an offence referred to in Part 1 of Schedule 2 to imprisonment for life.”

[3] Section 51(3)(a) of the CLA provides as follows:

“If any court referred to in subsection (1) or (2) is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence than the sentence prescribed in those subsections, it shall enter those circumstances on the record of the proceedings and must thereupon impose such lesser sentence: Provided that if a regional court imposes such a lesser sentence in respect of an offence referred to Part 1

⁵ Ibid

⁶ *Moswathupha v S* 2012 (1) SACR 259 (SCA) par

of Schedule 2, it shall have jurisdiction to impose a term of imprisonment for a period not exceeding 30 years”.

[31] Section 51(6) provides that section 51(1) does not apply to a person who was under the age of 18 when he committed the offence contemplated in subsection (1) or (2). For the record, planned or premeditated murder falls under Part 1 of Schedule 2 of the CLA, the court *a quo* therefore had the discretion to impose a minimum sentence of life on the Appellant in the absence of the existence of substantial and compelling circumstances.

[32] Howie JA stated the following with regards to substantial and compelling circumstances in *S v Ferreira*⁷:

“[5] The important part of the *Malgas* judgment for present purposes is that which explains that the circumstances envisaged by the expression need not be exceptional but must provide ‘truly convincing reasons’ or ‘weighty justification’ for imposing less than life imprisonment, or they must induce the conclusion that the prescribed sentence would in the particular case be unjust or disproportionate to the crime, the offender and the legitimate needs of society.”

[33] Howie’s JA approach was approved by Ponnann JA in *S v Matyityi*⁸ but he went further by stating the following:

⁷ *S v Ferreira and Others* [2004] 4 All SA 373 (SCA); 2004 (2) SACR 454 (SCA)

⁸ *S v Matyityi* 2011 (1) SACR 40 (SCA) ; [2010] 2 All SA 424 (SCA)

“Courts are obliged to impose those sentences unless there are truly convincing reasons for departing from them. Courts are not free to subvert the will of the legislature by resort to vague, ill-defined concepts such as ‘relative youthfulness’ or other equally vague and ill-founded hypotheses that appear to fit the particular sentencing officer’s personal notion of fairness. Predictable outcomes, not outcomes based on the whim of an individual judicial officer, is foundational to the rule of law which lies at the heart of our constitutional order.”

[34] Lewis JA found as follows in *Radebe and Another v S*⁹:

“[14] A better approach, in my view, is that the period in detention pre-sentencing is but one of the factors that should be taken into account in determining whether the effective period of imprisonment to be imposed is justified: whether it is proportionate to the crime committed. Such an approach would take into account the conditions affecting the accused in detention and the reason for a prolonged period of detention. And accordingly, in determining, in respect of the charge of robbery with aggravating circumstances, whether substantial and compelling circumstances warrant a lesser sentence than that prescribed by the Criminal Law Amendment Act 105 of 1997 (15 years’ imprisonment for robbery), the test is not whether on its own that period of detention constitutes a substantial or compelling circumstance, but whether the effective sentence proposed is proportionate to the crime or crimes committed: whether the sentence in all the circumstances, including the period spent in detention prior to conviction and sentencing, is a just one.

[15] That general principle was expressed, first, in relation to the way to assess whether substantial and compelling circumstances exist where a minimum sentence has been prescribed by the Criminal Law Amendment Act, in *S v Malgas* 2001 (2) SA 1222; 2001 (1) SACR 469 (SCA) where Marais JA said (para 25):

‘If the sentencing court on consideration of the circumstances of the particular case is satisfied that they render the prescribed sentence unjust in that it would be disproportionate to the crime, the criminal and the needs of society, so that an

⁹ *Radebe and Another v S* 2013 (2) SACR (SCA)

injustice would be done by imposing that sentence, it is entitled to impose a lesser sentence. ‘That approach was endorsed by the Constitutional Court in *S v Dodo* 2001 (3) SA382; 2001 (1) SACR 594 (CC). More recently, in *S v Vilakazi* 2012 (6) SA 353; 2009(1) SACR 552 (SCA) this court explained that particular factors, whether aggravating or mitigating, should not be taken individually and in isolation as substantial or compelling circumstances. Nugent JA said (para 15):

‘It is clear from the terms in which the test was framed in *Malgas* and endorsed in *Dodo* that it is incumbent upon a court in every case, before it imposes a prescribed sentence, to assess, upon a consideration of all the circumstances of the particular case, whether the prescribed sentence is indeed proportionate to the particular offence.’

Discussion and findings

[35] It is apparent from section 309(1)(a) and the judgement of *Ncitha v S* that the Appellant has an automatic right to appeal to this Court as he was sentenced to life imprisonment by a regional court.

[36] During sentencing proceedings, the court imposing sentence is endowed with discretion which should always be exercised judicially. So, the appeal court should be very circumspect when dealing with sentence appeals as it can only alter a conviction if it finds that the court a quo failed to exercise its discretion judicially and properly. To make a finding in this regard, the appeal court must establish whether the sentence imposed is vitiated by irregularity or misdirection or is disturbingly inappropriate. If it cannot make a finding in this regard, then it cannot interfere with the sentence imposed. Thus, the extent to which this Court may interfere in the Regional Court’s discretion in imposing sentence is circumscribed.

[37] In this Court's view, the point of departure of the Appellant who wishes to have the sentence of the court *a quo* overturned is to show that the court *a quo* exercised its discretion incorrectly considering what has already been stated in the preceding paragraph of this judgement. Simply put, in the circumstances of this appeal, the Appellant will have to show that the Regional Magistrate failed to strike a balance between all the relevant factors in existence in this case when she meted out sentence, that is, that she emphasised the brutality with which the premeditated murder was carried out while ignoring the personal circumstances of the Appellant and other factors that have been placed on record herein relating to the Appellant.

[38] On consideration of the Regional Magistrate's judgment relating to the sentencing of the Appellant, this Court is satisfied that she considered the personal circumstances of the Appellant as she commented that the children of the Appellant are now adults. She also considered the nature of offence itself as she commented on the brutality with which the murder was committed and the fact that the murder was committed during the day and in full view of the members of the community. She also took the interest of the society into consideration as she clearly stated that the society expects the courts to send out a clear message that the kind of behaviour portrayed by the Appellant will be met with the full force and effect of the law. This Court therefore finds that the contention that the Regional Magistrate failed to appreciate the importance of striking the balance between the offence, the offender and the interests of the community is not supported by anything that comes out of the judgement of the Regional Magistrate.

[39] The appellant had ample opportunity to rehabilitate after his last conviction yet clearly failed to do so and was convicted of murder arising from a planned and premeditated brutal attack on the deceased.

[40] In addition to the above and since the Regional Magistrate had convicted the Appellant of premeditated murder which was executed with common purpose, section 51(1) and Schedule 2, part 1 of the CLA applied. In terms of the above provision, the Regional Magistrate was obliged to impose a minimum sentence of life imprisonment unless the Appellant could show the court that there are substantial and compelling circumstances in existence which required the court to impose a lesser sentence other than life sentence.

[41] After considering the evidence presented to it by the Appellant, the Regional Magistrate concluded that there was an absence of substantial and compelling circumstances and she therefore imposed the minimum life sentence as required by the law. So, this Court is also required to establish whether the Regional Magistrate was wrong in her conclusion. To assist in this enquiry, we need to establish what are substantial and compelling circumstances within the context of the CLA.

[42] What can be discerned from *S v Ferreira* and *S v Matyityi* cited above is that substantial and compelling circumstances are nothing more, but truly convincing reasons as opposed to flimsy and ill-defined concepts or vague and ill-founded hypothesis.

[43] With regard to the time period spent in detention while awaiting finalization of the trial, *Radebe and Another v S* supra clearly found that the test is not whether on its own that period of detention constitutes a substantial or compelling circumstance, but whether the effective sentence proposed is proportionate to the crime committed: whether the sentence in all circumstances, including the period spent in detention prior to conviction and sentencing, is a just one.

[44] The age of the Appellant, the time spent in custody while awaiting trial and his personal circumstances do not constitute truly convincing reasons even if they are looked at cumulatively considering the nature of the offence that he committed, the age at which he committed it and his previous convictions.

[45] More troubling is the fact at the time of the offence, the Appellant was 43 years old, was gainfully employed, had numerous previous convictions involving serious violence and possession of drugs. According to him he smoked mandrax drugs just before being involved in the murder incident. Even after the commission of murder, the Appellant did not show even an iota of remorse for being a danger and menace to society at his age. These are aggravating factors which this Court cannot lose sight of.

[46] Therefore, having regard to the record, the submissions and the Regional Magistrate's judgment, I am satisfied that the Regional Court approached the sentencing task in a balanced and fair manner. The Regional Magistrate was also very much aware of the obligations placed on her by the relevant provisions of the CLA.

[47] Accordingly, this Court finds that in all the circumstances of this matter, the sentence imposed on the Appellant was neither vitiated by misdirection or irregularity, nor startlingly or disturbingly inappropriate, nor disparate. There is thus no room for this Court to interfere with the Regional Magistrate's exercise of her discretion in respect of sentencing.

Order

(a) In the result, the following order is issued:

The appeal is dismissed and the sentence of life imprisonment is confirmed.



T.J. MGENGWANA
ACTING JUDGE OF THE HIGH COURT

I agree it is so ordered



M. PANGARKER
JUDGE OF THE HIGH COURT

Appearances:

For Appellant: Mr. I.M. Sebueng

Instructed by: Legal Aid
CAPE TOWN

For Respondent: Ms. S.M. Galloway

Instructed by: Director of Public Prosecutions
CAPE TOWN