



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

JUDGMENT

**Reportable
Case No: A35/2026**

In the matter between:

ISAK DELPORT

Appellant

and

THE STATE

Respondent

Neutral citation: *Delpport v The State* (Case no. A35/2026) [2026] ZAWCHC ... (8 September 2026)

Coram: O'BRIEN AJ; BARENDSE J

Heard: 7 August 2026

Delivered: 8 September 2026

Summary: Criminal law – Sentence – Appeal against life imprisonment – Rape of child – Prescribed minimum sentence – Substantial and compelling circumstances – Previous conviction for rape of child – Offence committed whilst on parole- Guilty plea – Remorse – Age – Protection of children – Appellate interference with sentence.

ORDER

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1. The appeal against sentence is dismissed.
 2. The sentence of imprisonment for life imposed by the Regional Court for the Regional Division of the Western Cape, held at Thembaletu, George, is confirmed.

JUDGMENT

O'BRIEN AJ

Introduction

[1] This is an appeal against sentence. The appellant was convicted in the Regional Court for the Regional Division of the Western Cape, held at Thembaletu, George, of the rape of an eleven-year-old girl. He was sentenced to life imprisonment.

[2] The conviction followed upon a plea of guilty and a written statement tendered in terms of s 112(2) of the Criminal Procedure Act 51 of 1977 (CPA). The appellant does not challenge his conviction. His appeal is directed solely at the sentence.

[3] The prescribed sentence was life imprisonment. The regional magistrate found that no substantial and compelling circumstances existed which justified the imposition of a lesser sentence.

[4] The appellant contends that the magistrate failed to give sufficient weight to his age, his plea of guilty and what was said to be his remorse. He submits that the

court overemphasised the seriousness of the offence and the interests of the community at the expense of his personal circumstances.

[5] The central question is therefore whether the sentencing court materially misdirected itself or imposed a sentence so disproportionate that this Court is entitled to interfere.

The appeal lies as of right.

[6] The regional court sentenced the appellant to life imprisonment under s 51(1) of the Criminal Law Amendment Act 105 of 1997. The first proviso to s 309(1)(a) of the CPA accordingly entitled him to note an appeal without first obtaining leave under s 309B.

[7] The matter is thus properly before this Court as an appeal against sentence. It is not an automatic review.

The charge and the appellant's plea

[8] The appellant initially faced three charges under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. Two were withdrawn.

[9] On the remaining charge, the State alleged that, during 2023 and at or near Blanco in the regional division of the Western Cape, the appellant unlawfully and intentionally committed an act of sexual penetration with the complainant, an eleven-year-old girl, by penetrating her genital organs with his genital organ.

[10] The appellant was legally represented. He pleaded guilty and tendered a written statement in terms of s 112(2) of the CPA.

[11] In that statement he admitted all the elements of the offence, admitted that he was in a relationship with the complainant's maternal grandmother, and stated that he had a good relationship with the complainant. The complainant and her mother lived in the same yard as the appellant and the grandmother.

[12] During 2023, the complainant visited the appellant's house while her grandmother was at work. He took her inside the house and had sexual intercourse with her. She left after the offence had been completed.

[13] The appellant expressly admitted that he knew the complainant was eleven years old and that, because of her age, she could not lawfully consent to sexual penetration.

[14] The State accepted the plea's factual basis, and the appellant was convicted accordingly.

The sentencing proceedings

[15] The regional magistrate considered the appellant's personal circumstances, the seriousness of the offence and the interests of society. The court also had before it a probation officer's report.

[16] The appellant was 65 years old at the time of the commission of the offence and is the third eldest of twelve children born outside of marriage. He had not progressed far academically and had mainly supported himself through piecework.

[17] He was the father of six adult children, one of whom had died in 2022. His relationship with the complainant's grandmother ended after the offence.

[18] These personal circumstances did not, however, describe an offender appearing before a criminal court for the first time. In 2012, the appellant had been sentenced to fifteen years' imprisonment for raping a child. The present offence was committed while he was on parole for that sentence.

[19] The probation officer recorded statements made by the appellant that were of considerable importance in the assessment of sentence. He reportedly said that he could not resist a beautiful woman or a young girl. He could not meaningfully explain why he claimed to experience this difficulty. More disturbingly, he stated

that, had the complainant not disclosed the offence to her family, he would have continued with his conduct.

[20] The regional magistrate regarded the previous conviction, the appellant's parole status and his statements to the probation officer as demonstrating that he presented a grave and continuing risk to children. The magistrate concluded that the circumstances relied upon in mitigation did not constitute substantial and compelling circumstances and imposed the prescribed sentence.

The grounds of appeal

[21] The appellant's complaints may be reduced to four propositions.

[22] First, the magistrate overemphasised deterrence and the community's interests.

[23] Secondly, insufficient weight was afforded to the appellant's age and personal circumstances.

[24] Thirdly, his plea of guilty is evidence of remorse and acceptance of responsibility.

[25] Fourthly, the cumulative effect of those considerations constituted substantial and compelling circumstances warranting a departure from life imprisonment.

[26] These submissions must be evaluated against the limited power of an appellate court to interfere with sentences and the principles governing prescribed minimum sentences.

Appellate interference with sentence

[27] The imposition of sentence is pre-eminently a matter for the trial court. A court of appeal does not approach sentence as though it is free to exercise the sentencing discretion afresh.

[28] The enquiry is not whether this Court would have selected precisely the same sentence had it sat as the court of first instance. The sentencing discretion entrusted to the trial court must be respected unless the recognised grounds for appellate interference have been established. Thus, a mere difference of opinion is insufficient.

[29] In *S v Rabie*,¹ the Appellate Division explained that punishment is pre-eminently a matter for the discretion of the trial court. An appellate court may interfere where that discretion was not judicially and properly exercised.

[30] A sentence may therefore be disturbed where the trial court committed a material misdirection, failed to consider a material factor, attached undue or insufficient weight to relevant considerations, acted upon a wrong principle, or imposed a disturbingly inappropriate sentence.

[31] In *S v Bogaards*,² the Constitutional Court reaffirmed that an appellate court's power to interfere with sentence is circumscribed. The question is whether the sentencing court exercised its discretion properly and judicially, or whether the sentence is affected by a material irregularity or misdirection.

[32] Where there has been no material misdirection, a court of appeal may intervene only if the disparity between the sentence imposed and the sentence it considers appropriate is so marked that the sentence can properly be described as shocking, startling or disturbingly inappropriate.

[33] Moreover, a misdirection must be material. Not every imprecise expression or debatable observation in a sentencing judgment entitles an appellate court to reconsider the sentence from the beginning. The error must be of such nature,

¹ *S v Rabie* 1975 (4) SA 855 (A) at 857D–F.

² *S v Bogaards* 2013 (1) SACR 1 (CC) para 41.

degree or seriousness that it demonstrates that the sentencing discretion was not properly exercised.³

The minimum-sentence regime

[34] The Criminal Law Amendment Act introduced a structured sentencing regime for specified serious offences. It did not eliminate judicial discretion, but it did alter the way that discretion was to be exercised.

[35] Section 51(1), read with Part I of Schedule 2, requires a regional court or High Court to impose life imprisonment upon a person convicted of an offence listed in that part of the Schedule, unless substantial and compelling circumstances justify a lesser sentence.

[36] In *S v Malgas*,⁴ the Supreme Court of Appeal (SCA) authoritatively interpreted the legislation. The Court held that the prescribed sentences are not to be departed from lightly or for insubstantial reasons.⁵ They represent the sentences ordinarily considered appropriate for the listed crimes.

[37] At the same time, *Malgas* rejected a mechanical or inflexible approach. A sentencing court retains its duty to consider all the circumstances of the case. The prescribed sentence may not be imposed where, after a proper evaluation of the crime, the offender and the interests of society, it would be unjust or disproportionate.⁶

[38] Furthermore, the expression ‘substantial and compelling circumstances’ does not require circumstances that are exceptional, rare or bizarre.⁷ Factors traditionally relevant to sentence remain relevant. They must, however, be

³ *S v Pillay* 1977 (4) SA 531 (A) at 535E-G

⁴ *S v Malgas* 2001 (1) SACR 469 (SCA).

⁵ *Ibid* para 9.

⁶ *Ibid* para 22.

⁷ *Ibid* para 10.

sufficiently weighty, whether individually or cumulatively, to justify the conclusion that the prescribed sentence would be disproportionate.

[39] The court must begin with the legislative benchmark. It must then consider every relevant mitigating and aggravating factor. If the cumulative effect of the circumstances renders the prescribed sentence unjust, a lesser sentence must be imposed. If it does not, the prescribed sentence ordinarily follows.⁸

[40] *Malgas* thus guards against two opposing errors. The first is a mechanical imposition of the prescribed sentence merely because the offence falls within the Schedule. The second is an unjustified departure based on speculative sympathy, personal aversion to the legislation or factors that are flimsy when measured against the gravity of the offence.

[41] In *S v Vilakazi*, the SCA stressed that proportionality remains central to the enquiry.⁹ The legislation does not command the imposition of a prescribed sentence where that sentence would be disproportionate to the offence, the offender and the legitimate needs of society.

[42] But proportionality is not assessed in the abstract. The court must confront the concrete features of the offence and the offender. In serious crimes, ordinary personal circumstances may recede in weight when set against the gravity of the wrongdoing and the community's legitimate demand for effective protection.¹⁰

[43] In *S v PB*,¹¹ the Court again emphasised that life imprisonment is the most severe sentence available under South African law and must not be imposed without a proper proportionality enquiry. That caution does not create a general rule that life imprisonment is inappropriate for rape. It requires the sentencing

⁸ *S v Vilakazi* 2009 (1) SACR 552 (SCA) paras 14–20.

⁹ *Ibid.*

¹⁰ *Ibid* para 58.

¹¹ *S v PB* 2013 (2) SACR 533 (SCA) paras 20–21.

court to determine whether, on the facts of the particular case, the prescribed sentence remains proportionate.

[44] The correct approach is therefore not to ask whether the offence may be placed, in the abstract, somewhere on a scale between serious and most serious. The court must determine whether the totality of the facts, including the complainant's vulnerability, the offender's culpability, prior criminal conduct, prospects of rehabilitation and the need to protect society, make life imprisonment proportionate.

The seriousness of the offence

[45] Rape is an invasion of bodily integrity, dignity, privacy and sexual autonomy. When the victim is a child, the offence also constitutes a betrayal of the special protection owed to children by adults and by society.¹²

[46] Section 28(1)(d) of the Constitution guarantees every child the right to be protected from maltreatment, neglect, abuse or degradation. Section 28(2) declares that a child's best interests are of paramount importance in every matter concerning the child.

[47] Those provisions do not predetermine a particular sentence. They do, however, illuminate the seriousness with which the law regards sexual violence against children and the duty of courts to respond to such violence in a manner that gives proper recognition to children's vulnerability and constitutional status.

[48] The complainant was eleven years old at the time of the commission of the offence. The appellant knew her age and that she was legally incapable of consenting to sexual penetration.

[49] The offence did not arise from a chance encounter between strangers. The appellant had access to the complainant because he was in a relationship with her

¹² Ibid para 13.

maternal grandmother and lived with the grandmother in the same yard as the complainant and her mother.

[50] The appellant described his relationship with the complainant as good; a fact that aggravates rather than mitigates the offence. It demonstrates that the child knew him and had reason to regard him as a familiar adult in her family.

[51] The offence was committed while the complainant's grandmother was at work. The appellant took the child into his house and penetrated her sexually. While it is unnecessary to characterise this as elaborately premeditated, the admitted facts nevertheless demonstrate deliberation and opportunism. The appellant used the grandmother's absence and his existing relationship with the child to obtain privacy in which to commit the offence.

[52] The regional magistrate was therefore entitled to regard the abuse of proximity, familiarity and access as materially aggravating.

Harm to the complainant

[53] The original sentencing material, as summarised in the record before this Court, does not contain a detailed victim-impact assessment identifying the precise psychological consequences suffered by the complainant. I would be remiss in not cautioning lower courts to properly investigate what effect the rape had on the complainant or any other young child who was the victim of such a heinous deed. Forensic evidence by social workers who investigated the circumstances of the rape and what impact it had on the victim must, of necessity, be presented. This will allow a court to exercise its judicial function properly when sentencing.

[54] A court must guard against inventing facts or making individualised findings of permanent psychological injury unsupported by evidence. It would

therefore be inappropriate to declare, as a proven fact, the precise nature or duration of the complainant's psychological harm.

[55] That does not mean the absence of a detailed victim-impact report reduces the offence to one without consequences. The affront to the complainant's dignity, bodily integrity and sexual autonomy is inherent in the offence itself.

[56] The law does not require an eleven-year-old child to prove additional psychological pathology before the rape of her body by a trusted adult may be treated as gravely serious.

[57] The absence of evidence of physical injury beyond sexual penetration is likewise not a substantial mitigating factor. The absence of further violence cannot transform the unlawful penetration of a child into an offence of diminished seriousness.

The appellant's previous conviction

[58] The appellant's previous conviction is one of the most important considerations of the case.

[59] In 2012, he was convicted of raping a child and sentenced to fifteen years' imprisonment. The present offence was therefore not his first sexual offence and not his first rape of a child.

[60] A previous conviction may not be used merely to punish an offender again for past conduct. Its relevance lies in what it reveals about the offender's response to prior punishment, his prospects for rehabilitation, the need for deterrence, and the risk he poses to society.

[61] The previous sentence was severe. It should have impressed upon the appellant, in unmistakable terms, the gravity of sexual violence against children and the consequences of committing such an offence. It did not do so.

[62] The appellant committed the present rape while on parole. The parole system is premised upon conditional release, lawful conduct and the gradual reintegration of an offender into the community. The commission of another rape of a child while subject to that regime represents a profound breach of the trust inherent in conditional release.

[63] The fact that the appellant reoffended while on parole also distinguishes his case from that of an offender whose previous conviction is remote in time and unrelated in character. Here, the previous and present offences are materially similar, with both involving the rape of a child. The repetition bears directly upon the appellant's propensity to offend against children and the danger of committing a further sexual offence.

[64] It also materially weakens the argument that a lesser sentence would sufficiently serve the purposes of individual deterrence and rehabilitation.

The appellant's statements to the probation officer

[65] The appellant's statements to the probation officer provide further insight into his attitude and future risk.

[66] His assertion that he could not resist a beautiful woman or a young girl did not amount to an explanation that would reduce his blameworthiness. On the contrary, it betrayed an attempt to describe deliberate criminal conduct as though it resulted from an external or irresistible force.

[67] The appellant was an adult of mature years. Nothing in the record suggests that he lacked criminal capacity, suffered from a mental disorder affecting his ability to distinguish right from wrong, or was unable to act in accordance with that appreciation. His statement therefore reflected an unwillingness to assume full moral responsibility for his choices.

[68] His further statement that he would have continued had the complainant not reported the matter is even more serious. It is inconsistent with the submission that the offence was a once-off aberration unlikely to be repeated. It further reveals that external discovery, rather than internal restraint or concern for the child, brought the conduct to an end. This bears directly upon remorse, insight, rehabilitation and the protection of the public and supports the magistrate's conclusion that the appellant continues to present a serious risk to children.

[69] It is unnecessary to make the absolute, and potentially speculative, finding that the appellant is incapable of rehabilitation in all circumstances. Sentencing courts should be cautious before declaring any human being beyond redemption.

[70] The evidence does, however, permit the firmer and more limited conclusion that the appellant's prospects of rehabilitation are poor, that prior incarceration did not deter him, and that the need to incapacitate him for the protection of children carries exceptional weight.

The plea of guilty

[71] A plea of guilty is ordinarily relevant to sentence. It may demonstrate acceptance of responsibility, save court time, narrow the issues and spare witnesses from the burden of testifying.

[72] However, a guilty plea is not invariably proof of remorse, nor does it automatically constitute a substantial and compelling circumstance. Rather, its weight depends on the circumstances of a particular case.

[73] In *S v Matyityi*,¹³ the SCA drew an important distinction between regret and genuine remorse. Remorse requires an appreciation of the wrong done to another. Whether an offender is truly remorseful is a factual enquiry.

¹³ *S v Matyityi* 2011 (1) SACR 40 (SCA) para 13.

[74] The court ordinarily requires some basis for understanding what motivated the offender, what caused the asserted change of heart and whether the offender appreciates the consequences of the crime. A plea tendered in the face of an overwhelming case may be neutral rather than strongly mitigating.

[75] The practical value of the appellant's plea must be recognised. It avoided a contested trial and meant that the complainant was not required to testify to prove the offence. That being said, the plea cannot be considered in isolation from the appellant's statements to the probation officer.

[76] His professed inability to resist young girls and his assertion that he would have continued had the complainant not reported him are fundamentally at odds with a claim of genuine contrition. They reveal neither insight into the complainant's suffering nor an adequate appreciation of the wrongfulness of his conduct.

[77] The appellant admitted the legal and factual elements of the offence, but the evidence before the sentencing court did not establish the profound moral change ordinarily associated with genuine remorse. The magistrate was therefore entitled to accord the plea some mitigating value without treating it as decisive or proof of rehabilitation.

The appellant's age

[78] The appellant was 65 years old when the offence was committed. His age was relevant, and the magistrate was required to take it into account.

[79] Advanced age may affect the severity with which a lengthy sentence is experienced.¹⁴ A sentence of life imprisonment imposed upon an older offender carries the real prospect that he may spend the remainder of his natural life in custody, subject to the statutory parole regime.

¹⁴ *S v Barendse* 2010 (2) SACR 616 (ECG) at 619A-D

[80] Age cannot, however, be considered numerically or in isolation. Its mitigating force depends upon its relationship to culpability, health, future risk, prospects of rehabilitation and the other circumstances of the case.

[81] The appellant was not shown to have been frail, terminally ill, cognitively impaired or physically incapable of understanding and controlling his conduct.

[82] Nor did his age produce maturity, restraint or respect for the rights of children that might ordinarily be expected from a person of his years.

[83] More importantly, he committed the offence after serving a substantial sentence for the rape of another child and while on parole.

[84] In those circumstances, age does not reduce his moral blameworthiness, does not explain the offence and does not materially lessen the danger demonstrated by his conduct.

[85] The appellant's age remains a factor in his favour. However, its weight is substantially diminished by the repetitive nature of the offence and the failure of prior punishment to deter him. His age is regarded as a substantial but not a compelling circumstance.

Personal circumstances

[86] The appellant's family background, limited education, work history and status as the father of adult children were relevant to the individualisation of sentence. They were not, however, unusual.

[87] None bore a causal or explanatory connection to the offence. Furthermore, there was no evidence that poverty, coercion, emotional disturbance or circumstances beyond his control contributed to the commission of the rape.

[88] Courts must avoid treating an offender's personal circumstances as a checklist detached from the nature of the crime. The enquiry is qualitative, not

arithmetical. Personal circumstances do not become substantial merely because several can be listed. Their cumulative force must be evaluated against the seriousness of the offence, the offender's culpability, his criminal history and the legitimate needs of society.

[89] In the present case, the appellant's ordinary personal circumstances are outweighed by the exceptional aggravation arising from the complainant's age, the relationship of familiarity, the previous conviction for raping a child, the commission of the present offence while on parole and his disturbing statements concerning repetition.

The interests of society

[90] The interests of society do not mean yielding to public anger or imposing a sentence for the purpose of satisfying popular demand. A court must sentence judicially and independently. It may not make an offender the object of vengeance, nor impose punishment greater than is proportionate to his crime and personal culpability.

[91] That being said, the community has a legitimate interest in the effective prevention and punishment of sexual violence against children. It is entitled to expect the courts to protect vulnerable persons and to have appropriate effect on legislation enacted to address serious and recurrent crime.

[92] The classic sentencing triad identified in *S v Zinn*¹⁵ — the crime, the offender, and the interests of society—requires balanced consideration. No element may be allowed to exclude the others.

[93] In *Rabie*, the Court added that punishment should fit the criminal as well as the crime, be fair to society, and be tempered by a measure of mercy.¹⁶ Mercy, in this context, does not mean misplaced leniency. It is a humane and balanced

¹⁵ *S v Zinn* 1969 (2) SA 537 (A).

¹⁶ *Rabie* supra fn 1 at 861A-E.

recognition of the offender as a person. It operates within, not outside, the requirements of justice and proportionality.

[94] The magistrate's emphasis upon deterrence and public protection was not, in the circumstances, a capitulation to public sentiment. It arose from the appellant's demonstrated recidivism and the failure of a prior substantial sentence to prevent further offending.

Deterrence, rehabilitation and protection

[95] The purposes of punishment include retribution, deterrence, prevention and rehabilitation. Their relative weight varies from case to case.

[96] Retribution must not be confused with vengeance. Properly understood, it reflects the need for the sentence to express society's condemnation of grave wrongdoing in a measured and proportionate way.

[97] General deterrence recognises the legitimate need to discourage others from committing similar offences, while individual deterrence concerns the offender before the court. The appellant had previously received a sentence of fifteen years' imprisonment for raping a child. The present rape was committed while he remained subject to parole supervision. It follows that the earlier sentence failed to achieve individual deterrence. The appellant's own statements further indicate an unresolved risk of repetition.

[98] Rehabilitation remains an important aspiration for sentencing. However, it cannot be assumed merely because an offender has pleaded guilty or reached an advanced age. Rehabilitation requires, at minimum, some recognition of wrongdoing, insight into its causes and a credible commitment not to repeat it. The appellant's statements to the probation officer point in the opposite direction.

[99] In this case, the protection of children and the prevention of further offending necessarily assume particular prominence.

Substantial and compelling circumstances

[100] The court must consider the circumstances cumulatively. It would be incorrect to reject each mitigating factor separately and stop there.

[101] The factors in the appellant's favour are his age, his plea of guilty, the avoidance of a contested trial, his family circumstances, his limited education and his history of irregular employment.

[102] Against them stand the following aggravating considerations:

102.1 the complainant was only eleven years old;

102.2 the appellant knew her age and knew she could not consent;

102.3 he gained access to her through a relationship of familiarity arising from his relationship with her grandmother;

102.4 he committed the offence in his house while the grandmother was at work;

102.5 he had previously been sentenced to fifteen years' imprisonment for raping a child;

102.6 he committed the present offence while on parole;

102.7 his previous punishment had not deterred him;

102.8 he told the probation officer that he could not resist young girls; and

102.9 he stated that he would have continued had the complainant not reported the offence.

[103] The guilty plea deserves recognition because it obviated the need for a trial and for the complainant to testify. It is nevertheless materially weakened as evidence of remorse by the appellant's absence of insight and his statements indicating a willingness to continue.

[104] The appellant's age is relevant, but it does not reduce his culpability or the danger he presents. The offence was not associated with youthful impulsivity, immaturity or a momentary lapse by an otherwise law-abiding person.

[105] His family circumstances are ordinary, and his children are adults. His limited education and work history do not explain his sexual offending against children.

[106] Evaluated together, the mitigating circumstances do not render life imprisonment disproportionate, nor do they possess the weight required to qualify as substantial and compelling circumstances.

[107] This is not a case in which the prescribed sentence is disproportionate merely because the offence did not involve additional physical violence, multiple perpetrators or repeated penetration proved under the present charge.

[108] The sentencing enquiry is not confined to the mechanics of the rape. The appellant's recidivism, parole status, exploitation of familiarity, lack of insight and declared willingness to continue materially intensify the seriousness of the case.

Whether the magistrate misdirected herself

[109] The magistrate considered the appellant's personal circumstances, the probation officer's report, the guilty plea, the seriousness of the offence and the interests of society.

[110] The court was alive to the appellant's age and did not ignore his plea or his background. It weighed those matters against the aggravating features and concluded that they did not justify departure from the prescribed sentence.

[111] The previous conviction, the commission of the offence while on parole and the appellant's own statements supported the magistrate's conclusion that the appellant posed a danger to children.

[112] The magistrate may have expressed the conclusion on rehabilitation in absolute terms. As already indicated, a judicial officer should ordinarily be cautious before declaring an offender wholly incapable of rehabilitation. That formulation does not, however, amount to a material misdirection in this case. The underlying finding—that the appellant’s prospects of rehabilitation were poor and that he presented a serious continuing risk—was amply supported by the evidence.

[113] Nor did the magistrate overemphasise the interests of society. The need to protect children was not an abstract consideration. It arose directly from the appellant’s proven pattern of conduct. The appellant’s previous sentence and parole supervision had failed to prevent him from raping another child. The magistrate was entitled to conclude that deterrence, incapacitation and public protection outweighed the limited mitigating force of his personal circumstances.

Proportionality

[114] Life imprisonment is the gravest sentence available to a South African court. It must never be imposed automatically, casually or as a symbolic response to public concern.

[115] Against that background, the prescribed sentence is not disproportionate. It reflects the gravity of the offence, the appellant’s heightened culpability as a repeat offender and the compelling need to protect children from further harm.

[116] The sentence does not induce a sense of shock. On the contrary, a materially lesser sentence would fail adequately to account for the convergence of aggravating features present in this case.

Conclusion

[117] The regional magistrate committed no material misdirection. The life sentence is proportionate, and there is no lawful basis for appellate interference.

Order

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

1. The appeal against sentence is dismissed.
2. The sentence of imprisonment for life imposed by the Regional Court for the Regional Division of the Western Cape, held at Thembaletu, George, is confirmed.

S C O'BRIEN
Acting Judge of the High
Court

I agree, and it is so ordered.

R BARENDSE
Judge of the High Court

Appearances

For the appellant:

Ms N Abdurahman

Instructed by:

Legal Aid South Africa

For the respondent:

Adv L Goosen

Instructed by:

Director of Public Prosecutions,
Western Cape