

IN THE HIGH COURT OF NAMIBIA

Case Title: <i>Sylvester Lawrence Beukes v The State</i>	Case No: CC 21/2006
Ruling on Application for leave to Appeal	Division of Court: Main Division
Heard before: Mr Justice Liebenberg	Delivered on: 05 June 2019
Neutral citation: <i>S v Beukes</i> (CC 21/2006) [2019] NAHCMD 175 (05 June 2019)	
The order: a) The condonation application is granted. b) The application for leave to appeal is granted.	
Reasons for decision:	
<p>LIEBENBERG J</p> <p>[1] This is an application for leave to appeal against the sentence of the Judge President handed down on 21 November 2011 where the applicant was sentenced to terms of imprisonment equalling 395 years of which 105 years has to be served.</p> <p>[2] The application for leave to appeal was lodged with this court on 9 November 2018. It is thus out of time by 8(eight) years. As required the applicant filed a condonation application to explain the delay. The explanation was that in light of <i>S v Gaingob</i>,¹ delivered on 6 February 2018, this gave him an opportunity to file the present application.</p> <p>[3] Counsel for the respondent, Ms Verhoef, argued that because this court is bound by the Supreme Court decision of <i>Gaingob</i> they would not oppose the application for condonation.</p>	

¹ 2018 (1) NR 211 (SC).

[4] The reasons advanced by the applicant explaining the late noting of the application for leave to appeal are, in the circumstances, found to be reasonable and acceptable whilst the court is equally satisfied that there are prospects of success on appeal. The application for condonation will therefore be granted.

[5] In the *Gaingob* matter it was held that sentences of imprisonment which exceed the life expectancy of the accused amounted to informal life sentences with no realistic prospect of release. This constituted cruel, degrading and inhumane punishment and infringed the accused's right to human dignity enshrined in Article 8 of the Constitution. Furthermore, that a sentence of life imprisonment was appropriate where the court is of the view that the offender should be removed from society.

[6] In the present matter the sentences imposed by the court clearly fall within the ambit of sentences envisaged by the Supreme Court where there are no realistic prospect of the applicant becoming eligible for parole.

[7] It is for that reason that I am satisfied that there are prospects of success on appeal and that leave to appeal should be granted.

[8] In the result, it is ordered:

- a) The condonation application is granted.
- b) The application for leave to appeal is granted.

NOTE TO THE PARTIES

The reason(s) hereby provided should be lodged together with any Petition made to the Chief Justice of the Supreme Court

J C LIEBENBERG
JUDGE