

IN THE SUPREME COURT OF APPEAL
(BLOEMFONTEIN)

APPEAL COURT CASE NO: _____

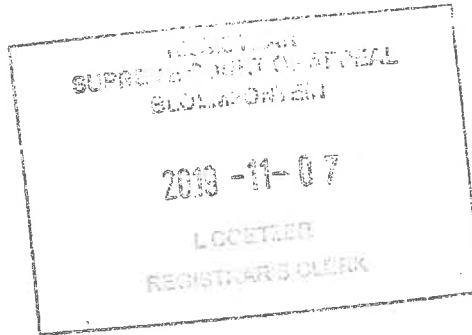
GAUTENG HIGH COURT CASE NUMBER: 76755/2018

In the matter between:

JOAO RODRIGUES

Applicant

and



**THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS OF SOUTH AFRICA**

First Respondent

**MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES**

Second Respondent

THE MINISTER OF POLICE

2019-11-06

Third Respondent

IMITIAZ AHMED CAJEE



Fourth Respondent

APPLICANT'S APPLICATION FOR CONDONATION

KINDLY TAKE NOTICE that Applicant intends to apply to the above Honourable Court for an order in the following terms:

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- 1 That the Applicant's failure to timeously file his application in terms of Section 17(2)(b) read with Section 16 of the Superior Courts Act (SCA), Act 10 of 2013 be condoned;
- 2 Costs in the event of opposition;
- 3 Further and/or alternative relief.

PLEASE TAKE NOTICE that the affidavit of **BENJAMIN MINNAAR** together with annexures thereto will be used in support of this application.

AND FURTHER TAKE NOTICE that the Applicant appoints **HILL McHARDY & HERBST INC.**, of the address stated below, to act as his Bloemfontein attorneys in this matter and at which address he will accept all further notices, documents and processes in this matter.

AND TAKE NOTICE FURTHER that if you intend opposing this application you are required to within **1 (one) month** after the service of this application on you, lodge your affidavit in answer to the application for condonation.

Kindly enroll the matter accordingly.

SIGNED at **PRETORIA** on this 6th day of **NOVEMBER 2019**.

REF: PETER SELEKA

SERVED BY E-MAIL AS AGREED TO:

Pseleka@justice.gov.za

AND TO: IMTIAZ AHMED CAJEE

FOURTH RESPONDENT

C/O LEGAL RESOURCES CENTRE

BRAAM FISHER TOWERS

15th AND 16th FLOOR

20 ALBERT STREET

MARSHALLTOWN

JOHANNESBURG

REF: LUCIEN LIMACHER

SERVED BY E-MAIL AS AGREED TO:

E-MAIL: Lucien@lrc.org.za

C/O WEBBER WENTZEL

JOINT ATTORNEYS FOR FOURTH RESPONDENT

10 FRICKER ROAD

ILLOVO BOULEVARD

JOHANNESBURG

2196

REF: MORAY HATHORN 3005789

SERVED BY E-MAIL AS AGREED TO:

E-MAIL: moray.hathorn@webberwentzel.com

benjaminnaar@gmail.com

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From: Lucien Limacher <lucien@lrc.org.za>
Sent: Wednesday, 06 November 2019 13:36
To: Moray Hathorn
Cc: benjaminnaar@gmail.com
Subject: Re: Rodrigues Condonation application to SCA

Dear Mr Minnaar,

I acknowledged receipt.

Warm regards

Lucien Limacher | Acting Regional Director

LRC

Legal Resources Centre

Tel: 011 836 9831	Fax: 011 836 8680	Email: lucien@lrc.org.za	
Physical : 15th Floor	Bram Fischer Towers	20 Albert street	Marshalltown
Johannesburg	South Africa		
Postal: P.O Box 9495	Johannesburg 2000		
Website: www.lrc.org.za			
Johannesburg	Cape Town	Durban	Grahamstown



MAKE A SECURE DONATION +

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On 06 Nov 2019, at 13:26, Moray Hathorn <moray.hathorn@webberwentzel.com> wrote:

Dear Sir

Receipt acknowledged.

Sincerely

Moray Hathorn | Partner

T: +27115305539 | M: +27630030640 | moray.hathorn@webberwentzel.com | www.webberwentzel.com

benjaminnaar@gmail.com

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From: Moray Hathorn <moray.hathorn@webberwentzel.com>
Sent: Wednesday, 06 November 2019 13:26
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African Law Firm of the Year (African Legal Awards, 2019)

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From: benjaminnaar@gmail.com [mailto:benjaminnaar@gmail.com]
Sent: 06 November 2019 13:23
To: Lucien@lrc.org.za; Moray Hathorn
Subject: Rodrigues Condonation application to SCA
Importance: High

Dear Sir/ Madam,

Please note that there was a mistake in the address of my correspondent in Bloemfontein that had to be corrected.

Herewith please find the corrected condonation application.

Kindly acknowledge receipt as I need same to file at the SCA

Kind Regards

Ben Minnaar

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African Law Firm of the Year (African Legal Awards, 2019)

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Ben Minnaar

IN THE SUPREME COURT OF APPEAL

(BLOEMFONTEIN)

APPEAL COURT CASE NUMBER _____

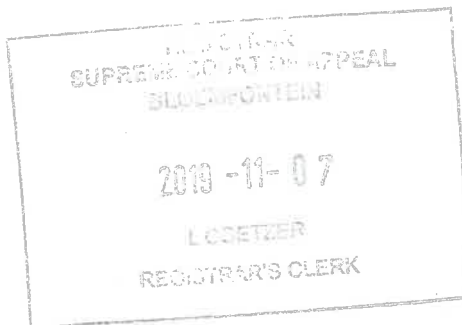
GAUTENG HIGH COURT CASE NUMBER: 76755/2018

In the matter between:

JOAO RODRIGUES

Applicant

and



THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS OF SOUTH AFRICA

First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Second Respondent

THE MINISTER OF POLICE

Third Respondent

IMITIAZ AHMED CAJEE

Fourth Respondent

APPLICANT'S AFFIDAVIT IN SUPPORT OF THE APPLICATION FOR CONDONATION

I the undersigned

BENJAMIN MINNAAR

hereby state under oath as follows:

1.

- 1.1 I am the attorney of record of the Applicant in this matter.
- 1.2 The facts herein are within my personal knowledge unless otherwise indicated and are both true and correct to the best of my ability.

2.

This is an application wherein the applicant seeks condonation for failure to file his Notice of Motion in terms of Section 17(2)(b) read with Section 16 of the Superior Court Act (SCA), Act 10 of 2013 to appeal to the Supreme Court of Appeal, Bloemfontein within one month of the judgment of the full court refusing leave to appeal.

3.

The Notice of Motion under case number 76755/2018 for stay of the criminal matter against the applicant was issued in the High Court in Pretoria. The Judge President allocated a full court to hear the matter and the full court sat in Johannesburg. The heading of the pleadings including the judgment reads High Court Johannesburg but the case number was still the Pretoria case number.

4.

When the application for stay of the criminal proceedings was turned down, leave to appeal was applied for and the full court refused same on 18 September 2019. The applicant had to file his application to this honourable court by 18 October 2019.

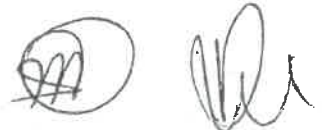
5.

The application was drawn, served on the respondents and send to my correspondent, Hill McHardy & Herbst Inc in time to be filed with this honourable court. We could not at the time obtain the court orders of the full court and it was not annexed to the application. My correspondent then informed me that the registrar of this honourable court refused to accept the application without the orders.

6.

The unavailability of the orders was due to the fact that a matter with a Pretoria High Court case number was heard in Johannesburg and the registrar in Johannesburg indicated that the orders were to be issued and signed by the registrar in Pretoria. This could only be achieved after the court file was send back to Pretoria.

The telephone system of the Johannesburg High Court is not functioning well, and I could not reach the registrar by telephone. I personally drove to Johannesburg on a few occasions to enquire about progress.



I requested the registrar of the High Court in Johannesburg to send the file to Pretoria as soon as possible and was eventually informed on 17 October 2019 that the file will only be delivered to Pretoria on Friday 18 October 2019 where after the orders will be issued by the registrar in Pretoria.

I attended the High Court in Pretoria on Monday 21 October 2019 but could not trace the file. I was then informed by the registrar of the Johannesburg court that the file would be delivered by a messenger on 29 October 2019. On the day I enquired again but the file did not arrive.

7.

On 31 October 2019 I managed to trace the file and have the orders typed and signed by the registrar. The orders are annexed hereto as annexure BM1 and BM 2.

8.


I will immediately forward the documents to my correspondent in Bloemfontein to be filed at the Supreme Court of Appeal.

9.

I humbly submit that the failure to attach the orders was due to same not being available and not a wilful disregard of the Court's procedure or the legislative requirements for notices of this nature.




In the aforesaid I respectfully pray that the condonation as set out in the Notice of Motion be granted.



BENJAMIN MINNAAR

I certify that the deponent acknowledged that he knew and understood the contents of this declaration, did not have any objection to taking the prescribed oath and he considered the oath to be binding on his conscience. I therefore administered the oath by causing him to utter the following words. "I swear that the contents of this declaration are true, so help me God". Thereafter the deponent in my presence signed the declaration at ... Pretoria ... on this 01 ... day of November ... 2019 on which date at which place I also signed this certificate.

 09132241-2
Albert Wro

COMMISSIONER OF OATHS

Leabo Joseph Molekoti
Sapt Pte Moot
17 Avenue 586
Rietfontein
0084

SOUTH AFRICAN POLICE SERVICE
VISPOL HEAD
2019-11-01
PRETORIA MOOT
SOUTH AFRICAN POLICE SERVICE

Annexure B ul 1.



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

PRETORIA 03 JUNE 2019

CASE NO. 76755/2018

BEFORE THE HONOURABLE MR JUSTICE MOSHIDI
AND BEFORE THE HONOURABLE MR JUSTICE KOLLAPEN
AND BEFORE THE HONOURABLE MADAM JUSTICE OPPERMAN

In the matter between:

JOAO RODRIGUES

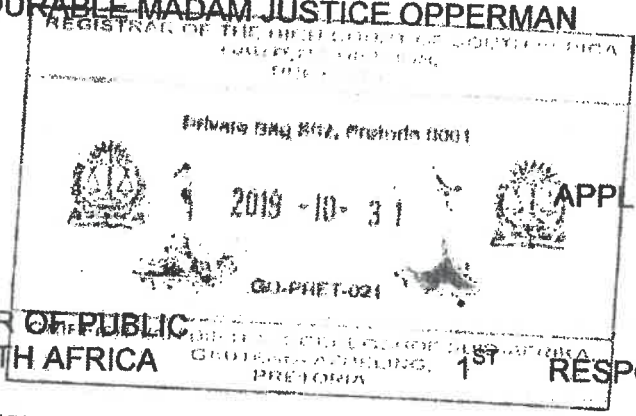
AND

THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS OF SOUTH AFRICA

MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES

THE MINISTER OF POLICE

IMITIAZ AHMED CAJEE



2ND RESPONDENT

3RD RESPONDENT

4TH RESPONDENT

HAVING read the documents filed of record, heard counsel and considered the matter:

IT IS ORDERED THAT

1. The application be and is hereby dismissed.
2. No costs order is granted.

BY THE COURT
[Signature]
REGISTRAR

HH
Attorney: BEN MINNAAR

[Handwritten marks]

Annexure Bult 2



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

PRETORIA 18 September 2019

CASE NO: 76755/2018

**BEFORE THE HONOURABLE MR JUSTICE KOLLAPEN
AND THE HONOURABLE MR JUSTICE MOSHIDI
AND THE HONOURABLE MR JUSTICE OPPERMAN**

In the matter between:

JOAO RODRIGUES

APPLICANT

AND

**THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS OF SOUTH AFRICA**

1ST RESPONDENT

MINISTER OF JUSTICE & CORRECTIONAL SERVICES

2ND RESPONDENT

MINISTER OF POLICE

3RD RESPONDENT

IMTIAZ AHMED CAJEE

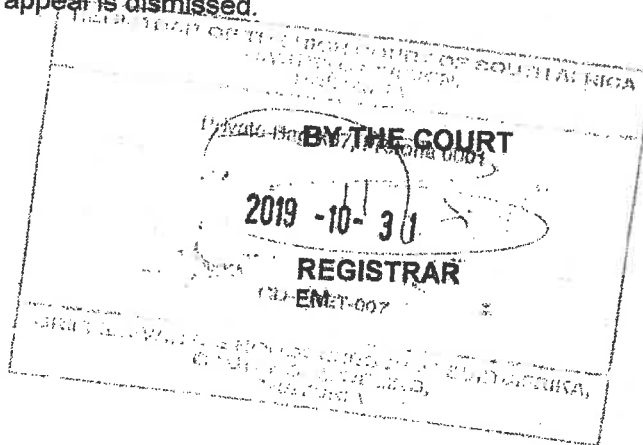
4TH RESPONDENT

HAVING HEARD counsel for the parties and having read the application for leave to appeal against the judgment of the Honourable Justice KOLLAPEN, Justice MOSHIDI & Justice OPPERMAN delivered on 18 SEPTEMBER 2019.

IT IS ORDERED THAT

1. The application for leave to appeal is dismissed.
2. No cost order.

Attorney: BEN MINNAAR



(Handwritten signatures and scribbles)