



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

JUDGMENT

Case number : 216/05
Not reportable

In the matter between :

REUBEN HESLOP

APPELLANT

and

THE STATE

RESPONDENT

CORAM : SCOTT, CLOETE, VAN HEERDEN JJA

HEARD : 2 MARCH 2006

DELIVERED : 20 MARCH 2006

Summary: Appeal struck off the roll. Reasons for delay in transmission of record to SCA (9½ years) to be investigated and explanation required as to why heads of argument were delivered on behalf of the appellant when no power of attorney had been given to the legal representative who did so.

Neutral citation: This judgment may be referred to as *Heslop v The State* [2006] SCA 22 (RSA).

CLOETE JA/

CLOETE JA:

[1] This appeal was struck off the roll on 2 March 2006. The court indicated that a judgment would be handed down in due course.

[2] The appellant was convicted of three counts of culpable homicide by Mailula J, sitting with assessors, on 13 August 1996 and sentenced to an effective term of imprisonment of six years on 5 November 1996. On the same day that sentence was imposed, leave to appeal was sought and granted, without opposition from the State — which is not surprising, as there are undoubtedly good prospects of success on appeal.

[3] The appeal record was only received by the registrar of this court on 19 May 2005. Counsel who represented the State on appeal was unable to be of assistance as to the reason for the inordinate delay of more than nine and a half years. The registrar of this court is requested to address a letter to the registrar of the Johannesburg High Court enclosing a copy of this judgment and requesting a full and detailed explanation for the delay which also identifies the person(s) responsible.

[4] On 25 August 2005 heads of argument were filed on behalf of the appellant by Adv Miller of the Johannesburg Justice Centre. The respondent filed heads of argument on 6 October 2005. The appeal was set down for hearing on 2 March 2006. A letter dated 1 November 2005 was subsequently sent by the Deputy Director of Public Prosecutions of the Johannesburg High Court to the President of this court. The letter reads:

‘Kindly be advised that the Appellant’s Counsel, adv Miller, has informed this office that he is unable to trace the whereabouts of the Appellant and therefore has been unable to obtain a power of attorney.’

By the time the letter was received, judges had been assigned to hear the appeal and the records had been distributed. More importantly, it was too late for another matter to be set down for hearing on 2 March of this year. The registrar of this court

is requested to address a letter to the Johannesburg Justice Centre for the attention of Adv Miller enclosing a copy of this judgment and requesting an explanation as to how that office came to file heads of argument without a power of attorney from the appellant and further setting out what steps have been taken to trace the appellant.

T D CLOETE
JUDGE OF APPEAL

Concur: Scott JA
Van Heerden JA