

COURT OF APPEAL FOR THE REPUBLIC OF BOTSWANA

Gaborone Case No. 0863 of 1980

Criminal Appeal No. 64 of 1981

Court of Appeal No. 25 of 1981

In the matter between:

THOBE SENOKWANE

Applicant

and

THE STATE

Respondent

RULING OF A SINGLE JUDGE ON APPLICATION
FOR LEAVE TO APPEAL OUT OF TIME AND FOR
LEAVE TO APPEAL

O'BRIEN QUINN, CJ

I have read the papers in this matter in which the applicant was convicted of Stock Theft and sentenced to 6 years' imprisonment on 13th January, 1981, and in which his appeal to the High Court was, on 24th August, 1981, summarily dismissed.

I realize that the applicant is very late with his appeal but having perused the Record it appears to me that it was due to the Chief Magistrate's view of the evidence of the co-accused that this applicant was convicted and it would appear that the Chief Magistrate did not properly assess that evidence or warn himself on the question of corroboration.

I, therefore, consider that prima facie there are good grounds for appeal, I condone the late filing of the appeal and grant leave for it to be heard by the full Court of 3 Judges.

I make no order as to Bail pending appeal in view of the appellant's previous record and the practice of this Court not to grant bail to convicted persons except in very exceptional circumstances.

I would just say that I believe that the Chief Magistrate was wrong to have acquitted the co-accused who I consider was clearly guilty.

GIVEN at the High Court, Lobatse, this 7th day of December, 1981.



J. A. O'BRIEN QUINN
CHIEF JUSTICE