

COURSE: CRIMINAL PROCEDURE B: 2023

OVERVIEW

PURPOSE OF THE COURSE:

As a starting point, Criminal Procedure B builds on Criminal Procedure A. We will recall that in Criminal Procedure A, the aim of the course was to ensure that the student acquires a basic knowledge of criminal procedure, especially as applied in the lower courts (magistrate's court and regional court) in South Africa.

In Criminal Procedure B, we delve deeper, seeking to ensure that the student acquires a deeper knowledge of certain aspects of criminal procedure not covered in detail in Criminal Procedure A. It presupposes that the student has already passed Criminal Procedure A. Together with Course A, this course should cover all the main aspects of criminal procedure encountered in practice.

HOW THIS FITS INTO THE OVERALL DEGREE STRUCTURE:

As a procedural (adjectival) law subject, this course equips the student to apply the substantive criminal law in courts in South Africa. It also has close ties with the law of evidence and criminal law.

CREDIT VALUE: 10

This works out as follows:

18 hours 24 lectures @ 45 min each

4 hours 1 written test (Online)

4 hours 1 written examination (Online)

79.25 hours Individual learning (pre- and post-lecture reading, researching and writing assignment, test and examination preparation)

Total: 100 hours of work

ASSUMPTIONS OF PRIOR LEARNING

General exposure to the idea of legal principles (legal theory, constitutional law, interpretation of statutes). Ability to read and interpret statute law, read and interpret decided cases in law reports, apply the doctrine of precedent. Ability to analyse a set of facts; identify the legal problem contained therein, apply the appropriate law to derive a solution.

OUTCOMES

CRITICAL CROSS-FIELD OUTCOMES (CCFOs)

This course should contribute to the following critical outcomes:

- a) identify and solve problems
- b) collect, analyse and evaluate information
- c) communicate effectively
- d) recognise problem solving contexts
- e) reflect on and explore effective learning strategies
- f) critique existing legal rules
- g) work with a detailed major statute governing most of the law on a single subject

SPECIFIC INTENDED OUTCOMES

OUTCOME Students will be able to:	LINKED CRITICAL OUTCOME	ASSESSMENT CRITERIA (Note: references to relevant authority should be given in each instance)	ASSESSMENT TASKS
<p>1. Describe</p> <ul style="list-style-type: none"> the system of criminal prosecution in South Africa: who prosecutes; when a private person is permitted to prosecute; when a prosecution can be withdrawn or stopped; effect of withdrawal or stopping of prosecution; right to speedy trial prescription in criminal law Identify from factual scenario whether private prosecution possible, whether right to speedy trial violated, whether a crime has prescribed 	<p>a, b, c, d, e, f, g</p>	<p>States that:</p> <ul style="list-style-type: none"> Prosecution system State-driven, centrally controlled. Private prosecution only permitted when State refuses to prosecute, and when private prosecutor has peculiar and substantial interest in case; lists the rules relating to private prosecution Prosecution can be withdrawn before plea, and later re-instituted; after plea can be stopped, in which case acquittal follows and no re-institution possible Constitution guarantees right to speedy trial; shows when right has been violated, what remedy available Prescription prevents the prosecution of most crimes after 20 years; points out which crimes not affected by prescription Correctly identifies problem and solution from scenario 	<ul style="list-style-type: none"> Class discussions: examining examples (formative) Written test (summative): paragraph style description or factual problem requiring solution Final examination (summative): paragraph style description or factual problem requiring solution Formative assessment taking the form of practice question at the end of the topic.
<p>2. Describe</p> <ul style="list-style-type: none"> The legal rules relating to search and seizure under the Criminal Procedure Act The constitutionality of search and seizure provisions Apply such rules in a factual scenario 	<p>a, b, c, d, e, f, g</p>	<p>Sets out which articles can be searched for and seized Explains that search/seizure can be with or without warrant; sets out requirements for issuing search warrant; explains when search/seizure permitted without warrant; explains what happens to articles after seizure Correctly identifies problem and solution from scenario</p>	<p>As above</p>
<p>3. Describe principles applicable to the right to legal representation in South African criminal trials</p>	<p>a, b, c, d, e, f, g</p>	<ul style="list-style-type: none"> Sets out principles relating to right to legal representation; from what stage of the proceedings; when accused will be 	<p>As above</p>

<p>Apply such principles in a factual scenario</p>		<p>entitled to legal representation at State expense; what effect of denial of such rights is</p> <ul style="list-style-type: none"> • Correctly identifies problem and solution from scenario 	
<p>4. Describe</p> <ul style="list-style-type: none"> • historical development of principles applicable to duty of prosecution to disclose docket and other materials to defence in criminal trial in South African context and principles currently applicable; • historical development of principles relating to right of accused/defence to interview State witnesses and principles currently applicable <p>In a factual scenario</p> <ul style="list-style-type: none"> • identify whether the prosecutor is obliged to make disclosure, and apply appropriate rules • identify whether accused is entitled to interview a State witness, and apply appropriate rules 	<p>a, b, c, d, e, f, g</p>	<p>Sets out development of duty of prosecutor to disclose in South Africa; explains influence of Canadian law; sets out present legal position under Constitution; sets out similar development of entitlement of accused to interview State witnesses</p> <p>Correctly identifies problem and solution from scenario</p>	<p>As above</p>

5. Describe rules applicable to drafting of indictments for criminal trials in High Court	a, b, c, d, e, f, g	Sets out what an indictment should contain; what summary of substantial facts should contain; what legal effect of summary of substantial facts	As above
6. Describe <ul style="list-style-type: none"> the principles applicable to certain offences in which some matters do not need to be alleged or disproved by the State, but which the accused can raise and prove by way of defence the principles relating to particular cases in which the State does have to allege certain facts, but in which the State is assisted by the existence of a presumption which the accused has to discharge to escape liability the similarities and differences between these concepts Identify in a factual scenario which of these two concepts applies, and correctly apply the relevant rules to the facts. 	a, b, c, d, e, f, g	Sets out what an exemption, exception, proviso, excuse or qualification is; explains that State does not need to allege absence of such in charge, or prove absence of such in evidence; if accused seeking to rely on such he/she has to prove existence of on balance of probabilities; sets out constitutional implications of s 90 of Criminal Procedure Act Sets out effect of s 250 of Criminal Procedure Act: where absence of licence or permission an element of the offence State has to allege same in charge, but is assisted in proving such element by legal presumption Sets out similarities and differences between these two principles Correctly identifies problem and solution from scenario	As above
7. Describe <ul style="list-style-type: none"> the rules relating to charging the accused with several offences arising out of a single 	a, b, c, d, e, f, g	Sets out principles relating to so-called 'splitting of charges', pointing out that correct terminology and principle is legal	As above

<p>incident</p> <ul style="list-style-type: none"> the rules relating to charging an accused person with an offence of which he or she has previously been convicted or acquitted the similarities and differences between these two principles Identify in a factual scenario whether either of these principles operates, and apply the relevant rules to the facts 		<p>rule not against splitting of charges, but against improper duplication of convictions; describes the two traditional tests to determine whether there is an improper duplication of convictions; gives some examples by way of reference to case law;</p> <p>Sets out principles relating to rule against double jeopardy; gives the requirements for the operation of the rule; in particular deals with what is meant by 'substantial identity', court of competent jurisdiction and acquittal on merits.</p> <p>Correctly identifies problem and solution from scenario</p>	
<p>8. Describe the rules relating to the right of the accused to require further particulars to a charge and the duty of the prosecutor to furnish further particulars Apply such rules in a factual scenario</p>	<p>a, b, c, d, e, f, g</p>	<p>Sets out what further particulars accused may apply for, at what stage, what particulars prosecutor obliged to furnish, what effect of supplied particulars is</p> <p>Correctly identifies problem and solution from scenario</p>	<p>As above</p>
<p>9. Describe the rules relating to plea and sentence agreements between the State and the accused Apply such rules in a factual scenario</p>		<p>Sets out nature of plea bargaining; pros/cons; what informal plea bargaining involves; the detailed rules applicable to plea and sentence agreements under the new s 105A of Criminal Procedure Act; shows how s</p> <p>Correctly identifies problem and solution from scenario</p> <p>105A addresses some of the problems that arose previously</p> <p>Correctly identifies problem and solution from scenario</p>	<p>As above</p>
<p>10. Describe the rules relating to the criminal liability of corporate</p>	<p>a, b, c, d, e, f, g</p>	<p>Sets out principle for establishing criminal liability on part of corporate body (s 332 of Criminal</p>	<p>As above</p>

<p>bodies for criminal acts committed by its directors, staff or agents and the procedural requirements for prosecuting a corporate body Apply such rules in a factual scenario</p>		<p>Procedure Act); procedural rules for establishing such criminal liability Correctly identifies problem and solution from scenario</p>	
<p>11. Describe the rules relating to appeals to higher courts in criminal cases Apply such rules in a factual scenario</p>	<p>a, b, c, d, e, f, g</p>	<p>Sets out the rules governing who can appeal; when; against what; to which court; how; requirement of leave to appeal; tests applied by appeal courts when dealing with appeals on facts, appeals against sentence; power of court of appeal to increase sentence; special types of appeal such as special entry on irregularity and reservation of question of law; powers of appeal courts generally Correctly identifies problem and solution from scenario</p>	<p>As above</p>
<p>12. Describe the nature of and rules applicable to certain quasi-criminal proceedings: inquests, asset forfeiture, criminal proceedings involving the Child Justice Act Apply such rules in a factual scenario</p>		<p>Sets out what purpose of inquest is; when inquest must be held; procedure relating to institution and holding of inquest; findings to be made; effect of findings; referral to Director of Public Prosecutions and powers of DPP; special provisions when body not recovered Sets out purpose and nature of asset forfeiture under Prevention of Crime Act; explains principles/procedure of Ch 5 of Act (criminal forfeiture); principles/procedure of Ch 6 of Act (civil forfeiture) Examination of the provisions of the Child Justice Act 75 of 2008, which makes radical alterations to the criminal justice procedure where the accused is a child.</p>	<p>As above</p>
<p>13. Describe the nature and rules applicable to prosecution of Transnational and international crime</p>	<p>a, b, c, d, e, f, g</p>	<p>Sets out the meaning of extradition and applicable procedures, the jurisdiction of the International Criminal Court and national courts over international crimes, the structure and jurisdiction of the ICC, the notion of complementarity, individual criminal responsibility</p>	<p>As above</p>

	and the laws governing international criminal justice.	
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TEACHING METHODS

- Lectures (mainly with the aid of PowerPoint slides)
- Skeletal slides for teaching purpose only
- Reading list at each lecture
- Class discussion and group discussion
- Assignment
- Test and examination

SUMMATIVE ASSESSMENT TASKS

1. Exam 70% (May -June 2023)
2. Classwork 30%
 - a) Assignment 15% (the word count for the assignment is 1000 words, including references and bibliography- (Due date: **24 March 2023, 12:00pm** on RU Connected)
 - b) Test 15% (**21 April 2023**).

ASSESSMENT CRITERIA

(For written assignments, and, with due allowance for time and other constraints, for tests and examinations). Marks will be allocated to cater for presentation, Structure, Content, Understanding and Insight.

NB. For assignments, detailed assessment criteria will be provided in the assignment question.

Students who fail to write test/submit assignment in time, but with a valid LOA- This category of students will have an oral test/assignment in my office. The make-up test/assignment will not be written. The test/assignment will be between 20 to 30 minutes. Dates for the oral test/assignment will be communicated in due course.

RESOURCES AND OWN NOTE MAKING

NB: Skeletal lecture slides WILL BE MADE AVAILABLE to students via RUConnected. Students are expected to engaged with relevant cases and the recommended textbook and to make their own notes.

TEXT BOOKS/ KEY STATUTE:

- The Constitution of the Republic of South Africa 1996.
- Criminal Procedure Act 51 of 1977 (Latest edition)
- Constantine Theophilopoulos (ed) *Criminal Procedure in South Africa* (2019) Oxford University Press. Link to E-Book: <https://o-search.ebscohost.com.wam.seals.ac.za/login.aspx?direct=true&db=nlebk&AN=2433587&site=ehost-live&scope=site> (NB. If you are off campus you will be prompted for your library logins, ensuring that we do not infringe copyright).
- Joubert (ed) *Criminal Procedure Handbook* (2017) 12th edition JUTA.
- Other recommended reading: Du Toit et al: Commentary on the Criminal Procedure Act

COMPLEMENTARY BOOKS

(You do not have to purchase these books)

- Schwikkard PJ & Van der Merwe SE Principles of Evidence 4rd edition (2016) JUTA (Important aspects of the process in a criminal trial are addressed in this book).
- Adrian Bellengere et al (eds) The Law of Evidence in South Africa (2019)-Oxford. (Important aspects of the process in a criminal trial are addressed in this book).

NB. Students will also be provided with outline notes on statutory law, cases etc that they will be required to study in more detail. Note that these notes are not complete in themselves, i.e. they will merely serve as pointers to where further reading is to be found. Latest cases too will be pointed out.

COURSE CONTENT

TOPIC 1 – Prosecution of crime

- Who prosecutes
- Investigation of crime prior to decision whether to prosecute
- Withdrawal/stopping of prosecution.
- Prosecution to be brought within a reasonable time.
- Prescription.

Du Toit *et al* *Commentary in the Criminal Procedure Act: Ch 1*

Constitution: s179(2), 35(3)(d)

National Prosecuting Authority Act 32 of 1998 (NPAA): s2, 15, 16, 20(1), 20(5), 32

Extension of Security of Tenure Act 62 of 1997 (ESTA): s23(5)

Mattaues: *De Criminibus* 48, 19, 4, 1

Roberts 'Section 18 of the Criminal Procedure Act: the balance between hope and dread' 121 (2004) *SALJ* 46

**R v Stinchcombe* [1991] 3 S.C.R. 326 (Supreme Court of Canada: case may be accessed on the internet via www.canlii.org/ca/cas/scc/1991/1991scc91.html)

**Singh v Minister of Justice* 2009 (1) SACR 87 (N)

**S v Magayela* 2004 (1) SACR 3 (T)

**Sanderson v Attorney-General, Eastern Cape* 1998 (1) SACR 227 (CC)

Crookes v Sibisi 2011 (1) SACR 23 (KZP)

S v Zuma 2006 (2) SACR 257 (W)

NDPP v Zuma 2009 (1) SACR 361 (SCA)

Shabalala & Others v Attorney-General of Transvaal & Another 1995 (2) SACR 761 (CC)

Phato v Attorney-General, Eastern Cape & Another; Commissioner of the South African

Police Services v Attorney-General, Eastern Cape & Others 1995 (1) SA 799 (E)

S v Yengeni 2006 (1) SACR 405 (T)

Rozani v DPP, Western Cape 2009 (1) SACR 540 (C)

R v Heilbron 1922 TPD 99

S v Gouws 2008 (2) SACR 640 (T)

S v De Freitas 1997 (1) SACR 180 (C)

Wild v Hoffert 1998 (2) SACR 1 (CC)

Bothma v Els 2010 (1) SACR 184 (CC)

Broome v Director of Public Prosecutions, Western Cape 2008 (1) SACR 178 (C)

S v Van der Vyver 2007 (1) SACR 69 (C)

McCarthy v Additional Magistrate, Johannesburg 2000 (2) SACR 542 (SCA)

TOPIC 2 - Search and Seizure

Constitution: s14

CPA: Ch 2 (s 19 – 36)

South African Police Services Act 68 of 1995

**Mistry v Interim National Medical and Dental Council of South Africa & Others* 1998 (4) SA 1127 (CC)

**Investigating Directorate: Serious Economic Offences & Others v Hyundai Motor Distributors (Pty) Ltd & Others* 2001 (1) SA 545 (CC)

S v Dos Santos 2010 (2) SACR 382 (SCA)

Mnyungula v Minister of Safety & Security 2004 (1) SACR 219 (TkH)

Beheermaatscjappij Helling I NV v Magistrate, Cape Town 2007 (1) SACR 99 (C)

Minister of Safety & Security v Van der Merwe (556/09) [2010] ZASCA 101 (7 Sept 2010)

Extra Dimension & Others v Kruger NO & Others 2004 (2) SACR 493 (T)

Young v Minister of Safety & Security 2005 (2) SACR 437 (SEC)

Polonyfis v Provincial Commissioner, SAPS 2010 (1) SACR 586 (NCK)

Minister of Safety & Security v Xaba 2004 (1) SACR 149 (D)

Toich v Magistrate, Riversdale 2007 (2) SACR 235 (C)

Nel v Deputy Commissioner of Police, Grahamstown 1953 (1) SA 487 (EDL)

Lachman v S 2010 (2) SACR 52 (SCA)

Magobodi v Minister of Safety & Security 2009 (1) SACR 355 (Tk)

Magajane v Chairperson, North West Gambling Board 2006 (2) SACR 447 (CC)

Thint (Pty) Ltd v NDPP 2008 (2) SACR 421 (CC)

Minister of Safety & Security v Bennett 2009 (2) SACR 17 (SCA)

TOPIC 3 - Legal Representation

Constitution: s35(2)(b) and (c)

s35(3)(f) and (g)

s35(5)

CPA: s73

**Hlantlalala & Others v Dyanti NO & Another* 1999 (2) SACR 541 (SCA)

**S v Vermaas; S v Du Plessis* 1995 (2) SACR 125 (CC)

**S v Halgryn* 2002 (2) SACR 211 (SCA)

**S v Swanepoel* 2000 (1) SACR 384 (O), 2000 (7) BCLR 818 (O)

**S v Melani & Others* 1996 (1) SACR 335 (E)

**S v Chabedi* 2004 (1) SACR 477 (W)

**S v Tandwa* 2008 (1) SACR 613 (SCA)

S v Owies 2009 (2) SACR 107 (C)

Ehrlich v CEO, Legal Aid Board 2006 (1) SACR 346 (E)

S v Dangatye 1994 (2) SACR 1 (A)

S v Cordier 2004 (2) SACR 481 (T)

S v Morrison 1988 (4) SA 164 (T)

S v Nkondo 2000 (1) SACR 358 (W)

TOPIC 4 - Disclosure by prosecution

Du Toit *et al* *Commentary in the Criminal Procedure Act: Commentary on s201*

Constitution: s32, s35(3)

Promotion of Access to Information Act 2 of 2000 (PAIA): s39

CPA: s60(14)

**R v Steyn* 1954 (1) SA 324 (A)

**R v Stinchcombe* [1991] 3 S.C.R. 326 (Supreme Court of Canada: case may be accessed on the internet via www.canlii.org/ca/cas/scc/1991/1991scc91.html)

**Phato v Attorney-General, Eastern Cape & Another; Commissioner of the South African Police Services v Attorney-General, Eastern Cape & Others* 1995 (1) SA 799 (E)

**Shabalala & Others v Attorney-General, Transvaal & Another* 1995 (2) SACR 761 (CC); 1996 (1) SA 725 (CC)

S v Shiburi 2004 (2) SACR 314 (W)
Du Toit & Others v DPP Transvaal 2004 (2) SACR 584 (T)
S v Dlamini; S v Dladla & Others; S v Joubert; S v Schietekat 1999 (2) SACR 51 (CC);
1999 (4) SA 623(CC)
S v Crossberg 2008 (2) SACR 317 (SCA)
S v Rowand 2009 (2) SACR 450 (W)

TOPIC 5 - Indictments in High Court

- Effect of s75(2) CPA
- Effect of s119 CPA -

CPA: s144, 75, 119, 120, 121, 122

**S v Mpetha & Others (1)* 1981 (3) SA 803 (C)

S v Van Vuuren 1983 (1) SA 12 (A)

S v Mlonyeni & Others 1994 (2) SACR 255 (E)

S v Hendrix 1979 (3) SA 816 (D)

Chapter 13 - Constantine Theophilopoulos (ed) *Criminal Procedure in South Africa* (2019) Oxford University Press.

TOPIC 6 - Exemptions, exceptions, provisos

Constitution: s35(3)(h)

CPA: s 90, s250

Firearms Control Act 60 of 2000: s3, 98

**S v Manamela & Others* 2000 (3) SA 1 (CC)

**R v Von Wielligh & Another* 1959 (4) SA 352 (C)

S v Baloyi 2000 (2) SACR 425 (CC)

S v Dormehl 1965 (1) SA 333 (T)

S v Everson 1980 (2) SA 913 (NC)

S v Fransman 2000 (1) SACR 99 (W)

S v Zuma 1995 (1) SACR 568 (CC) at [41]

S v Singo 2002 (4) SA 858 (CC)

TOPIC 7 – Rule against duplication of convictions

Du Toit et al Commentary in the Criminal Procedure Act: pp 14-6f

CPA: s83, 336

**S v Grobler en 'n ander* 1966 (1) SA 507 (A)

**S v Prins en 'n ander* 1977 (3) SA 807 (A)

**S v Moloto* 1982 (1) SA 844 (A)

**S v Longdistance (Natal) (Pty) Ltd & Others* 1990 (2) SA 277 (A)

**S v Benjamin en 'n ander* 1980 (1) SA 950 (A)

**R v Khan & Others* 1949 (4) SA 868 (N)

**S v Naidoo* 2003 (1) SACR 431 (SCA)

S v Pakane 2008 (1) SACR 518 (SCA)

S v Mampa 1985 (4) SA 633 (C)

S v Whitehead 2008 (1) SACR 431 (SCA)

TOPIC 8 - Further particulars to charge

CPA: s87

**S v Cooper & Others* 1976 (2) SA 875 (T)

**S v Sadeke* 1964 (2) SA 674 (T)

**R v Verity-Amm* 1934 TPD 416

**R v Adams & Others* 1959 (1) SA 646 (Spec Crim Ct)

**S v Mpetha & Others (1)* 1981 (3) SA 803 (C)

Du Toit & Others v DPP Transvaal 2004 (2) SACR 584 (T)

S v Levenstein Unreported judgment WLD case 317/2004
S v Alexander & Others 1964 (1) SA 249 (C)
Behrman v Regional Magistrate, Southern Transvaal & Another 1956 (1) SA 318 (T)
S v Suliman 1968 (1) SA 560 (T)
S v Western Areas Ltd & Others 2005 (1) SACR 441 (SCA)

TOPIC 9 - The Pleas of *Autrefois Acquit* and *Convict*

CPA: s106(1)(c) and (d)

s106(3)

s313

s322

s324

**S v Ndou* 1971 (1) SA 668 (A)

**S v McIntyre en andere* 1997 (2) SACR 333 (T)

**R v Constance* 1960 (4) SA 629 (A)

**S v Moodie* 1962 (1) SA 587 (A)

**S v Naidoo* 1962 (4) SA 348 (A)

**S v Mthetwa* 1970 (2) SA 310 (N)

S v Nkosi 1990 (1) SACR 653 (T)

S v Nyati 1972 (4) SA 11 (T)

S v Gabriel 1971 (1) SA 646 (RA)

R v Ntoyaba (1886) 4 SC 249

S v Pokela 1968 (4) SA 702 (E)

DPP, KZN v Regional Magistrate, Vryheid 2009 (2) SACR 117 (KZP)

R v Dunlop [2006] EWCA Crim 1354

TOPIC 10 - Plea and sentence agreements: sec 105A of Criminal Procedure Act

CPA: s105A

Esther Steyn 'Plea-bargaining in South Africa: current concerns and future prospects' (2007) 20 SACJ 206

**S v Blank* 1995 (1) SACR 62 (A)

**North Western Dense Concrete CC & Another v Director of Public Prosecutions, Western Cape* 1999 (2) SACR 669 (C)

**S v Esterhuizen* 2005 (1) SACR 490 (T)

**S v Sassin & Others* [2003] 4 All SA 506 (NC)

Van Eeden v Director of Public Prosecutions (Cape) 2005 (2) SACR 22 (C)

S v Solomons 2005 (2) SACR 432 (C)

S v Yengeni 2006 (1) SACR 405 (T) at [23] – [25]

TOPIC 11 - Prosecution of corporations, etc.

CPA: s332

Louise Jordaan 'New perspectives on the criminal liability of corporate bodies' 2003 *Acta Juridica* 48 [Available on HeinOnline]

**R v Bennett & Co (Pty) Ltd & Another* 1941 TPD 194

**Ex parte Minister van Justisie: In re Suid-Afrikaanse Uitsaaikorporasie* 1992 (4) SA 804 (A)

**R v Meer & Others* 1958 (2) SA 175 (N)

**S v Klopper* 1975 (4) SA 773 (A)

**S v Coetzee* 1997 (3) SA 527 (CC)

Herold NO v Johannesburg City Council 1947 (2) SA 1257 (A)

S v Western Areas Ltd 2005 (1) SACR 441 (SCA)

S v SA Metal & Machinery Co (Pty) Ltd 2010 (2) SACR 413 (SCA)

TOPIC 12 - Appeals from convictions/sentence in High Court

- Who may appeal
- To which court

- Leave to appeal: test
- Condonation

Constitution: s35(3)(o)

CPA: s315, 316

**R v Tremearne* 1917 NPD 117

**S v Isaacs* 1968 (2) SACR 184 (A)

**S v Hlatswayo* 1982 (4) SA 744 (A)

**Stopforth v Minister of Justice; Veenendaal v Minister of Justice* 1999 (2) SACR 529 (SCA)

**S v Rens* 1996 (1) SACR 105 (CC)

**S v Mohlathe* 2000 (2) SACR 530 (SCA)

**R v Ngubane & Others* 1945 AD 185

**R v Kuzwayo* 1949 (3) SA 761 (A)

S v Majola 1982 (1) SA 125 (A)

S v Monyane 2008 (1) SACR 543 (SCA) at [28]

Maphahlele v First National Bank of South Africa Ltd 1999 (1) SACR 373 (CC)

S v Ackerman en 'n ander 1973 (1) SA 765 (A)

S v Shabalala 1966 (2) SA 297 (A)

S v Swanepoel 1978 (2) SA 410 (A)

S v Zantsi 2004 (2) SACR 542 (E)

TOPIC 13 - Appeals (continued)

- Approach of appeal court
- Appeals against conviction and sentence
- Decrease/increase of sentence
- Withdrawal of appeals
- Appeals by State

**R v Dhlumayo & Another* 1948 (2) SA 677 (A)

**S v Frazenburg* 2004 (1) SACR 182 (E)

**S v Du Toit* 1979 (3) SA 846 (A)

**S v Anderson* 1964 (3) SA 494 (A)

**S v Salzwedel* 1999 (2) SACR 586 (SCA)

**S v Swart* 2004 (2) SACR 370 (SCA)

**S v Giannoulis* 1975 (4) SA 867 (A)

**R v Adams & Others* 1959 (3) SA 753 (A)

**S v Seekoei* 1982 (3) SA 97 (A)

**Magmoed v Janse van Rensburg & Others* 1993 (1) SACR 67 (A)

S v Hadebe & Others 1997 (2) SACR 64 (SCA)

S v Bernadus 1965 (3) SA 287 (A)

S v Shaik 2007 (1) SACR 247 (SCA)

S v Monyane 2008 (1) SACR 543 (SCA)

S v Scott-Crossley 2008 (1) SACR 223 (SCA) at [10]

DPP, Kwa-Zulu Natal v P 2006 (1) SACR 243 (SCA)

S v Wilken 1971 (3) SA 488 (A)

S v Masala 1968 (3) SA 212 (A)

S v Jimenez 2003 (1) SACR 507 (SCA)

S v Barnard 2004 (1) SACR 191 (SCA)

S v Ferreira 2004 (2) SACR 454 (SCA)
S v Fraser 2005 (1) SACR 455 (SCA)
S v Basson 2003 (2) SACR 373 (SCA)
S v Basson 2004 (1) SACR 285 (CC)
S v Nzimande 2010 (2) SACR 517 (SCA)
S v Petro Louise Enterprises (Pty) Ltd & Others 1978 (1) SA 271 (T)
S v Mngoma 2009 (2) SACR 447 (E)
S v Dlepu [2007] SCA 81 (RSA)
S v Ramdeo [2007] SCA 65 (RSA)

TOPIC 14 - Powers of Courts of Appeal

- Magistrate's court to Provincial Division
- High Court to Full Court or Supreme Court of Appeal
- Calling of evidence on appeal
- Remittal to Court *a quo*

CPA: s304, 309, 310, 310A, 311, 312, 313, 316, 321, 322, 324
 Supreme Court Act 59 of 1959: s21, 22
**S v Steyn* 2001 (1) SACR 25 (CC)
**S v E* 1979 (3) SA 973 (A)
**S v Du Toit* 1966 (4) SA 627 (A)
**S v Moodie* 1962 (1) SA 587 (A)
**S v Naidoo* 1962 (4) SA 348 (A)
**S v De Jager* 1965 (2) SA 612 (A)
**S v H* 1998 (1) SACR 260 (SCA)
Shinga v S; S v O'Connell 2007 (2) SACR 28 (CC)
S v Carter 2007 (2) SACR 415 (SCA)
S v EB 2010 (2) SACR 524 (SCA)
Botha v DPP (736/2007) [2009] ZASCA 42 (31 March 2009)
S v Masinda en 'n ander 1981 (3) SA 1157 (A)
S v Augustine 1980 (1) SA 503 (A)
S v Tsawane & Another 1989 (1) SA 268 (A)
S v Wilmot 2002 (2) SACR 145 (SCA)
S v Toba 2008 (1) SACR 415 (E)

TOPIC 15 - Reservation of question of law & Irregularities in the proceedings: special entries

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**S v Naidoo & Others* 1974 (3) SA 706 (A)
S v Basson 2004 (1) SACR 285 (CC) at [42] – [53]
S v Nzimande 2010 (2) SACR 517 (SCA)
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S v Nkata & Others 1990 (4) SA 250 (A)
S v Moodie 1962 (1) SA 752 (A)
S v Jaipal 2005 (1) SACR 215 (CC)
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S v Le Grange 2009 (1) SACR 125 (SCA)
S v Dlamini 2008 (1) SACR 501 (N)
S v Botha 2006 (1) SACR 105 (SCA)
S v Kroon 1997 (1) SACR 525 (SCA)
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TOPIC 16 - Taking of evidence in terms of section 205 of CPA

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s189, 203, 204

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TOPIC 17 – Inquests

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Padi v Botha 1995 (2) SACR 663 (W)

TOPIC 18 - Asset forfeiture

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**National Director of Public Prosecutions v Mohamed (1)* 2002 (4) SA 843 (CC)

**National Director of Public Prosecutions v Rebutzi* 2002 (2) SA 1 (SCA)

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**National Director of Public Prosecutions v Kyriacou* 2004 (1) SA 379 (SCA)

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