

CRI/A/7/2001

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

MOTSAMAI TSOTANG

Appellant

vs

REX

Respondent

R U L I N G

**Delivered by the Hon. Mr Justice M.L. Lehohla on the 26th
Day of April, 2001**

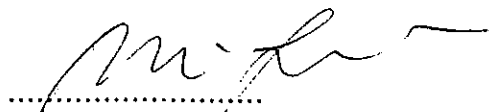
Ms Ntlhakana I have stated that this matter is CRI/A/7/2001 *Motsamai Tsotang vs Rex*. My Orderly has announced the name of the appellant three times on the public address system and he has reported that there is no response; there also doesn't seem to be any attendance by his counsel.

The grounds of appeal seem to have been prepared by *Mr Snyman* an attorney of this Court, but as it is I mean the court has been waiting for well over 20 minutes now, and the matter has got to be dealt with one way or the other, and I have given three alternatives, viz, to proceed with the case as it stands; alternatively to have it

postponed; alternatively to have it struck off for non-prosecution by the appellant.

Much as I agree with you that there doesn't seem to be merit in the appeal whereupon one would have been inclined to proceed with the case, I nonetheless think that the appellant should be given an opportunity not by postponement, but rather if the matter is struck off for non-prosecution, in which case it is almost the same as dismissing the appeal, but for the fact that should he want to tell the court why the matter should be proceeded with at his leisure and why he was not here, then if his reasons are good it can be reinstated and proceeded with. Otherwise the effect of the order that I am making, namely of striking the matter for non-prosecution by the appellant is of letting the highest water-mark hold sway. The highest water-mark being the Magistrate's order and his findings plus the sentence imposed. So I opt for that one.

Matter struck off for non-prosecution by the appellant.



JUDGE

26th April, 2001

For Appellant : No Appearance
For Respondent : Ms Ntlhakana