

AD 1901/22.1

IN THE SUPREME COURT OF SOUTH AFRICA  
(APPELLATE DIVISION)

In the matter between

GILLIAN ELSIE JEWELL

APPELLANT  
(Appellant below)

and

THE STATE

RESPONDENT  
(Respondent below)

RECORD ON APPEAL

against that part of the Order made by the Honourable Mr. Justice BEYERS, Judge-President, and the Honourable Mr. Justice THERON, in the Cape of Good Hope Provincial Division of the Supreme Court of South Africa, on the 11th day of June, 1964, dismissing the appeal against the sentence.

FRANK, BERNADT & JOFFE,  
Appellant's Attorneys,  
85 St. George's Street,  
CAPE TOWN

THE ATTORNEY-GENERAL,  
Respondent's Attorney,  
Supreme Court,  
CAPE TOWN

and

and

LOVIUS & BLOCK,  
Appellant's Attorneys,  
52 Henry Street,  
BLOEMFONTEIN.

THE ATTORNEY-GENERAL,  
Respondent's Attorney,  
Supreme Court,  
BLOEMFONTEIN.

IN THE SUPREME COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

In the matter between

GILLIAN ELSIE JEWELL

Appellant

and

THE STATE

Respondent

---

REGISTRAR'S CERTIFICATE

I, IZAK FREDERICK REDELINGHUYS DU PREEZ, Registrar of the Supreme Court of South Africa, Cape of Good Hope Provincial Division, do hereby certify that this is a true and correct copy of the record in this case.

I.F.R. du PREEZ  
REGISTRAR

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## CHARGE SHEET : REGIONAL DIVISION.

No. SH/R. 310	1963.	
Have finger-prints been taken?	Yes.	
Police Station:	Cape Town	
R.C.A. No. 2592.5.63.		

S/A/O. Conradie

## IN THE COURT OF THE MAGISTRATE.

10 For the Division of Cape Peninsula, held at Cape Town  
 Before W.F. van der Merwe, Esquire, Magistrate for the  
 said Division, on the 22nd day of July, 1963.

THE STATE versus

GILLIAN ELSIE JEWELL,

White Female, 33 years, Born in England,  
 61, Tennant Street, Cape Town

(hereinafter called the accused), charged with the offence  
 of contravening Section 10(1)(a) read with Section 11(i)  
 of the Suppression of Communism Act, 1950 (Act 44 of 1950)  
 - (Two counts)

20 in that, upon (or about) the

- As per attached -

The accused, being arraigned, pleaded Guilty to both counts.

Judgment: Guilty on both counts.

Sentence: On each count 12 months imprisonment, 11  
 months whereof suspended for 3 years on condition accused  
 is not again convicted of contravening the provisions

of the Suppression of Communism Act No. 44 of 1950 committed within that period. The sentences to run concurrently.

(Sgd.) W. F. van der Merwe,  
Magistrate of Regional Division.  
22.7.63.

FOR THE STATE: M.N. Booysen.

FOR THE DEFENCE: Adv. Dison instructed by Frank,  
Bernadt & Joffe.

10

INTERPRETER:

Petrus Johannes Rall hands in certified copy of order served on accused, exhibit A.

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ANNEXURE.THE STATE VERSUS:

GILLIAN ELSIE JEWELL, A/W/F.,

(hereinafter referred to as the accused)

COUNT 1:

10 THAT the accused is guilty of the offence of contravening Section 10(1)(a) read with Section 11(i) of the Suppression of Communism Act, 1950 (Act 44 of 1950), as amended.

20 IN THAT upon or about the 1st day of May, 1963, and at or near Roeland Street Prison, Cape Town, in the district of the Cape, in the Regional Division of the Cape Peninsula, the said accused, being a person who has been prohibited from communicating in any manner whatsoever with any person whose name appears on any list in the custody of the officer referred to in Section 8 of the said Suppression of Communism Act, 1950 (hereinafter referred to as the said list), during the period 20th April, 1963, to 29th February, 1968, did wrongfully and unlawfully communicate with Jack David Tarshish, a person whose name appears on the said list.

COUNT 2:

30 THAT the accused is guilty of the offence of contravening Section 10(1)(a) read with Section (11)(i) of the Suppression of Communism Act, 1950 (Act 44 of 1950), as amended.

30 IN THAT upon or about the 8th day of May, 1963, and at or near Roeland Street Prison, Cape Town, in the district of the Cape, and in the Regional Division of

the Cape Peninsula, the said accused being a person who has been prohibited from communicating in any manner whatsoever with any person whose name appears on any list in the custody of the officer referred to in Section 8 of the said Suppression of Communism Act, 1950 (hereinafter referred to as the said list), during the period 20th April, 1963, to 29th February, 1968, did wrongfully and unlawfully communicate with Jack David Tarshish, a person whose name appears on the said list.

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P.P. hands in photostatic copy of extract of list of prohibited persons under Section 8, Act 44/50, exhibit B.

Gillian Elsie Jewell hands in copy of Antenuptial Contract, exhibit C.

(Sgd.) W.F. van der Merwe,  
Regional Magistrate.

Bail fixed at R100 pending decision on appeal.  
Accused not to be released on bail until the Notice of Appeal has been filed with the Clerk of the Court.

20

(Sgd.) W.F. van der Merwe,  
Regional Magistrate.  
22.7.63.

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On 5/12/63:

Case remitted by Supreme Court to Magistrate to pass sentence afresh.

Mr. Fagan for Accused.

Mr. Stadler for State.

Mr. Fagan addresses Court. Hands in copy of letter to accused - Exhibit D.

SENTENCE:

Both Counts taken together for purposes of sentence.

10 ONE (1) MONTH'S IMPRISONMENT.

(Sgd.) W.F. van der Merwe,  
REGIONAL MAGISTRATE.

Bail fixed at R100 pending decision on appeal.  
Accused not to be released until the Notice of Appeal has been filed with the Clerk of the Court.

(Sgd.) W.F. van der Merwe,  
REGIONAL MAGISTRATE.

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RECORD OF EVIDENCERALL  
BOONZAAIERPETRUS JOHANNES RALL, s.s.

PUBLIC PROSECUTOR EXAMINES: I'm a Detective Sergeant in the South African Police stationed at Cape Town, your Worship.

On the 20th April this year about 12.35 a.m. did you accompany Detective Sergeant van Wyk? -- Yes.

Where to did you go? -- We went to Albion Road, Rondebosch, where we found the accused.

And what did you do there? -- There Sergeant van Wyk served certain notices on the accused.

Were you present? -- I was present.

I have before me a certified copy of an original notice signed by the Secretary for Justice, C.J. Greeff, and sealed with the seal of the Department of Justice. Will you tell the Court whether this was the copy of a similar copy handed to the accused or served to the accused? -- Yes, your Worship, it is a certified copy.

Did she sign for it? -- No, the accused refused to sign the copy, the original of the notice.

EXHIBIT A.

Was the original handed to her personally? -- The copy of the original was handed to her.

By whom? -- By sergeant van Wyk in my presence.

NO FURTHER QUESTIONS.

MR. DISON: No Questions.

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DIRK JOHANNES BOONZAAIER, s.s.

PUBLIC PROSECUTOR EXAMINES: Mr. Boonzaaier, you are in the service of the Department of Prisons? -- Of Prisons, Roeland Street yes.

Roeland Street, Cape Town? -- Yes.

What are your duties?

(verder deur Tolk)

Mnr. Boonzaaier wat sluit u pligte in by die Roelandstraat Tronk, Kaapstad? -- Dit is dat ek dit nasien dat al die blanke prisoniers .. hulle is geregtig op twee besoeke per week van twee persone en vir 'n halfuur.

Kontroleer u die besoeke? -- Ja.

En is u 'n bewaarder by die tronk? -- Ja.

10 Mnr. Boonzaaier het u 'n lys van al die blanke persone wat daar in die gevangenis aangehou word te Roelandstraat Tronk? -- Ons hou nie eintlik 'n lys van hulle nie, dit kom in die ontvangsboek, word hulle opgeneem.

Teken u al die besoeke wat daar ... teken u dit aan? -- Ja, dis my plig om dit te doen, daarvoor is ek verantwoordelik.

20 Wat is al die informasie wat u daar neerskryf wanneer besoek afgelê word? -- Die naam van die prisonier, watter klas hy is, naam en adres van besoeker, verwantskap en dan my parafasie agter, my handtekening agter.

Op die 1ste Mei hierdie jaar het 'n sekere prisonier, Jack David Tarshish, 'n besoek ontvang? -- Ja.

Het u sodanige aantekening gemaak? -- Op die 1ste van Mei om 10.15 die oggend was Jack Tarshish besoek deur Miss Jewell, 61 Tennantstraat, Kaapstad, sy het voorgegee as 'n vriendin van hom.

Dié persoon wat vir Tarshish daar besoek het, sien u die persoon hier in die Hof? -- Ja.

Waar is sy? -- Daar is sy.

30 Is dit die beskuldigde? -- Ja.

Hoe lank het die onderhoud of die besoek geduur? -- 'n Halfuur, wat hulle geregtig is voor.

Was dit in u teenwoordigheid wat die besoek plaas-  
gevind het? -- Ja.

Op die 8ste Mei hierdie jaar het die genoemde Jack  
David Tarshish nog 'n besoek ontvang waarvan u kennis  
dra? -- Ja.

Deur wie is genoemde persoon op hierdie datum  
besoek? -- Dieselfde dare.

Deur die beskuldigde? -- Deur die beskuldigde.

Hoe lank het die besoek hierdie geleentheid geduur?

10 Ook 'n halfuur.

Weer in u teenwoordigheid? -- Weer in my teenwoordig-  
heid.

GEEN VERDERE VRAE NIE.

MR. DISON CROSS-EXAMINES: You were present during the  
visits were you not? -- I was present yes.

They only spoke about their private business, didn't  
they? -- Yes, friendly.

NO FURTHER QUESTIONS.

20 P.P. Your Worship, I have before me a photostatic copy  
of a list, extraction of a list, held by the Secretary  
for Justice, Mr. C.J. Greeff under Section 8 of the said  
Suppression of Communism Act and this photostatic copy  
is duly sealed by the seal of the Department of Justice.  
I hand it in as EXHIBIT B.

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S T A T E C A S E

THE DEFENCE WISHES TO LEAD NO EVIDENCE AS TO THE CONVICTION.

## THE PUBLIC PROSECUTOR ADDRESSES COURT.

JUDGMENT

You are charged with two counts of having contravened Section 10(1)(a) read with Section 11(i) of the Suppression of Communism Act, 1950 (Act 44 of 1950) as amended.

10 Firstly, in that upon the 1st day of May, 1963, and at or near Roeland Street Prison, Cape Town, in this Regional Division, you being a person prohibited from communicating in any manner whatsoever with any person whose name appears on any list, in the custody of the officer referred to in Section 8 of the Suppression of Communism Act, 1950, did during the period 20th April, 1963 and the 29th February, 1968, wrongfully and unlawfully communicate with Jack David Tarshish, a person whose name appears on the said list. And secondly, that for the same reason as set out in the first count, you contravened the aforementioned Section of the Act by having communicated with the said David Jack Tarshish on the 8th day of May, 1963.

20 No evidence has been led by the Defence and you pleaded guilty to both these counts.

The State has proved firstly that the order prohibiting you from communicating in any way whatsoever with any person whose name appears on the list mentioned in Section 8 of the Suppression of Communism Act was duly served on you at 12.35 a.m. on the 20th April, 1963. And secondly, that the name of Jack David Tarshish appears on the list held by the Secretary for Justice in terms of Section 8 of the Suppression of Communism Act and thirdly, that on the 1st day of May, 1963 and again on the 8th day of May, 1963, you visited Roeland Street Prison and spoke to

30

the said Jack David Tarshish on both occasions. This evidence proves the charge that has been brought against you and there has been no contradiction by you at all of the evidence given by the State witnesses and the Court therefore finds you GUILTY on both these counts as charged.

PREVIOUS CONVICTIONS ADMITTED BY THE ACCUSED.

The Defence calls in mitigation -

GILLIAN ELSIE JEWELL, s.s.

10

MR. DISON EXAMINES: Miss Jewell, you are the accused? What was the relationship between yourself and Mr. Tarshish mentioned in the charge? -- We loved one another.

Did you plan to get married? -- Yes, we did.

Will you look at this document - is that a copy of the Antenuptial Contract that has been drawn up between the two of you? -- Yes, it is.

I hand that in (EXHIBIT C).

Have you applied for permission to marry Mr. Tarshish? -- Twice.

20

Permission has not been obtained? -- No.

On the occasions mentioned in the charge you went to Roeland Street Gaol, I understand that you took with some food? -- Yes.

And you asked the permission to see Mr. Tarshish from the Prison Authorities? -- Only from the warders.

You've heard Mr. Boonzaaier's evidence to the effect that you just had a friendly conversation about personal matters - do you agree with that? -- Yes.

NO FURTHER QUESTIONS.

PUBLIC PROSECUTOR CROSS-EXAMINES: What is the date on the Antenuptial Contract?

COURT: 3rd June.

P.P. This year? When did you apply to marry Mr. Tarshish? -- On the 6th of May. The Chief Magistrate of Cape Town was seen before the 6th but he said application had to be made to the Secretary of the Minister of Justice. This was done so he said application had to be made to the Minister himself and this was done also on the 6th.

NO FURTHER QUESTIONS.

COURT: When did you see the Magistrate of Cape Town? -- I didn't see him, my Lawyer did.

You don't know when that was? -- No, I don't.

Could you say whether it was before .... -- It was between the 1st and the 6th.

So that it was between the 1st and the 6th of May that the interview with the Magistrate took place and also the application to the Secretary for Justice? -- Yes, I think I made a mistake. I think it was the Acting Chief Magistrate of Cape Town, the Chief Magistrate was away.

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MR. DISON ADDRESSES COURT IN MITIGATION.

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SENTENCE

You have been convicted of failing to comply with the provisions of an order served upon you under the prevention of Communism Act in contravention of Section 10(1)(a) Act 44 of 1950. The Court has heard the evidence and it is proved from the evidence you did not discuss any matter which could in any way be called contentious with Mr. Tarshish on the occasions that you saw him. But you were well aware of the fact that you had no right to communicate with him at all or with anybody else who is listed and what is more the order served upon you made special provision - there is a note endorsed on it - "the Magistrate of Cape Town, has in terms of Section 10(1)(a) of Act 44 of 1950 been empowered to authorise exceptions to the prohibitions contained in this notice." Now if application had been made to the Magistrate by you for permission to see Mr. Tarshish and that permission had been refused and you'd thereupon gone to see him without permission, the Court would have considered that as being a very strong mitigating factor in the circumstances. But here we are dealing with a case of although knowing that you had no right to see him, you nevertheless went to see him without in any way attempting to obtain permission to do so. In other words, you did not take any notice at all of the notice of prohibition served upon you and that means that the offence as committed by you on these two occasions is not as small as one <sup>might</sup> otherwise expect it to be. The Court feels that where there is a deliberate disregard for a notice served upon you in a case like this, then the Court cannot treat the person who does that as leniently as the Court would in the ordinary circumstances had at least an attempt been made



to try and comply with the provisions of the order. In any event the nature of the conversation was such that the Court is satisfied that no harm has been done. The Court will take into consideration the fact the previous convictions which you have admitted do not really bear any relation to the present offence at all. In the circumstances the Court sentences you on each of these counts to 12 months imprisonment, 11 months whereof will be suspended for the period of 3 years on condition that you are not again convicted of any offence under the Suppression of Communism Act committed within the period of suspension, both sentences to run concurrently.

-----

I, the undersigned, hereby certify that the foregoing is a true and correct transcript of the original evidence recorded by mechanical means in the case of  
THE STATE versus GILLIAN ELSIE JEWELL.

L.K. HATTINGH  
TRANSCRIBER

CAPE TOWN.  
28th August, 1963.

Supreme Court Case No. A & R. 377/63.

Magistrate's Court : CAPE TOWN.

Police Station : CAPE TOWN.

R.C.A. No. : 2572.5.63.

Case No. SH/R310/63.

F.P. No. 126847/63/W.

IN THE SUPREME COURT OF SOUTH AFRICA

(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

In the matter of

GILLIAN ELSIE JEWELL, W/F. Appellant

versus

THE STATE

10

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Having heard Counsel for the Appellant and Counsel for the State, and having read the record in the Appeal,

THE COURT ORDERS:

1. That the appeal be, and is hereby upheld;
2. That the sentence be, and is hereby, set aside and the case remitted to the Magistrate to pass sentence afresh;
3. That bail to stand until the Magistrate re-imposes sentence.

20

BY ORDER OF THE COURT.

(Sgd.) M.J. Lourens.

CAPE TOWN : MONDAY, 18th NOVEMBER, 1963.

REGISTERED:

The Magistrate,  
CAPE TOWN.

Your original record and copies are returned herewith, one copy is being retained in this office for record purposes.

A verbatim copy of the judgment follows.

(Sgd.) M.J. Lourens.  
ASSISTANT REGISTRAR.

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ADV. FAGAN ADDRESSES COURT.

ADV. FAGAN HANDS IN COPY OF A LETTER - EXHIBIT D.

ADV. FAGAN CONTINUES ADDRESSING COURT.

-----  
S E N T E N C E

10 The Court was brought under the mistaken impression that there was a minimum penalty applicable in respect of these two charges; that was the reason why the Court had to impose a sentence of twelve months imprisonment on each of the two charges and why most of the imprisonment was suspended. However, it is now settled that there is no minimum penalty applicable to an offence under this Section and the Court feels therefore that both these charges should be treated as one for the purpose of sentence - that was in fact the purpose why the sentences on the previous occasion were ordered to run concurrently. The Court will therefore treat the two counts as one for purpose of sentence and just impose one sentence in respect of both these charges.

20 It has been stated by Mr. Fagan, and he has produced to the Court a copy of a letter addressed to the Accused, that she is now allowed by the Minister to see Mr. Tarshish so that in other words the contravention is not viewed by the authorities in a serious light - the Court accepts that as correct and for the reasons mentioned by Mr. Fagan the Court feels that it should not impose a suspended sentence in the circumstances of the case as now shown. But the Court nevertheless feels, as was pointed out previously, that where an order is served upon a person and that order prohibits a person from doing something

30

and then the terms of that order are contravened without any attempt whatsoever to try and obtain relaxation of the conditions imposed, that that is a serious matter. On the evidence of the Accused given in mitigation, it is clearly shown that the application or the interview with the Acting Chief Magistrate in regard to the application for marriage between the Accused and Mr. Tarshish, that interview took place between the 1st and the 6th of May, 1963, in other words  
10 between the two dates on which the offences were committed. It is also clear, here again on her own evidence, that she went to the prison to take Mr. Tarshish some food and then she asked the warders for permission to see him. The Accused knew that she could obtain a variation of the order served upon her if she applied for it, but she never did so and the Court feels that a deliberate disregard for an order of this nature is something that no court of law can countenance. Therefore the Court feels that to impose a sentence which will have the effect of  
20 letting the Accused go off scot-free, will not be correct in the circumstances. Taking all the circumstances into consideration, the Court feels that a short sentence of imprisonment is the correct sentence to be imposed and the Accused is sentenced to one months' imprisonment.

-----  
MR. FAGAN ADDRESSES COURT.

BAIL GRANTED - R100  
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I, the undersigned, hereby certify that the  
aforegoing is a true and correct transcript of the  
original evidence recorded by mechanical means in the  
case of:

THE STATE versus GILLIAN ELSIE JEWELL.

Cape Town.  
26th December, 1963.

S. TERBLANCHE.  
TRANSCRIBER.

EXHIBIT A.

In terms of sub-section (1) of section two hundred and sixty-three of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), I certify the attached document to be a true copy of the original notice which is under my control.

(Sgd.) C.J. Greeff,  
SECRETARY FOR JUSTICE.

COPY.

10 TO: GILLIAN ELSIE JEWELL,  
61 Tennant Street,  
CAPE TOWN.

NOTICE IN TERMS OF PARAGRAPH (a) OF SUB-SECTION (1)  
OF SECTION TEN OF THE SUPPRESSION OF COMMUNISM ACT,  
1950 (ACT NO. 44 OF 1950)

20 WHEREAS I, BALTHAZAR JOHANNES VORSTER, Minister of Justice of the Republic of South Africa, am satisfied that you are engaged in activities which are furthering or may further the achievement of the objects of communism, I hereby, in terms of paragraph (a) of sub-section (1) of section ten of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), prohibit you for a period commencing on the date on which this notice is delivered or tendered to you and expiring on the 29th day of February, 1968, from -

(a) absenting yourself from the magisterial district of the Cape;

(b) being within -

(i) any area set apart under any law for the occupation of Coloured or Asiatic persons;

- 10
- (ii) any location, native hostel or native village as defined in the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
  - (iii) any native compound;
  - (iv) the premises of any factory as defined in the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941);
- (c) communicating in any manner whatsoever with any person whose name appears on any list in the custody of the officer referred to in section eight of the said Suppression of Communism Act, 1950, or in respect of whom any prohibition under the said Suppression of Communism Act, 1950, or the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), is in force.

Given under my hand at Cape Town on this 20th day of February, 1963.

SIGNED: B.J. VORSTER,  
MINISTER OF JUSTICE.

20

NOTE:

The Magistrate, Cape Town, has in terms of section 10(1)(a) of Act No. 44 of 1950 been empowered to authorise exceptions to the prohibitions contained in this notice.

Ek sertifiseer dat ek die oorspronklike van hierdie bevel op Gillian Elsie Jewell bestel het om 12.35 v.m. op 20/4/63 by haar woonplek te Albionweg, Rondebosch



in die teenwoordigheid van S/Serst. P. Rall. Sy het  
geweier om die afskrif te teken.

GETEKEN: ? VAN WYK, S/SERST.  
24397.

KAAPSTAD.  
20/4/63.

GETUIE: P.J. RALL.  
22391 S/Serst.

EXHIBIT B.

I, CASPARUS JOHANNES GREEFF, Secretary for Justice,  
hereby certify -

- 10 (a) that I have been designated by the Minister of Justice under section eight of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), to keep in my custody the lists compiled under subsection (10) of section four and subsection (2) of section seven of the said Act;
- (b) that the reverse side hereof is a photostatic copy of a portion of a list in my custody under the said section eight; and
- (c) that the annexure hereto is a photostatic copy of the notification in respect of Jack David Tarshish, referred to in the said list.

20 Given under my hand at Cape Town on this 24th day of May, 1963.

(Sgd.) C.J. Greeff,  
SECRETARY FOR JUSTICE.

The Secretary for Justice,  
 Palace of Justice,  
P R E T O R I A.

REFERENCE NO. 3/1/50 Gen.

DATE: 28.12.1951.

PAGE: 82.

In terms of section 8 of Act 44/50, as amended, this constitutes page 82 of the list of which you have been appointed custodian of persons who are or have been office-bearers, officers, members of active supporters of the Communist Party of South Africa which has been declared an unlawful organization in terms of section 2(1) of the Act.

Copies of notifications to the persons and/or their Attorneys are attached.

(Sgd.) J. De V. Louw,  
LIQUIDATOR : ACT 44/50

L I S T.

<u>NO.</u>	<u>NAME AND ALIASES.</u>	<u>DATE &amp; PLACE OF BIRTH</u>	<u>NATIONALITY.</u>	<u>OCCUPATION.</u>	<u>LAST KNOWN ADDRESS.</u>	<u>REF. NO.</u>
305	Wheatley, L.J. @ Dickie (Mr.)	About 1923 Port Nolloth, C.P.	S.A. Born Coloured.	Machine Operator	c/o J. Ovenstone's Fish Canning Co., Port Nolloth.	2/50/373
306	Tarshish, Jack David (Mr.)	25.9.1921 Poland.	S.A. Citizen European.	Salesman.	"Trontham", Ave La Croet, Sea Point, Cape Town.	2/50/351.
307	Van Huizen, Matthias Johannes (Mr.)	4.5.1908 Transvaal.	S.A. Citizen European.	Moulder, S.A.R. & H. Workshops, Pretoria.	11 Joint Street, West Park, Pretoria.	2/50/396.

EXHIBIT B.REGISTERED.

2/50/351.

28.12.1951.

Gentlemen,

Act 44 of 1950 as amended by Act 50 of  
1951 : Mr. Jack D. Tarshish.

Having now afforded your client a reasonable opportunity of showing why his name should not be included in the list which I have been directed to prepare of persons who are or have at any time before or after the commencement of the Act been office-bearers, officers, members or active supporters of the Communist Party of South Africa which has been declared an unlawful organisation by Section 2(1) of Act 44 of 1950, as amended, you are hereby notified that I have this day included his name in the list on the grounds that he has been a member, office-bearer and active supporter of the said organisation.

Your attention is directed to the provisions of Section 8 of Act 44 of 1950, as amended, and to the fact that the Secretary for Justice, Palace of Justice, Pretoria, has been designated custodian of the list.

I have the honour to be,  
Gentlemen,  
Your obedient servant,

(Sgd.) J. de V. Louw,  
LIQUIDATOR : ACT 44 OF 1950.

Messrs. Frank & Bernadt,  
Attorneys,  
P.O. Box 252,  
CAPE TOWN.

EXHIBIT C.

I certify that the original hereof presently filed in my protocol bears revenue stamps to the value of R2.00 duly cancelled.

(Sgd.) H. Bernadt,  
NOTARY PUBLIC.

ANTENUPTIAL CONTRACT.

KNOW ALL MEN WHOM IT MAY CONCERN.

10 That on this the 3rd day of JUNE in the Year of Our Lord One Thousand Nine Hundred and SIXTY THREE (1963) before me HIMAN BERNADT Province of the Cape of Good Hope Notary Public by lawful authority duly sworn and admitted and in the presence of the Subscribed Witnesses, personally came and appeared

GILLIAN ELSIE JEWELL (Born 17th October, 1930) Spinster and

JACK DAVID TARSHISH (Born 25th September, 1921) Bachelor both of Cape Town.

20 And the Appearers declared that whéreas a Marriage has been agreed upon, and is intended to be shortly had and solemnized between the said intended Consorts,

GILLIAN ELSIE JEWELL and JACK DAVID TARSHISH they do, by these presents, contract, and agree, with each other, as follows:-

FIRST: That there shall be no Community of Property, or of Profit or Loss, between the said intended Consorts, but that he or she shall respectively retain and possess all his or her estate and effects, movable and immovable,

in possession, reversion, expectancy or contingency, as fully and effectually as if the said intended Marriage did not take place.

SECOND: That the one of them shall not be answerable for the debts and engagements of the other of them, whether contracted before or after the said intended Marriage.

10      THIRD: That all inheritances, legacies, gifts, or bequests, which may devolve upon, or be left, given, or bequeathed to either of the said intended Consorts, shall be the sole and exclusive property of him or her upon or to whom the same shall devolve or be left, given, or bequeathed.

20      FOURTH: That each of the said intended Consorts shall be at full liberty to dispose of his or her property and effects by will, codicil or other testamentary disposition, as he or she may think fit, without the hindrance or interference in any manner of the other of them, and that the marital power which the husband by law possesses is expressly excluded, and he is hereby deprived of it over the estate of his said intended spouse.

    UPON which conditions the said intended consorts respectively promise and agree to solemnize their contemplated marriage, and respectively to act up to the tenor of these presents under obligation of their persons and property according to Law.

THUS DONE, CONTRACTED AND AGREED AT CAPE TOWN THE

DAY MONTH AND YEAR FIRST BEFORE WRITTEN, IN THE  
PRESENCE OF THE UNDERSIGNED WITNESSES,

AS WITNESS to JACK DAVID TARSHISH

1. (Sgd.) ?
2. (Sgd.) ? (Sgd.) J.D. Tarshish.

AS WITNESS TO GILLIAN ELSIE JEWELL

1. (Sgd.) J. Jeffries.
2. (Sgd.) ? (Sgd.) G.E. Jewell,  
QUOD ATTESTOR

No. 17/33/4/4/12.

Exh. "D".

## REPUBLIC OF SOUTH AFRICA

Magistrates' Office,

CAPE TOWN.

14th November, 1963.

Miss G.E. Jewell,  
4 D King's Buildings,  
King's Road,  
SEA POINT.

10

Madam,

With reference to your letter of the 9th August, 1963, I beg to inform you that the Honourable the Minister of Justice advises that Mr. Tarshish is at present entitled to one visit every six months only and you will be permitted to visit him accordingly until he is entitled to further visiting privileges. The permission to visit is subject to the condition that meetings take place in the presence of a member of the Security Branch of the South African Police.

20

In view of the notice in terms of Section 10(1) (a) of the Suppression of Communism Act, 1950, which is in force against you it will be necessary for you to obtain permission to absent yourself from the Magisterial district of the Cape. The Honourable the Minister has indicated that you may apply to me for this permission on each occasion that you want to leave this district to visit Mr. Tarshish.

30

Yours faithfully,

(Sgd.)

(Chief Magistrate of Cape Town).



PREVIOUS CONVICTIONS.

Court and Place of Trial.	Date of Sentence	Sentence	Offence.
10 A. Cape Town. B.5358/61.	17.11.61.	R60 or 30 days Imp. of which R30 or 15 days is suspended for 2 years on condition accused does not in this time commit an offence of M.I. to property and pays the Dept. of Public Works the amount of R17 on or before 1.12.61.	M.I. to property - wall of Govt. Buildings.
20 Reg. Cape Town. ? /30/62.	28.11.62	R15 or 15 days IHL : Con. Sub Sec. (2) of Cape Town Municipal Regulation 1938 promulgated under Provincial Notice No. 337 dated 15.8.46 under provisions of Ord. 10/1912 R/W Sect. 1, 4, 5 & 6 of Act 8/1953.	Unlawful gathering in protest against a law.
30			

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IN THE MAGISTRATE'S COURT FOR THE REGIONAL DIVISION  
OF THE CAPE PENINSULA HELD AT CAPE TOWN.

CASE NO. : R.310/63.

In the matter of:

THE STATE

versus

GILLIAN ELSIE JEWELL

CHARGE: Contravening Section 10(1)(a) read with  
Section 11(i) of Act No. 44 of 1950, as  
amended - Two counts.

10

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The accused appeared before me on the  
22nd July, 1963, on the abovementioned charges.

She was legally represented and pleaded guilty  
to both counts.

At the conclusion of the trial she was con-  
victed. She admitted two previous convictions and was  
sentenced to twelve (12) months imprisonment, eleven (11)  
months whereof suspended for three (3) years on condition  
she is not again convicted of a contravention of the  
provisions of the Suppression of Communism Act No. 44  
of 1950, committed within that period, on each count;  
the sentences to run concurrently.

20

The accused now appeals against the sentence  
imposed; it being alleged that the sentence is excessive.

At the trial I delivered an extempore judgment  
which was mechanically recorded and now appears on  
(10) (11) (13) (14)  
pages 4 to 5 and 7 to 8 of the typed record, and I

respectfully request that this judgment be incorporated herein.

I do not wish to add anything thereto, as the reasons for imposing the sentence have been fully set out.

DATED AT CAPE TOWN, THIS 31ST DAY OF AUGUST, 1963.

(Sgd.) W.F. van der Merwe,  
REGIONAL MAGISTRATE.

IN THE MAGISTRATE'S COURT FOR THE REGIONAL DIVISION  
OF THE CAPE PENINSULA --- HELD AT CAPE TOWN.

CASE NO. R. 310/1963.

In the matter of:

THE STATE

versus

GILLIAN ELSIE JEWELL.

CHARGE: Contravening Section 10(1)(a) read with  
 Section 11(i) of Act No. 44 of 1950, as  
 amended - Two counts.

The accused appeared before me on the 22nd July, 1963, on the abovementioned charges and was convicted and sentenced.

She then appealed against the sentence imposed, and on the 18th November, 1963, the appeal was upheld the sentence set aside, and the case remitted to this Court for passing sentence afresh.

The accused again appeared before me, in pursuance to this order, on the 3rd December, 1963, and after her counsel had addressed the Court in mitigation, she was sentenced to one (1) months's imprisonment on both counts jointly.

She now appeals against this sentence, it being alleged that in all the circumstances the sentence is excessive.

The reasons for imposing the sentence were recorded by mechanical means and now appear on pages (17) (18) 12 to 13 of the typed record, and I respectfully request that these reasons be incorporated herein, as also my ex tempore judgment of the 22nd July, 1963, (10) (11) (13) (14) appearing on pages 5 to 6 and 8 to 9 of the original record.

I do not wish to add anything thereto except that the Court could not agree with counsel's submission that the contravention did not merit a more severe punishment than that the accused be detained until the rising of the Court. There was a deliberate disregard for the provisions of the order served upon her, and the Court felt that the sentence to be imposed had to act as a deterrent to the accused and to others.

For that and previously mentioned reasons the Court felt that, whilst allowing for all the factors urged in mitigation, the sentence had to be such as to impress upon the accused the gravity of her contravention, and she was sentenced to one (1) month's imprisonment on both counts jointly.

DATED at CAPE TOWN this 6th day of JANUARY, 1964.

(Sgd.) W.F. van der Merwe.

REGIONAL MAGISTRATE.

IN THE REGIONAL COURT FOR THE DISTRICT OF THE CAPE HELD  
AT CALEDON SQUARE, CAPE TOWN.

In the matter between:-

THE STATE

versus

GILLIAN JEWELL

---

NOTICE OF APPEAL

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10

KINDLY TAKE NOTICE that the abovenamed Accused hereby notes an appeal against the sentence imposed upon her consequent upon her conviction in the above Court on the 22nd July, 1963, on the following ground:-

The sentence is in all the circumstances excessive.

DATED at Cape Town this 22nd day of July, 1963.

Frank, Bernadt & Joffe,  
per: (Sgd.) ?

20

Accused's Attorneys,  
85 St. George's Street,  
Cape Town.

To: The Clerk of the Regional Court,  
Cape Town.

IN THE REGIONAL COURT FOR THE DISTRICT OF THE CAPE  
HELD AT CALEDON SQUARE, CAPE TOWN.

SH/R. 310/1963.

In the matter between:

THE STATE

vs.

GILLIAN JEWELL.

---

NOTICE OF APPEAL

---

10

KINDLY TAKE NOTICE that the abovenamed Accused hereby notes an Appeal against the sentence imposed upon her on 5th December, 1963, consequent upon her conviction in the above Court on the 22nd July, 1963, on the following ground:-

The sentence is in all the circumstances excessive.

DATED at CAPE TOWN this 5th day of DECEMBER, 1963.

FRANK, BERNADT & JOFFE,

Per:

20

Accused's Attorneys,  
85 St. George's Street,  
CAPE TOWN.

To: The Clerk of the Regional Court,  
CAPE TOWN.

SAAK NO. : SH/R.310/63.

BORGSTELLING.

In die saak van die Staat teen Gillian Elsie Jowell skuldig bevind deur die Landdros te "R" Hof, Kaapstad op die 22ste dag van Julie 1963 op 'n klagte van O/A 10(1)(a) van die Onderdrukking van Kommunisme, Wet 44 /1950 (twee klagtes) en gevonniss tot 12 maande gevangenisstraf waarvan 11 maande opgeskort is vir 3 jaar op voorwaarde dat beskuldigde nie weer skuldig bevind word aan 'n verdere klagte van genoemde misdaad nie gedurende tydperk van opskorting.

Eenhonderd (R100.00) Rand gedeponeer deur I.Vukic. Skriftelike kennisgewings moet gerig word aan Frank, Bernadt & Joffe, St. Georgesstraat 85, Kaapstad.

22.7.63.

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BORGSTELLING00359

Die Staat teen GILLIAN ELSIE JEWELL  
skuldig bevind deur die Landdros, "R" Hof, Kaapstad  
op die 5de dag van Desember 1963 op 'n klagte van  
O/A 10(1)(a) Wet 44/1950 - Onderdrukking van Kommunisme  
en gevonniss tot Een maand Gevangenisstraf.

Een hondred (R100.00) gedeponeer deur L Vukic.

Skriftelike kennisgewings moet gerig word aan  
Frank, Bernadt & Joffe, St. Georgesstraat 85, Kaapstad.

10

5.12.63.

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A. & R. 12/1964IN THE SUPREME COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CAPE TOWN, Thursday, 11th June, 1964.

Before the Honourable Mr. Justice Beyers, Judge-President,  
and the Honourable Mr. Justice Theron.

Between:

GILLIAN ELSIE JEWELLApplicant  
(Appellant)

10

and:

THE STATE

Respondent

Having heard Mr. Dison, Counsel for the Applicant (Appellant) and Mr. Nöthling on behalf of the State on an application for leave to appeal to the Appellate Division against the judgment of this Court delivered on this day dismissing the Applicant's appeal and confirming her conviction and sentence,

20 THE COURT grants leave to the Applicant (Appellant) to appeal to the Appellate Division on the question of sentence and

orders that bail do stand pending the said appeal.

BY THE COURT

(Sgd.) M.J. LOURENS  
ASSISTANT REGISTRAR

(FRANK, B. &amp; J.)

IN THE SUPREME COURT OF SOUTH AFRICA  
(APPELLATE DIVISION)

In the matter of:

GILLIAN ELSIE JEWELL

Appellant

and

THE STATE

Respondent

---

NOTICE OF APPEAL.

---

10           PLEASE TAKE NOTICE that the Appellant hereby  
notes an Appeal to the Appellate Division against that  
part of the Order in which the Appeal against sentence  
was dismissed, granted by their Lordships, the Honourable  
Mr. Justice Beyers sitting with the Honourable Mr. Justice  
Theron in the Cape of Good Hope Provincial Division of the  
Supreme Court of South Africa, on the 11th day of June,  
1964, in a matter in which an Appeal against the sentence  
of the Cape Regional Court Magistrate, Cape Town, passed  
20 on the 5th December, 1963, was dismissed and the conviction  
and sentence were confirmed; leave to appeal against the  
said part of the judgment having been granted by the Cape  
of Good Hope Provincial Division of the Supreme Court of  
South Africa on the 11th June, 1964.

DATED at CAPE TOWN This 19th day of JUNE, 1964.

FRANK, BERNADT & JOFFE,

per:

Appellant's Attorneys,  
85 St. George's Street,  
CAPE TOWN.

To: The Registrar,  
Appellate Division of the Supreme Court,  
BLOEMFONTEIN.

And to:

The Registrar of the Supreme Court,  
(Cape of Good Hope Provincial Division)  
Keerom Street,  
CAPE TOWN.

And to:

The Attorney General for the Cape Province,  
Keerom Street,  
CAPE TOWN.

LODGED BY:

Messrs. Lovius & Block,  
Warden Buildings,  
52 Henry Street,  
BLOEMFONTEIN.

RECEIVED NOTICE

.....  
REGISTRAR APPELLATE DIVISION

RECEIVED NOTICE

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REGISTRAR CAPE PROVINCIAL DIVISION

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