

**IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU NATAL DIVISION, PIETERMARITZBURG**

Case No: AR42/2012

**In the matter between:**

**JACKSON THAMSANQA KHUMALO**

**APPELLANT**

**and**

**THE STATE**

**RESPONDENT**

**Coram : Poyo Dlwati J (Koen J et Ntshulana AJ concurring)**

**Heard : 01 February 2019**

**Delivered : 11 February 2019**

---

**ORDER**

---

(a) Eight years of the sentence on counts 1 and 2 and the whole of the sentence on counts 6 and 7 are ordered to run concurrently with the sentences in counts 4 and 5. The cumulative effect of these sentences will be 30 years' imprisonment. Further it is directed that the sentence of 20 year's imprisonment imposed by the Regional Court on 20 March 2008 under case no.223/06 shall run concurrently with the above sentence. These directions are antedated to 4 April 2008.

---

---

## JUDGMENT

---

**Poyo Dlwati J:**

[1] This is an appeal against the cumulative effect of sentences imposed on the appellant by Swain J on 4 April 2008. The issue arose after the appellant successfully appealed against his murder conviction which carried a sentence of imprisonment for life which had the effect that the other sentences would then have to be served consecutively.

[2] On 4 April 2008, the appellant was convicted of conspiracy to commit robbery with aggravating circumstances (count 1), robbery with aggravating circumstances (count 2) and the murder of Cornelius Marthinus De Wit (count 3). All these offences were perpetrated on 27 October 2003. In addition, the appellant was also convicted of conspiracy to commit robbery with aggravating circumstances (count 4), robbery with aggravating circumstances (count 5) and; kidnapping (counts 6 and 7). The latter offences were perpetrated on 20 September 2004.

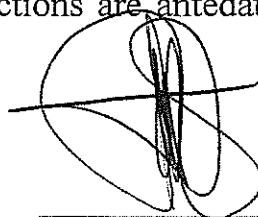
[3] In respect of counts 1 and 2, the appellant was sentenced to 18 years' imprisonment. In respect of count 3, he was sentenced to life imprisonment. In respect of counts 4 and 5, he was sentenced to 20 years' imprisonment. In respect of counts 6 and 7, he was sentenced to five years' imprisonment for each count. On 21 September 2012, the appellant successfully appealed against his conviction of murder (count 3) and thereby the sentence of life imprisonment fell away.

[7] The sentences imposed therefore should still reflect the balance between the appellant's personal circumstances, the seriousness of the offences and the interests of society. In the end, the sentence must suit the offence and the offender and must still serve as a deterrent to the appellant and other would-be offenders. In my view, an effective sentence of 30 years' imprisonment will serve this purpose. It will also achieve the equilibrium sought to be met in sentence proceedings.

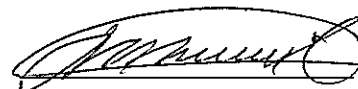
### **Order**

[8] In the result, the following order is proposed:

(a) Eight years of the sentence on counts 1 and 2 and the whole of the sentence on counts 6 and 7 are ordered to run concurrently with the sentences in counts 4 and 5. The cumulative effect of these sentences will be 30 years' imprisonment. Further it is directed that the sentence of 20 year's imprisonment imposed by the Regional Court on 20 March 2008 under case no.223/06 shall run concurrently with the above sentence. These directions are antedated to 4 April 2008.



**Poyo Dlwati J**



**Ntshulana AJ**



**Koen J**

APPEARANCES

Date of Hearing : 01 February 2019  
Date of Judgment : 11 February 2019  
Counsel for Appellant : Mr S Matthews  
Instructed by : Silvia Da Silva Attorneys  
Counsel Respondent : Ms A Watt  
Instructed by : Director of Public Prosecution PMB