

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 22 September 2006

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

On 22 September 2006 the Supreme Court of Appeal handed down judgment in *Xolani Ngcina v The State*. It upheld the appellant's appeal against his convictions on a charge of robbery with aggravating circumstances and unlawful possession of a firearm. It held that the complainant's evidence identifying the appellant as the gun-wielding robber was unreliable.

The court found it disturbing that the appellant had spent six years in custody pending the finalisation of his trial and subsequent appeals. It took more than forty months for his trial, which was an uncomplicated one, to be completed.

Counsel for the State was as concerned about the state of affairs in the province from which the matter emanated. He explained that there were police investigation backlogs that continued to grow.

There were too few police to deal with crime. There were insufficient magistrates in some regions to deal with and overcome case backlogs.

The court stated that it was outrageous that in a constitutional state such as ours persons such as the appellant spent many years in jail awaiting the finalisation of their cases. It made a mockery of the rights of accused and detained persons.

The court referred to its judgment in a case in 2005 in which an appellant had spent ten years in jail pending the finalisation of his case and noted it against the developments in the present case.

The registrar was directed to bring this state of affairs to the attention of the Ministry of Justice and the National Director of Public Prosecutions.

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