

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: September 2007

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.

OSWALD DISSEL v THE STATE

The Supreme Court of Appeal today dismissed the application for leave to appeal against conviction brought by the appellant, Mr Oswald Diessel, but upheld his appeal against sentence. The appellant had been convicted in the Graaff–Reinett Regional Court of the murder of his girlfriend's ex-husband and was sentenced to 15 years imprisonment, five of which were conditionally suspended. The Eastern Cape High Court had, on appeal to it, confirmed the conviction but increased the sentence to an effective 15 years imprisonment, after due notice to the appellant.

In dismissing the application for leave to appeal to the SCA against the conviction, the SCA pointed out that the conclusions reached by the regional magistrate, with which the High Court agreed, were based largely on factual findings depending on the credibility of various witnesses who testified during the trial, including the appellant.

In upholding the appellant's appeal against sentence the SCA pointed out that a careful scrutiny of the regional magistrate's reasons for imposing the sentence that it did reveal that he took all relevant factors pertaining to sentence into account and that the High Court erred in having found that no substantial and compelling circumstances existed. The SCA accordingly reinstated the regional magistrate's sentence (Suspending five of the 15 years imprisonment).