

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 26 September 2008

Status: Immediate

K MANTSHA v THE STATE

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

In a judgment delivered today, the Supreme Court of Appeal has dismissed an appeal against the decision of the Cape High Court, in terms of which that court had refused Mr Kholisile Mantsha – the appellant – permission to prosecute his appeal. Mr Mantsha was convicted of robbery, unlawful possession of a fire-arm and ammunition and two counts of attempted murder. The regional court sentenced him to a total of 15 years' imprisonment on 7 August 1998.

Upon intimating that he wished to appeal, an attorney was appointed by the Legal Aid Board to represent him in the appeal process. But that attorney failed to prosecute his appeal. In September 2002, Mr Mantsha himself lodged papers relating to his appeal but then it was too late. He was required to lodge his appeal within 14 days from the date of sentencing. Since his appeal was then out of time, he was required to ask for permission to prosecute it. Such request required that he furnishes the court with a reasonable explanation for the delay and show that he had prospects of success in the merits of the appeal.

Since the papers were prepared by Mr Mantsha himself, they did not satisfy these requirements. However before his request was heard by the Cape High Court, the Legal Aid Board appointed another attorney to represent him. This attorney failed to correct the papers and argued his case on the basis of the defective papers. His request was dismissed by the Cape High Court and the attorney concerned lodged a further appeal to the SCA. In dismissing the appeal the SCA was very critical of the quality of the legal representation Mr Mantsha has received at the hands of the attorney appointed by the Legal Aid Board.