

Supreme Court of Appeal South Africa

**MEDIA SUMMARY — JUDGMENT DELIVERED IN THE SUPREME COURT
OF APPEAL**

From: The Registrar, Supreme Court of Appeal

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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.

THEMBALETHU SAM v THE STATE

[1] The Supreme Court of Appeal today dismissed the appeal by Mr Thembaletu Sam who was sentenced to 15 years' imprisonment for being in possession of a semi-automatic pistol. The evidence led at the trial was that he had used the firearm during the robbery of a bank in Adelaide, Eastern Cape.

[2] In the appeal before the SCA Sam argued that there was no offence for 'possession of a semi-automatic firearm' and that, the provisions of the Criminal Law Amendment Act, commonly referred to as 'the minimum sentence provisions' were not applicable. Sam argued further that the regional court was consequently wrong to have sentenced him to 15 years' imprisonment instead of no more than 3 years' imprisonment as provided for in the now repealed Arms and Ammunition Act 75 of 1969. The firearm concerned has also featured on a charge of attempted murder, arising out of

the shooting of a bystander as Sam tried to make good his escape after the robbery.

[3] The Supreme Court of Appeal rejected that argument, and held that in providing for increased penal jurisdiction for the possession of a semi-automatic firearm the Legislature had not created a new offence. It merely enhanced the penal jurisdiction of the court in respect of an existing offence, which was considered to fall in a certain category specified in the Schedule. Offences relating to the possession of a semi-automatic or automatic firearm were offences in respect of which the court acquired an enhanced penal jurisdiction.

[4] Having found no substantial and compelling circumstances justifying a departure from the minimum sentence laid down in the Criminal Law Amendment Act to be present, the Supreme Court of Appeal concluded that the regional magistrate had not misdirected himself and upheld the sentence of 15 years' imprisonment of which 11 years were to run concurrently with the sentence of 15 years on the count of robbery.