



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 29 September 2011
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.

Mokela v The State (135/11) [2011] ZASCA 166 (29 September 2011)

The appellant was convicted pursuant to his plea of guilty of robbery with aggravating circumstances and attempted murder. He was sentenced to 25 years' imprisonment in respect of the robbery with aggravating circumstances and 5 years in respect of attempted murder. The regional magistrate had ordered the sentence in respect of attempted murder to run concurrently with the sentence in respect of robbery with aggravating circumstances.

On appeal, the North Gauteng High Court the sentence of 25 years' imprisonment for robbery with aggravating circumstances was reduced to 15 years' imprisonment. However the High Court varied the order of the regional court for the sentences to run concurrently and ordered them to run cumulatively without giving any reasons.

On appeal the SCA found that, absent any suggestion that the regional magistrate had not exercised his discretion in terms of s 280(2) of the Criminal Procedure Act 51 of 1977 properly when he ordered the sentences to run concurrently, that the high court erred in interfering with such a discretion. The SCA re-affirmed the principle that sentencing falls pre-eminently within the discretion of the sentencing court. The SCA upheld the appeal and ordered the sentence of 5 years' imprisonment in respect of attempted murder to run concurrently with the sentence of 15 years' imprisonment in respect of robbery with aggravating circumstances.