



**THE SUPREME COURT OF APPEAL  
REPUBLIC 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.*

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**DIRECTOR OF PUBLIC PROSECUTIONS V THUSI AND OTHERS**

Today, the 29 of September 2011, the Supreme Court of Appeal (SCA) handed down in the matter of DPP (North Gauteng, Pretoria) v Thulani Sibusiso Thusi and two others, a judgment wherein the sentences imposed by the court below on the murder and rape counts were set aside and replaced with life imprisonment respectively.

All the respondents had been convicted of murder and sentenced to 15 years' imprisonment amongst other charges. The second respondent alone was convicted of rape of an 84 year old woman and sentenced to 18 years imprisonment amongst other charges. The appeal by the DPP was against the sentences imposed on the murder and rape counts.

Both the murder and the rape charges fall within the ambit of section 51 (1) of the Criminal Law Amendment Act (minimum sentence legislation) which requires a court convicting a person of such charges, to impose a life imprisonment sentence, unless it finds substantial and compelling circumstances to justify a less sentence. The trial court found that such circumstances, in relation to the two offences, existed and imposed a lesser sentence than the

prescribed minimum sentence.

This court upon a thorough consideration of the facts and the law, concluded that; in respect of the two offences the trial court misdirected itself in finding substantial and compelling circumstances. This court concluded that having regard to the serious consequences resulting from these offences, no substantial and compelling circumstances existed to justify a lesser sentence. Also that the trial court over emphasized the mitigating factors and under-estimated the aggravating factors.

The SCA found itself at large to interfere with the discretion exercised by the trial court and considered the sentences afresh.