



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 30 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.

DPP v Thabethe (135/11) [2011] ZASCA 186 (30 September 2011)

In a judgment delivered on 30 September 2011, the Supreme Court of Appeal (SCA) upheld an appeal by the State, set aside the sentence imposed on the respondent and replaced it with a sentence of 10 years' imprisonment.

The respondent was convicted pursuant to his plea of guilty of having had unlawful sexual intercourse with a girl below the age of 16 years. At the time the complainant was 15 years and 10 months old. The respondent stayed with the complainant's mother as a live-in lover. He was looked upon and accepted as a father-figure in the family. The respondent and the complainant, assisted by her mother successfully attended a family group conference for the purpose of reconciling and repairing their relationship. The complainant testified that she had in fact forgiven the respondent and did not wish to see him go to jail. The court below found substantial and compelling circumstances present. As a result the court below sentenced the respondent to 10 years' imprisonment for 5 years wholly suspended on certain conditions.

On appeal by the State against the sentence, the SCA found that, although there were substantial and compelling circumstances, the sentence imposed was disturbingly inappropriate as it failed to take account of the gravity of the offence and the interests of society. The SCA upheld the appeal, set the sentence aside and replaced it with a sentence of 10 years' imprisonment.