



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 27 November 2014

STATUS Immediate

Zono v The State (20182/2014)

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

The appellant was convicted in the High Court (Circuit Local Division for the Western Circuit, Klerksdorp, on 12 June 1996, on charges of murder, attempted murder, robbery with aggravating circumstances and unlawful possession of a firearm and ammunition. He was sentenced to an effective period of imprisonment of 60 years. The high court recommended that the appellant not be considered for release on parole, before having served a period of 40 years' imprisonment.

The appellant appealed to the full court of the North Gauteng High Court against his convictions and sentences. On appeal the sentence was reduced to an effective period of imprisonment of 45 years and the high court 'ordered that the

[appellant] ... serve a non-parole period of 25 years.’ The appellant was granted special leave by this court to appeal against that part of the order of the full court pertaining to the non-parole period of 25 years.

This court stated that the fixing of a non-parole period constitutes an increase in the penalty imposed on a convicted person, and thus cannot operate retrospectively. It stated that as at July 1995, when these offences were committed, there was no legislative provision for a court to stipulate a non-parole period. Rather, parole was within the discretion of the executive (in the form of the Correctional Supervision and Parole Board). It held that any attempt to stipulate a non-parole period in a matter involving a crime committed prior to the coming into operation of s 276B, was impermissible. In the absence of legislative authority to do so, it appears that courts that sought to impose such a non-parole period, as both the sentencing court and the full court in this matter, misdirected themselves. In the circumstances it upheld the appeal and set aside the order of the full court fixing a non-parole period is set aside.