



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
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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.

PETER MASHUDU NEVILIMADI v THE STATE

The Supreme Court of Appeal (SCA) today, partially upheld an appeal against a decision of the Limpopo High Court, Thohoyandou in that, the appeal against conviction was dismissed whilst appeal against sentence was upheld. This court set aside a sentence of 39 years' imprisonment and replaced it with one of 15 years imprisonment.

Mr Nevilimadi (the appellant) stood trial in the Sexual Offences Court, Thohoyandou, Limpopo, on a charge of rape. He pleaded not guilty and at the end of the trial was found guilty of rape involving a girl under the age of 16 years. The magistrate stopped the proceedings and referred the matter to the Limpopo High Court, Thohoyandou for sentencing. At that stage, the appellant was 18 years old. The high court found substantial and compelling circumstances and imposed a sentence of 39 years' imprisonment.

In this court, the appellant abandoned his appeal against conviction and persisted in his appeal against sentence. On a conspectus of the evidence and the findings of the court below this court was satisfied that the appellant's version was correctly rejected. The conviction was therefore confirmed.

With regards to the appeal against sentence, this court agreed with counsel for both parties that the court below, notwithstanding its conclusion that substantial and compelling circumstances did exist, imposed a sentence that was disturbingly inappropriate and unduly harsh. This court concluded that, for those reasons, it was entitled interfere and impose sentence afresh.

After considering all the relevant factors, this court concluded that a sentence of 15 years' imprisonment would be appropriate under the circumstances.

Accordingly the SCA made an order dismissing the appeal against conviction and upholding the appeal against sentence. A sentence of 15 years' imprisonment was imposed. The sentence was antedated to 24 December 2001, being the date upon which the sentence was imposed.