



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
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STATUS Immediate

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

Dlanjwa v The Minister of Safety and Security (20217/2014) [2015] ZASCA 147 (01 October 2015)

MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) upheld an appeal by the appellant, Mrs Dlanjwa against an order by the majority of the full court, Eastern Cape Local Division, Mthatha (Tshiki and Van Zyl JJ, Alkema J dissenting). The judgment of the full court had overturned a judgment of a single judge (Petse J) which upheld the appellant's claim for damages, on the merits (on the merits) in the sum of R5 858 500, against the Minister of Safety and Security (the Minister) and his erstwhile co-defendant, the Station Commander of Ngangelizwe Police Station, Mthatha (the second defendant).

The appellant's claim arose from a tragic domestic violence incident which occurred on 19 April 2006 and left the appellant with horrendous gunshot injuries inflicted by her late husband (the deceased), who was employed as a Sergeant by the South African Police Service (SAPS). After shooting the appellant with a service firearm which, apparently had not been officially allocated to him, the deceased had turned the firearm on himself with fatal consequences.

The appellant then sued the Minister and the second defendant, in her personal capacity, for general damages, medical expenses, loss of earnings and loss of support arising from her injuries and the deceased's suicide. She also sued for loss of support on behalf of her infant triplets born of her marriage with the deceased. The appellant contended that the shooting and commission of suicide by the deceased were caused by the negligence of police officials attached to Ngangelizwe police station, Mthatha because they had failed to, amongst other things, dispossess the deceased of the firearm, despite her previous requests and their knowledge that the deceased pointed a firearm at her

and threatened to shoot her and thereafter kill himself, which had led her to obtain a protection order against him. Thus, the appellant alleged, the police failed to take measures to protect her from being injured by the deceased and prevent him from killing himself, which they should have foreseen, in breach of the legal duty they owed her. The respondent denied that there had been breach of a legal duty by the police officers concerned, on the main basis that the appellant did not inform the police of the deceased's threats to shoot her and that he pointed the firearm at her.

In the SCA, the issue for determination was whether, it being common cause that a legal duty to act existed, the other requirements for a claim based on wrongful omissions of police officers had been met ie (a) that the police officers breached that legal duty and did so negligently; and (b) there was a causal connection between such negligent breach of the legal duty and the harm suffered by the appellant. In order to determine whether these requirements had been proved, the SCA had to establish whether the appellant had told the police that the deceased had pointed the firearm at her and threatened to shoot.

The SCA held that it was probable that the appellant reported the deceased's violent conduct against her and his suicide threats and the threats to shoot her, to the relevant police officials at the second defendant's police station and that the police was negligent in failing to dispossess the deceased of the firearm. The court accordingly held that the requirements for a claim based on wrongful omissions of police officers had been established, and concluded that both negligence and wrongfulness on the part of the police were proved.