



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.

Monye v S (107/16) ZASCA 111 (02 September 2016)

MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) dismissed an appeal by Mr Ambrose Monye and Mr Andre Gouws, against sentences of life imprisonment handed down by the Gauteng Division, Pretoria, following on a conviction of murder.

The issue before the SCA was whether the court a quo was correct in applying the minimum sentence of life imprisonment, or whether it should have found that substantial and compelling circumstances existed justifying a departure from that minimum sentence.

The appellants, along with two others, were convicted of the murder of Ms Chanelle Henning, who was shot dead in 2011, outside the crèche which her four year old son was attending at the time. The appellants were convicted on the basis that the killing was a contract killing, and they had acted as the middlemen who had planned, negotiated and arranged the murder.

As this was a premeditated murder, the minimum sentence was life imprisonment. However, the appellants argued before the SCA that the court a quo had erred, and should have departed from the minimum sentence on the basis that substantial and compelling circumstances existed. These were primarily that the appellants had shown remorse, admitted their guilt, and were willing to co-operate with the police in their investigations and to testify in the anticipated trial of the alleged true instigator of the murder, being the husband of the deceased.

The SCA rejected this argument. The appellants had both pleaded not guilty to the charge of murder, the trial was conducted on that basis at all times, and it was only *after* they were convicted that they

changed their version of events. The SCA held that their about turn was not a sign of remorse, but merely an opportunistic attempt to avoid the minimum sentence. Their approach in this regard also differed markedly from the other two persons who were convicted, who had co-operated with the State from the start and entered into plea and sentence agreements.

The SCA accordingly upheld the sentences imposed, concluding that departing from the minimum sentence would:

‘send out a wrong message and ignore the elements of deterrence and retribution that are so important in cases of this kind. I am not satisfied that in the circumstances of this case their about-turn is so weighty as to qualify as a substantial and compelling circumstance and to justify a sentence less than imprisonment for life.’

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