



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: 23 February 2022

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Rapholo Edwin Manyaka v The State (434/2020) [2022] ZASCA 21 (23 February 2022)

Today the Supreme Court of Appeal (SCA) upheld the appeal by the applicant and set aside the order of the Gauteng Division of the High Court, Pretoria (high court) and referred the matter back to the Pretoria Magistrate's Court (magistrate's court) to impose sentence afresh and consider the imposition of correctional supervision in terms of s 276(1)(h) of the Criminal Procedure Act 51 of 1977 (CPA).

The applicant was involved in a motor vehicle collision which resulted in the death of two persons, following from this, the magistrate's court sentenced the applicant to a period of imprisonment. On appeal to the high court, the magistrate's court's sentence was replaced with a period of imprisonment of four years, one year of which was suspended for five years. However, upon reporting to prison to serve his sentence, the applicant was informed that his imprisonment could not commence as the prison authorities were not in possession of his documentation. The prison officials informed the applicant that they would collect him from his home to serve his sentence when all administrative affairs were in order. Six and a half years later a warrant of arrest was issued which culminated in an urgent application to reconsider the sentence. The issue before the SCA was centred on the application for reconsideration of the sentence.

The SCA determined that the applicant was not the cause for the inordinate delay in serving out the sentence. Direct imprisonment was indeed appropriate, but due to the prevailing special circumstances, incarceration should rather be replaced with a sentence of correctional supervision in terms of s 276(1)(h) of the CPA, as this would have been in the interests of justice. Accordingly, the SCA upheld the appeal and set the order of the high court aside. The SCA referred the matter back to the magistrate's court to consider sentence afresh and to contemplate whether correctional supervision was a suitable sentence in the circumstances.

In a separate dissent, the SCA would have dismissed the appeal as the special circumstances at hand did not exist at the time of sentencing and should not have been taken into consideration in this present appeal. In addition, a copy of this judgment ought to be sent to the Department of Correctional Supervision to investigate why it took six years to order the applicant to report to the relevant authority to serve his sentence.

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