



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

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

Moloto v The State (1546/2024) [2025] ZASCA 169 (12 November 2025)

Today the Supreme Court of Appeal (the SCA) handed down a judgment in which it dismissed the appellant's appeal against an order of the North West Division of the High Court, Mahikeng (the high court).

The issue for determination before the SCA was whether there are substantial and compelling circumstances warranting a deviation from the prescribed minimum sentence of life imprisonment for murder and 15 years imprisonment for robbery. In addition, the Court was presented with an equality challenge in relation to the sentencing of the co-perpetrators.

Mr Boitumelo Caleb Moloto (the appellant), Mr Kgomotso Naphtally Phutsoane (the co-accused), and Mr Shimane Isaac Mafoko (the deceased), spent the night traveling to various taverns. Whilst, at one of the taverns, the appellant persuaded the co-accused to rob the deceased of his motor vehicle. The appellant, subsequently, requested the deceased to take them home. On their way home, the co-accused asked the deceased to stop the vehicle in order to attend to a call of nature. When the co-accused alighted, the appellant, who was at the back seat, strangled the deceased with a shoelace until he was unconscious. The pair put the deceased in the boot of the vehicle and drove to Rankelenyane Village (the village). Unbeknown, the deceased was still alive, and the appellant became aware of this before reaching the village. He stopped the motor vehicle and opened the boot. The deceased alighted from the boot and asked the pair what they were doing. The co-accused tripped the deceased and he fell. The appellant picked up a stone and hit the deceased on the forehead. The appellant asked the co-accused to help him pick up a bigger stone which they dropped on the deceased's head. The deceased bled profusely. The appellant and the co-accused loaded him again into the boot and along the way, they were presented with a flat tyre. While approaching another village, the vehicle went through a mud puddle and got stuck. They decided to abandon it with the deceased mumbling in the boot.

The trial court convicted and sentenced the appellant and co-accused to life imprisonment for the murder and 15 years' imprisonment for the robbery which were to run concurrently. The pair appealed the sentences at different times. The first full court, in respect of the co-accused, found that the trial court had misdirected itself and that there were mitigating circumstances that warranted a deviation

from the prescribed minimum sentences. The second full court, in respect of the appellant, however, found that there was no misdirection by the trial court.

The SCA found no fault in the sentences imposed by the second full court and held that it had considered all the relevant factors which included the personal circumstances of the appellant, the gravity of the sentences and all other factors relevant to sentencing. The Court further held that the brutality of the offences committed by the appellant, depict his ruthlessness as an offender and that his age could not be attributed to an immature offender sufficient to reduce his moral blameworthiness.

On the equality challenge, it was argued that the appellant and the co-accused were co-perpetrators in the commission of the offences and should have been treated equally. The Court rejected this contention, and it held that, the appellant and co-accused played different roles in the commission of the offences which warranted a disparity in their sentencing. There was therefore no unequal treatment in their sentencing.

As a result, the SCA dismissed the appeal.

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