



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: 13 May 2025

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

Lorenzi v The State (1171/2023) [2025] ZASCA 58 (13 May 2025)

Today the Supreme Court of Appeal (SCA) dismissed, an application for reconsideration of a decision made on an application for leave to appeal which was referred by the President of the SCA for oral argument in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013.

Between 2014 and 2016, Mr Lorenzi, the appellant, and in breach of his fiduciary duties as a co-director of Cleardata, a company specialising in document destruction, unlawfully transferred a total of R4.6 million from Cleardata's banking portal to his personal bank account and to various service providers who did not provide services to Cleardata, but rather to him personally. He resigned after Cleardata discovered the misappropriation of the funds. On 3 November 2022, the appellant pleaded guilty to and was convicted by the Regional Court in the Regional Division of the Western Cape, Cape Town (the trial court) on 18 counts of theft and eight counts of forgery, of which three counts were read with s 51(2) of the Criminal Law Amendment Act 105 of 1997. Having found that substantial and compelling circumstances exist that justified a deviation from imposing the minimum sentences on these three counts, the trial court sentenced him to an effective term of imprisonment of nine years. His application for leave to appeal was dismissed. The same applies to a petition he filed with the SCA, which led to this application for reconsideration.

The question before the SCA was whether the trial court erred in not imposing a correctional supervision sentence i.t.o s 276(3)(b) of the CPA instead of a custodial sentence on the appellant.

The SCA per Kgoele JA, in finding that the appellant failed to meet the jurisdictional requirement that exceptional circumstances exist and that justice would be denied unless leave for an appeal is granted, found that the substance of the reasoning underpinning the judgment of the regional court could hardly be faulted because the trial court considered all available sentencing options and reasons were provided why certain choices were made while others were not. Further that, the leave to appeal was correctly refused as the interest of the society and that of the appellant were correctly balanced by the trial court.

In a separate concurring judgement, Coppin JA agreed with the outcome of the main judgment, however disagreed that 'exceptional circumstances' was a jurisdictional fact which the appellant first had to meet. He held the view that existence of 'exceptional circumstances' was a jurisdictional fact for the exercise by the President of his or her discretion to refer the matter for reconsideration and therefore, the President had to satisfy himself or herself, that there are 'exceptional circumstances' before referring the matter for reconsideration, and found that to be a jurisdictional fact at that juncture.

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