



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: 30 July 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

Ntuli v The State (128/2023) [2025] ZASCA 114 (30 July 2025)

Today, the Supreme Court of Appeal (SCA) upheld an appeal against an order of the Gauteng Division of the High Court, Johannesburg (the high court) which dismissed an appeal against the convictions and sentences on three counts of attempted murder imposed by the Newlands Regional Court (the trial court) on the appellant, Mr Mbalenhle Sydney Ntuli (Mr Ntuli).

On 31 May 2008, Mr Ntuli and his co-accused allegedly shot at police officers during a robbery in Northcliff. Mr Ntuli was subsequently charged and convicted by the trial court on multiple charges. In respect of count 1 for robbery with aggravating circumstances, he was sentenced to 15 years' imprisonment. In respect of counts 2 to 5, which related to the possession of unlicensed firearms, he was sentenced to 5 years' imprisonment which was ordered to run concurrently with count 1. Finally, in respect of counts 6 to 8, which related to attempted murder, he was sentenced to 5 years' imprisonment, which was ordered to run consecutively with count 1. The cumulative effective sentence imposed on Mr Ntuli was thus a sentence of 20 years' imprisonment. Mr Ntuli subsequently appealed to the full court of the high court, which upheld both the convictions and sentences in respect of all counts. Mr Ntuli subsequently applied to the SCA for special leave in respect of counts 6 to 8, asserting that the full court erred in relying on the doctrine of common purpose in respect of these counts, thus violating his right to a fair trial.

The issue for determination before the SCA was whether the full court erred in confirming Mr Ntuli's conviction by applying the doctrine of common purpose in respect of counts 6 to 8, and thereby violated his right to a fair trial.

In finding that Mr Ntuli's right to a fair trial was indeed violated, the SCA noted that the state's evidence was plagued with contradictory witness testimony regarding his direct participation in the shooting and accordingly found that there was insufficient evidence to establish that Mr Ntuli committed the attempted murder counts. The SCA therefore criticised the approach taken by both the trial court in convicting Mr Ntuli based on findings of reckless firing due to his direct participation, and the high court for upholding the conviction by applying the doctrine of common purpose, despite no reference being made to common purpose by the State.

The SCA held further that the failure by the State to plead common purpose in the charge sheet or seek to amend the charge sheet at any stage before judgment was delivered or prove common purpose deprived Mr Ntuli of the opportunity to properly prepare and present his defence, which is central to the right to a fair trial. The SCA accordingly set aside the convictions and sentences on counts 6 to 8, thereby reducing Mr Ntuli's effective sentence to 15 years' imprisonment for the remaining convictions.