



**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:** 02 April 2026

**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*

*James Musa Motsitsi v The State (086/2023) [2026] ZASCA 44 (02 April 2026)*

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Today, the Supreme Court of Appeal dismissed the appellant's application for condonation and the reinstatement of his appeal on the basis that the appeal had lapsed due to non-compliance with rule 7(1)(b) of the SCA Rules. The Court found that the appellant's explanation for the delay was woefully inadequate and that the extent of the delay was excessive and unjustified.

The appellant was convicted on 9 October 2014 in the Gauteng Division of the High Court, Johannesburg, and was sentenced to life imprisonment on 20 November 2014. He was granted leave to appeal on 3 December 2014 and was required to lodge his notice of appeal by 2 February 2015. However, he only filed his notice of appeal approximately four years later and lodged the record a further five years thereafter. The SCA held that, although the appellant's incarceration may have limited his access to resources, such an extraordinary delay could not be excused, particularly as it prejudiced the State's interest in the finalisation of the matter.

On the merits, the appellant had sought to challenge only his conviction for murder. He was accused 4 in a trial where he and his co-accused were convicted on multiple counts, including three counts of murder, 28 counts of attempted murder, numerous offences under the Explosives Act 26 of 1956, and related offences arising from an explosion. The evidence established that, while in custody, a co-accused received a backpack containing commercial explosives, which were unpacked and handled by the group. The group then performed a ritual ceremony before boarding a prison transport vehicle, where explosives were placed at the door, resulting in an explosion that killed three prisoners and injured many others.

The appellant contended that he had disassociated himself from the conduct of his co-accused by choosing to sit in a separate compartment of the vehicle rather than in the main compartment. The SCA rejected this contention, holding that, in order to rely on the defence of active disassociation, an accused must demonstrate clear and unequivocal conduct indicating withdrawal from the common purpose.

The SCA found that the appellant had taken no steps to alert the authorities or to distance himself from the planned conduct in any meaningful way. His choice of seating constituted, at best, passive conduct and did not amount to a deliberate withdrawal from the common purpose.

Accordingly, the SCA concluded that the high court had correctly found that the State had proved beyond reasonable doubt that the appellant acted in common purpose with his co-accused. The application for condonation and reinstatement was therefore dismissed, and the conviction and sentence remained in place.

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