



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: 14 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

Lizelle Schreuder N O v Minister of Police and Others (047/2024) [2026] ZASCA 52 (14 April 2026)

Today, the Supreme Court of Appeal (SCA) upheld an appeal with costs on an attorney and client scale, including the costs of two counsel, against the judgment of the Gauteng Division of the High Court, Pretoria (the high court), which had dismissed a delictual claim for unlawful arrest and detention and granted a punitive costs order against the appellant.

The matter concerned Sunnyboy Nene (Mr Nene), a minor with significantly impaired mental capacity, who was arrested in February 2013 and detained until May 2013. He was treated as an adult throughout the criminal process, detained in an adult correctional facility, and exposed to severe harm, including physical and sexual abuse, despite clear indications of his minority and mental incapacity. The appellant, his curator ad litem, instituted a civil claim for damages arising from his unlawful arrest and detention.

The high court found that the arrest and detention were lawful, reasoning that the arresting officers had reasonable grounds to suspect the commission of an offence and that none of the officials involved knew that Mr Nene was a minor. It further held that his detention pursuant to court orders was lawful and dismissed the claim with punitive costs.

On appeal, the SCA held that the high court erred in its approach. It found that the arrest was unlawful because the safeguards under the Child Justice Act 75 of 2008, applicable to minors,

were not complied with. The SCA emphasised that ignorance of Mr Nene's age did not render the arrest lawful, particularly where the police failed to take reasonable steps to ascertain his age and mental condition.

The SCA further held that Mr Nene's detention was unlawful throughout. It found that the police, prosecutors, and correctional services officials all failed in their constitutional and statutory duties to protect a vulnerable minor. The SCA rejected the argument that detention pursuant to court orders rendered the deprivation of liberty lawful, holding that such detention must still be substantively justified. It concluded that the conduct of all relevant officials contributed to the ongoing violation of Mr Nene's rights.

In the result, the SCA set aside the high court's order and held the Minister of Police liable for the unlawful arrest and initial detention, and the Minister of Police, the Minister of Justice and Correctional Services, and the National Director of Public Prosecutions jointly and severally liable for the subsequent detention. The SCA also confirmed a punitive costs order against the respondents, censuring the systemic failures of the criminal justice system in its treatment of a vulnerable minor.