



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: 29 June 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

Maxam and Another v Director of Public Prosecutions, South Gauteng: Director of Public Prosecutions v Maxam and Others (Case no 388/2021) [2026] ZASCA 94 (29 June 2026)

Today, the Supreme Court of Appeal (SCA) partially upheld the appeal by Mr Onasis Maxam and Mr Bongani Nkosi against certain of their convictions and sentences and partially upheld the Director of Public Prosecutions' cross-appeal against sentence. The SCA set aside Mr Maxam's conviction under s 2(1)(f) of the Prevention of Organised Crime Act 121 of 1998 (POCA). And in respect of both, set aside certain convictions relating to the unlawful possession of firearms and ammunition, substituted the sentences imposed for the POCA convictions, and set aside the non-parole period imposed on Mr Nkosi. The remaining convictions and sentences were confirmed.

The appellants and their co-accused were convicted in the Gauteng Division of the High Court, Johannesburg (the high court), of offences arising from a series of robberies at South African Post Office branches. The offences included racketeering under POCA, aggravated robbery, robbery, fraud, theft, and the unlawful possession of firearms and ammunition. The State's case established that the accused operated a criminal enterprise which opened fraudulent Postbank accounts, robbed post office branches, made fictitious deposits into those accounts during the robberies, and subsequently withdrew the stolen funds.

The issues on appeal were whether the evidence established the existence of a criminal enterprise and the appellants' participation in its affairs through a pattern of racketeering

activity; whether the trial judge ought to have recused himself; whether the convictions, including those under both ss 2(1)(e) and 2(1)(f) of POCA and for the unlawful possession of firearms and ammunition, were competent; and whether the high court had imposed appropriate sentences.

The SCA held that the evidence, including eyewitness testimony, forensic banking evidence, cell phone records, fingerprint evidence and other circumstantial evidence, established beyond reasonable doubt that the appellants participated in a criminal enterprise responsible for the coordinated robberies and related offences. The SCA found that the trial judge correctly dismissed the recusal application, as there was no reasonable apprehension of bias. The SCA concluded, however, that Mr Maxam's convictions under both ss 2(1)(e) and 2(1)(f) of POCA constituted an impermissible duplication of convictions because they were based on the same evidence. It therefore set aside his conviction under s 2(1)(f). The SCA also held that certain the convictions for the unlawful possession of firearms and ammunition could not stand in the circumstances of the case and adjusted the sentences accordingly. The SCA further held that the high court erred in imposing a non-parole period in respect of Mr Nkosi and set it aside.

The State cross-appealed against the sentences imposed on the appellants and those of their co-accused who were still alive, alleging in respect of some of the offences, that there was no justification for departing from the minimum sentences set by legislation and that the sentences were too lenient. The SCA, interfered with the sentences imposed on the appellants in respect of the POCA offences, but found essentially that there no basis for interfering with the other sentences. In the result, the SCA partially upheld both the appeal and the State's cross-appeal, set aside the convictions and sentences on specified counts, substituted the sentences imposed for the POCA convictions, set aside the non-parole period imposed on Mr Nkosi, confirmed the remaining convictions and sentences, and otherwise dismissed the cross-appeal in respect of the other accused.

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