

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

S v Charzen 344/05

In a judgment delivered today, the Supreme Court of Appeal has upheld the appeal of two men who were convicted in the Protea Magistrates' Court, Soweto, of robbery and of arms and ammunition charges, and sentenced to 20 years' imprisonment.

The appeal turned on the reliability of identification evidence. The complainant identified the two accused at an identification parade just more than two weeks after the robbery. This was the only evidence the state called. But the complainant had said twice in his police statement that one of his attackers was wearing dreadlocks, while in court he said instead that the man was wearing a hat. Both at the identification parade and in court the man had short hair. The complainant could not explain why he spoke of dreadlocks, and admitted that dreadlocks and a hat were 'totally different'. The robbery occurred at dusk, and there was no electric lighting in the complainant's garage.

In upholding the appeal, the SCA emphasised that the courts had repeatedly stated that identification evidence had to be approached with caution, since people make mistakes in identifying others. The greatest assurance of guilt lies in physical evidence (fingerprints, recovered items, blood samples) connecting the accused to the crime, rather than identification evidence alone, which can be beset by error and misdescription and doubt.