



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
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STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

**MIA v THE STATE
(604/08) [2009] ZASCA 47 (22 May 2009)**

Media Statement

Today the Supreme Court of Appeal ('SCA') set aside the effective sentence of 20 years' imprisonment imposed upon Nurullah Mia and replaced it with a sentence of 15 years' imprisonment,

Mr Mia was convicted by the Pretoria Regional Court during May 2004 on two charges of fraud. The facts giving rise to the conviction were, broadly stated, the following: During 2001, a complete cheque book for the account of Vodacom Service Providers Company (Pty) Ltd – Creditors was stolen. Two cheques from that cheque book to the total value of R 5,72million were deposited into a bank account operated by Mr Mia. He admitted that he had unlawfully, falsely and with the intention to defraud, held out that the cheques were good and valid cheques and that he had thereby induced the bank to act to its prejudice by crediting his bank account with the value of those cheques.

The trial court concluded that there were no substantial and compelling circumstances present. It accordingly found itself unable to depart from the minimum sentencing legislation that prescribed 15 years' imprisonment for an offence of that kind. He was thus sentenced to 15 years' imprisonment on each charge – 10 years of which on the second charge was ordered to run concurrently with the first. An appeal to the Pretoria High Court against sentence proved unsuccessful. According to the SCA, given the paucity of information adduced by Mr Mia as to the circumstances surrounding the criminal enterprise and his own role in it, as also the staggering amounts involved, neither the trial court nor the High Court could be faulted in finding that there were no substantial and compelling circumstances present. The SCA held that the two offences although distinctly separate were closely related and were in reality the execution of the same broad criminal transaction. It followed, that the second term of imprisonment of 15 years should have been ordered to run concurrently in its entirety with the first. The SCA concluded that the cumulative effect of the sentence imposed by the trial court was manifestly severe and that interference in the sentence was competent and warranted. In the result it set aside the effective sentence of 20 years' imprisonment and replaced it with a sentence of 15 years' imprisonment.

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