

Supreme Court of Appeal 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 intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

NICOLAAS PETRUS KOTZÈ v THE STATE

In a judgment delivered today the Supreme Court of Appeal dismissed an appeal against Mr Kotzè's conviction in the Bellville Regional Magistrates' Court on 4 counts of purchasing unpolished diamonds in contravention of s20 of the Diamonds Act 56 of 1986. Over a period of some 8 months from July 2001 to February 2002 and on four separate occasions Mr Kotzè purchased a total of 21 unpolished diamonds from a police undercover agent, Inspector Frik Terblanche, for a total price of R63 000.

The basis for the conviction was the evidence of Inspector Terblanche. The appeal raised a challenge to the admissibility of this evidence in terms of s 252A of the Criminal Procedure Act. Mr Kotzè contended that Terblanche had formed and then exploited a close personal relationship with him by holding himself out as a pensioner who had fallen upon hard times financially. He claimed that Terblanche importuned him to buy diamonds and that on each occasion and against his better judgment he succumbed to his pleas.

The trial court rejected this evidence as inconsistent with the content of audio and video recordings of Terblanche's dealings with Kotzè and certain other objective facts and the Supreme Court of Appeal agreed. It held that the evidence was admissible under s252A of the Criminal Procedure Act, as it had not been improperly obtained and its admission did not render Kotzè's trial unfair nor was it detrimental to the administration of justice. The convictions were accordingly upheld.