

SUPREME COURT OF APPEAL OF SOUTH AFRICA

PRESS RELEASE

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STATUS: Immediate

M P Coetzee v The State

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

The Supreme Court of Appeal (SCA) today upheld an appeal against a judgment of the High Court, Pietermaritzburg in which the sentence of an effective four years' imprisonment was set aside and replaced with a sentence of four years' imprisonment in terms of s 276(1)(i) of the Criminal Procedure Act 51 of 1977 (the Act).

The appellant, a pastor, was convicted on four counts of indecent assault and two counts of *crimen iniuria* committed against three females ranging in ages from 16 to 21 years, who were members of his congregation and to whom the appellant was providing counselling. Regarding the appellant's first contention, namely, that the regional magistrate committed a misdirection by relying on authorities dealing with rape and thus exercising his discretion as if sentencing a rapist, the SCA noted that the regional magistrate recognised that the offences in question were not committed in a violent manner. This court found that the magistrate would have imposed a harsher sentence if he had regarded the appellant as a rapist. The court accordingly held that there was no material misdirection justifying interference on that basis.

Regarding the second contention that undue emphasis was placed on the element of deterrence as an object of punishment and that the sentence imposed was excessive, the SCA held that a custodial sentence of four years was excessively severe. This was so especially when taking into account that appellant was a first offender, the complainants were no longer young and immature and appear not to have suffered permanent psychological trauma. The sentence of four years' imprisonment was set aside. This court treated all the offences as one for purposes of sentence and imposed a sentence of four years' imprisonment in terms of s 276(1)(i) of the Act.

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