



THE 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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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.

MERVYN DE VOS v THE STATE

The Supreme Court of Appeal (SCA) today upheld an appeal against two convictions of attempted murder and an effective sentence of 10 years' imprisonment that the Northern Cape High Court, sitting as a court of appeal, had imposed on Mr Mervyn de Vos. The high court had upheld the convictions by a regional magistrate but increased the sentence of 7 years' imprisonment he had imposed on the ground that the punishment was too lenient. De Vos appealed to the SCA against his convictions.

The charges arose from an incident that happened in the early hours of Sunday, 17 July 2005, at nightclub in Kimberly known as 'Squeezas', when De Vos fired a single shot from his firearm. The shot struck Mr Gavin Sylvester, who was employed as a 'bouncer' at the club, in the face – permanently blinding him. The bullet struck Mr Samuel Serata in his right leg after hitting Sylvester.

In a unanimous judgment the court upheld De Vos's claim that he fired at Sylvester, at close-range, in self-defence to ward off an attack by him.

The evidence showed that De Vos had been at the club earlier that evening with his niece's two sons. He had been forcefully thrown out of the club by two bouncers Messrs John Masuku and Mr Isa Isak and felt very aggrieved by what had happened. He thereafter went to the police to ask them to help him. The police were not able to calm him down. As he left, he threatened to shoot the bouncers who had treated him badly earlier.

He returned to the club with his firearm two hours later to collect the boys who he had left at the club earlier. When he arrived there he was attacked by

Sylvester and Masuku with baseball bats. One struck him on the head and the other on his left jaw, fracturing it. He fired a single shot which struck Sylvester. He then got into his car and drove to the police station to report the incident.

The SCA found the evidence of the three bouncers, Sylvester, Isak and Masuku, who had testified for the state, to have been doubtful. Their evidence was that they had not been fighting with the appellant when he fired the shot. The court found that their evidence was inconsistent with the serious injuries De Vos had sustained resulting in his hospitalisation for 8 days. It held further that the magistrate and the judges who considered his appeal in the high court had paid insufficient attention to the circumstances under which De Vos had been injured.