



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.

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OSCAR NZIMANDE v THE STATE

– Case No 600/09

The Supreme Court of Appeal today upheld an appeal by Mr Oscar Nzimande (the appellant) against his conviction by the North Gauteng High Court, Pretoria on certain counts of fraud. The appellant was originally charged in the regional court for Northern Transvaal with 197 counts of fraud. The State alleged that the appellant, a practising attorney from Pinetown, KwaZulu-Natal, intentionally made certain misrepresentations in claims submitted to the Legal Aid Board in respect of professional services rendered by the appellant on the instructions of the Board.

On the evidence, which was largely common cause and uncontested, the magistrate found that the appellant had been ‘grossly negligent’ regarding the information contained in his claims to the Board. However, he was unable to find that the State had proved that the misrepresentations that occurred had been made intentionally.

The State, contending that the acquittal of the appellant was based on a question of law, accordingly noted an appeal to the North Gauteng High Court, Pretoria, against

the acquittals of the appellant. The high court upheld the appeal and convicted the appellant on some of the charges. The appellant noted an appeal to the SCA against the judgment of the high court.

On appeal to the SCA, the court held that the question on which the State noted its appeal to the high court was a question of fact and not one of law. It followed that the State had no right to appeal against the acquittals and the high court had no jurisdiction to entertain the appeal. The SCA accordingly upheld the appeal by the appellant and substituted the high court's order with an order that the appeal be struck off the roll.

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