



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 30 March 2011
STATUS Immediate

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

Kwanda v State
(592/2010) [2011] ZASCA 50(30 March 2011)

The Supreme Court of Appeal (SCA) upheld an appeal against an order of the North Gauteng High Court, Pretoria. The appellant, Johannes Kwanda, was convicted of conspiracy to commit armed robbery and contravening ss 32(1)(a) and 32(1)(e) of the Arms and Ammunition Act 75 of 1969 (the Act) and was sentenced to 25 years imprisonment. The appellant appealed against his conviction of unlawful possession of a firearm and ammunition.

The appellant and his co-accused were arrested after the South African Police Service received information about a planned robbery. At the time of the arrest one of the appellant's co-accused, Sipho Mahlenche, was in possession of an AK 47. The question on appeal was whether the state had established that the appellant possessed the firearm jointly with the co-accused. In this regard the state had to prove that the appellant had the necessary mental intention to possess the firearm.

The court held that even if the appellant was aware that Mahlenche was in possession of the fire arm, such knowledge is not sufficient to establish that he had the intention to jointly possess the firearm with Mahlenche, neither can this inference be drawn from the fact that the appellant conspired with his co-accused to commit the robbery.

Accordingly, the conviction of the appellant on the charges of contravening ss 32(1)(a) and 32(1)(e) of the Act and the sentences imposed in respect thereof, were set aside.