



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 1 June 2011
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.

* * *

FURLONG V THE STATE

The Supreme Court of Appeal (SCA) today upheld an appeal against an order of the North Gauteng High Court, Pretoria dismissing Mr Furlong's appeal against a sentence of seven years' imprisonment imposed upon him by a regional court for the unlawful possession of a motor vehicle in contravention of section 36 of the General Law Amendment Act 62 of 1955.

The vehicle had been robbed from its owner at gunpoint. Due to the fact that the robbery took place at night the owner of the vehicle could not identify his assailants, hence the appellant was charged with a contravention of section 36. He pleaded guilty to the charge and, as stated above, was sentenced to seven years' imprisonment. The question before the SCA was whether the trial court had committed a material misdirection by imposing such a sentence.

The SCA held that the appellant was punished for more serious offences than the one he was charged with. The magistrate appeared intent on punishing the appellant for the actions of the robbers. This, the SCA held, was a material misdirection which was inextricably linked with the magistrate's decision on an appropriate sentence. This material misdirection, the SCA further held, entitled it to interfere with the sentence imposed by the magistrate. It substituted the sentence of seven years' imprisonment with a sentence of three years' two days' imprisonment, antedated to the date on which the appellant was sentenced by the magistrate, which is the sentence that the appellant had served before being released under correctional supervision.