



**THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA**

**MEDIA SUMMARY OF 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 for the benefit of the media and does not form part of the judgment.***

***Shilakwe v The State  
(614/10) [2011] ZASCA 104 (1 June 2011)***

**Media Statement**

Today the Supreme Court of Appeal (SCA) dismissed an appeal by T V Shilakwe (accused 3 in the trial court) against his conviction on charges of murder, robbery and unlawful possession of firearms and ammunition as well as the sentences imposed pursuant thereto by the South Gauteng High Court (Vereeniging circuit court).

In November 2003 the appellant, along with his three co-accused, was involved in a robbery of Adam's Store in Kliprivier, where one of the assailants discharged a firearm resulting in the death of a certain Mr Witbooi.

The SCA stated that while the ultimate analysis of the evidence had to be assessed holistically, breaking down the evidence into its component parts is obviously a useful aid to a proper evaluation and understanding of it.

Evidence adduced by the state consisted of the eyewitness testimony of a Ms Mazibuko; the evidence of Mbakaza, a security guard who arrived on the scene; and various police officers who were present when the accused was arrested; the appellant's statement to the investigating officer; the appellant's pointing out and accompanying statements and accused 4's statement to the investigating officer. To this had to be added the evidence of accused 1 and 2, who testified in their defence.

The SCA found that the guilt of the accused could be established on one of two edifices. First, there was evidence of Ms Mazibuko, supplemented by the

evidence of accused 1 and 2 taken with that of Mbakaza and the police witnesses. The second is the evidence of the appellant's pointing out and the accompanying statements. Each called for an answer by the accused and as he chose, within his right, not to testify, he had to bear the consequences of such an election.

The evidence, the court found, established the guilt of the appellant beyond reasonable doubt, and dismissed the appeal against conviction.

As to sentence, the SCA could find no misdirection by the trial court nor did the imposed sentences induce a sense of shock. As a result, the SCA dismissed the appeal on sentence.

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