



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: 22 June 2011  
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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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**COMBRINK V THE STATE**

The Supreme Court of Appeal (SCA) today dismissed an appeal by Mr Rudolph Jacobus Combrink against both conviction and sentence and increased the sentence imposed upon him by the majority of the full court of the North Gauteng High Court (Pretoria) to 15 years' imprisonment.

Mr Combrink was charged with the murder of his employee (the deceased). The evidence established that Mr Combrink was driving on one of the farm roads on his way to fetch some of his workers. He saw the deceased, whom he could not identify at that time, walking on the mealie land. He called the deceased to draw his attention. The deceased did not respond. He then fired a shot from his hunting rifle with the purpose of warning or intimidating him. He called him again and when the deceased did not respond he fired the second shot. This shot fatally wounded the deceased. Mr Combrink then, without establishing what had happened to the deceased, proceeded to fetch the farm workers who

were working some distance from where the incident occurred. It was only after fetching these farm workers that he discovered that the deceased was already dead.

At the trial Mr Combrink argued that he had not intentionally shot the deceased. His expert witness advanced a theory that when Mr Combrink fired the second shot, the bullet first struck a wire fence surrounding the mealie land which caused the bullet to ricochet towards the deceased. The trial court, and the majority of the full court, rejected this theory and found it unconvincing, tenuous and not reasonably possibly true. The trial court found Mr Combrink guilty of murder. It found that there were substantial and compelling circumstances and imposed a sentence of 15 years' imprisonment upon him, five years of which were suspended. On appeal, the majority of the Full Court dismissed the appeal against conviction but upheld the appeal against sentence. It imposed a sentence of ten years' imprisonment. In a dissenting judgment Preller J was of the view that the appeal against both conviction and sentence should be upheld.

In dismissing the appeal against conviction, the SCA held that in resorting to his firearm in the circumstances and in the manner that he did Mr Combrink must subjectively have foreseen the possibility that the bullet could ricochet after striking a stone or some other object and in the process strike the deceased. Regardless of that foreseeable possibility, the SCA held, he went on to shoot. He therefore had the necessary intention, albeit indirect, to kill the deceased. In respect of sentence the SCA held that the trial court had erred in finding that there were substantial and compelling circumstances. It reasoned that the trial court had focused exclusively on the mitigating factors instead of balancing them with the aggravating factors. Having found that there were no substantial and compelling circumstances justifying a departure from the prescribed minimum sentence, the SCA substituted the sentence imposed by the majority of the full court and increased the sentence to 15 years' imprisonment.