



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL**

13 September 2011

STATUS: Immediate

THE STATE V ARTHUR TSHEPO MEJE AND ANOTHER

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

Today the Supreme Court of Appeal (SCA) upheld an appeal by the State, and set aside an order of the North Gauteng High Court (Pretoria).

The respondents were convicted in the regional court, Pretoria of five and 14 counts of fraud respectively and sentenced to seven years and eight years imprisonment, conditionally suspended for two years.

They appealed against both their convictions and sentences to the North Gauteng High Court. It found that the trial court did not have the jurisdiction to try the respondents and set aside both the convictions and sentences. It held that as the offences were committed within the territorial jurisdiction of the erstwhile Regional Division of the Southern Transvaal, a court sitting in Pretoria within the territorial jurisdiction of the erstwhile Regional Division of the Northern Transvaal did not have jurisdiction to try the respondents despite the fact that, by the time the respondents first appeared in court, these courts had been amalgamated into the Regional Division of Gauteng, having jurisdiction throughout the province of Gauteng. Secondly, the high court held that s 110 of the Criminal Procedure Act 51 of 1977 could not avail the State because it did not 'create substantive jurisdiction'.

The sole issue raised by the appellant before the SCA was whether the trial court had the jurisdiction to try the respondents.

The SCA held that the jurisdiction of a court to try an accused is determined at the time when the proceedings commenced. At that time only one Regional Division, the Regional Division of Gauteng existed and it had jurisdiction over the whole of the province of Gauteng, including Kagiso where the offences were alleged to have been committed. Secondly, it found that while s 110 of the Criminal Procedure Act did not confer substantive jurisdiction on a court, it conferred territorial jurisdiction on it in the absence of a plea of absence of jurisdiction.

The SCA went on to state that s 311(1)(a) of the Criminal Procedure Act empowered it to re-instate the conviction and sentence, which it did, and ordered that the matter be remitted to the court below for the appeal to proceed on the merits.

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