



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
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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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SUSANNA MAGDALENA PIENAAR V THE STATE

Today, the Supreme Court of Appeal (SCA) set aside the effective sentence of five years' imprisonment imposed upon Susanna Magdalena Pienaar and replaced it with a sentence of four months imprisonment.

Ms Pienaar was convicted by the Benoni Regional Court on forty-two counts of fraud. The facts giving rise to the conviction were, broadly stated as follows: The appellant was employed by Atlas Finance, a business that lends money to the public, as a manager. Whilst so employed, she uplifted names of the company's existing clients from its database and issued 42 fictitious loans accounts amounting to a sum of R115 000 against such clients. Out of these transactions the benefit she received was an amount of R2900 for meeting her collection target. She admitted creating the false loans and repayments.

The sentence imposed by the trial was attacked mainly on the ground that it was excessive when one considered that the actual loss to the company was R2900, despite an officer of Atlas Finance testifying that the loss exceeded by far, the amount admitted by the appellant.

According to the SCA, the trial court should not have allowed and relied on the evidence proving amounts in excess of the facts admitted by the appellant and accepted by the State. Furthermore, the aggravating factors relied upon by the trial court are nothing more than sheer speculation, such amounts to gross misdirection. The State conceded the misdirection, and admitted that the sentence was disturbingly inappropriate. As the sentence imposed by the trial court was manifestly severe, it followed that it had to be set aside.