



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: 14 March 2013
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.

CHETTY V THE STATE

The Supreme Court of Appeal (SCA) today held that the trial magistrate in the above matter did not misdirect himself by sentencing the appellant in the absence of a probation officer's report on whether the appellant was the primary caregiver of his young daughter and on her best interests generally. The appeal against the sentence was initially dismissed by the KwaZulu-Natal High Court and has now also been dismissed by the SCA.

The appellant had been sentenced to six years' imprisonment (three of which were suspended) following a conviction in the Regional Court, Durban, sitting as a Commercial Crime Court, on 49 counts of theft and 94 counts of fraud. The magistrate had initially postponed sentencing and had called for a probation officer's report relating to the appellants family circumstances. When the matter resumed, despite the fact that the probation officer's report was not available, the magistrate proceeded to sentence the appellant. Rather than further delay the matter, the magistrate determined that he would

accept the facts of the appellant's home circumstances as they had been placed before him by the appellant's attorney, stating that he had personal knowledge of the integrity of the appellant's attorney.

In dismissing the appeal, the SCA found that the probation officer's report is but one means of placing reliable information before a court in order to enable it to impose a properly informed sentence. If that information can be placed before the court in another satisfactory way, there is no need for a probation officer's report. The appellant had not been prejudiced by the magistrate's acceptance of the information furnished by the appellant's attorney. Furthermore, that information established that the appellant was not the primary caregiver of the child and that the fundamental or basic interests of the child would not be neglected by his incarceration.