



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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NELSON SEPURU MAKGATHO V THE STATE

The SCA today dismissed an appeal against conviction and sentence. The appeal originated from the regional magistrates court (Limpopo) where the appellant was convicted of murder in the form of dolus eventualis and sentenced to 15 years' imprisonment. This was after the trial court was unable to find substantial and compelling circumstances to justify a lesser sentence.

The appellant appealed to the North Gauteng High Court which appeal was dismissed however, leave to appeal was granted to this court.

The appellant visited a tavern looking for his girlfriend, she did not want to see him, and in fact she denied having a relationship with him. The people who were seated with her objected to the appellant's conduct as he pulled her against her will and apparently slapped her. The appellant produced a firearm fired two shots and the deceased, who was not part of the people who were seated with his so called girlfriend, was struck by a bullet and died later in hospital.

The legal principle applicable here is that the appellant fired gun shots at a tavern where there were many people reckless of the consequences of his unlawful action. He foresaw the possibility that someone may be injured or killed and yet, despite that knowledge and reckless of the eventuation of possible result, persisted with that action. This form of intention is known as *dolus eventualis*.

This court found that the trial court and the court *a quo* did not misdirect themselves, and therefore could not interfere with the sentence too.