



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 27 May 2013
STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

PLAATJIES v DPP, TRANSVAAL (043/2013) [2013] ZASCA 66 (27 MAY 2013)

The SCA today dismissed an appeal by Mr Boisile Amos Plaatjies against a decision to recharge and try him for murder, assault with intent to do grievous bodily harm and unlawful possession of a firearm in contravention of s 2 of the Firearm and Ammunition Act 75 of 1969. Mr Plaatjies had been convicted by a regional magistrate in Potchefstroom and sentenced to 7 years for murder, 1 year for assault with intent to do grievous bodily harm and 3 years imprisonment for unlawful possession of a firearm. The magistrate had unfortunately sat without assessors as required by s 93 ter (1) of the Magistrate's Court Act 32 of 1944. Mr Plaatjies successfully appealed the convictions and sentences on the ground that the magistrate had sat without assessors in the adjudication of his case.

When he was recharged for the above same offences he pleaded that he had already been convicted and acquitted on appeal. Another magistrate before whom he stood trial upon being recharged acquitted him. The state appealed against this ruling. The appeal court (Prinsloo J and Makgoba J) of the

Pretoria High Court upheld the appeal and determined that the appellant could be retried as he had not been acquitted on the merits.

The learned judges (Prinsloo J and Makgoba J) rejected the argument that if he is recharged his fair trial rights under s 3(3)(*m*) of the constitution would be violated.

The SCA agreed with the decision of the learned judges of the Pretoria High Court and dismissed the appeal.