

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 28 March 2014

STATUS Immediate

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

Benson v the State (300/13) [2014] ZASCA 26 (28 March 2014)

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Today the Supreme Court of Appeal (SCA) upheld an appeal by Mr Leeroy Benson who had been convicted of murder and set aside the conviction and sentence. Mr Benson had been convicted on a charge of murder in the regional court in Somerset-West. He had been sentenced to 12 years' imprisonment, of which five years were suspended on appropriate conditions, the magistrate having found that there were substantial and compelling circumstances which justified a departure from the prescribed minimum sentence provided for in the Criminal Law Amendment Act 105 of 1997.

The appellant had appealed to the Western Cape High Court. Although that court dismissed the appeal, it granted the appellant leave to appeal further to this court.

The incident giving rise to the charge occurred in October 2007 and was related to a dance party at a community hall during which alcohol had been liberally consumed by those who attended the event, including the deceased.

The deceased had died from a single injury to the head administered with a blunt object. The incident occurred in a situation that was tense and fast-moving. The accuracy of observation had been affected by the diminished visibility of the night and the consumption by young people of vast amounts of liquor. Counsel for the State conceded that from the record it could not be deduced who did what, to whom and when.

The evidence was confused and, on the essential elements of the crime, contradictory. There was too much uncertainty surrounding the critically important facts to allow a court safely to convict and, for this reason, the conviction could not stand.

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The court upheld the appeal and set aside the conviction and sentence on the charge of murder.