



## 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** 26 September 2014  
**STATUS** Immediate

***Brendan Solly Ndlovu v The State***  
**(204/2014) [2014] ZASCA (10 September 2014)**

*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*

Today the Supreme Court of Appeal (SCA) delivered a judgment whereby the appeal against the sentence was dismissed.

The issue before the SCA was whether an accused, who was charged with rape read with the provisions of s 51(2) of the Criminal Law Amendment Act 105 of 1997 (the Act), which provided for a minimum sentence of ten years' imprisonment, can be sentenced to life imprisonment in terms of s 51 (1) of the Act and whether or not this has infringed the accused's right to a fair trial.

On 27 October 2007 the appellant accosted the complainant while she was on her way home. He assaulted and threatened to kill her. She managed to escape, but sustained open wounds on her head and mouth and various scars. The appellant was charged with one count of rape read with the provisions of s 51 (2) of the Act. It is apparent from the trial court that applicability of life imprisonment had been addressed during the course of argument on sentence and the appellant was legally represented at the trial, despite his not-guilty plea, the appellant was convicted and sentenced to life imprisonment.

On appeal, the SCA held that the appellant had been sufficiently warned of the charge he faced by virtue of the reference to the minimum sentencing legislation in his charge sheet. It was not shown that the appellant had suffered prejudice by the incorrect section of the Act being referred to in the charge-sheet. The SCA found therefore that the appellant's right to a fair trial has not been infringed

and that there are no reasons to interfere with the sentence imposed by the court below and furthermore that there was no compelling and substantial circumstances justifying a departure from the prescribed minimum sentence of life imprisonment.

**--- ends ---**