



# **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** 25 March 2015  
**STATUS** Immediate

***Sipho Patrick Magwaza v The State (20169/14) [2015] ZASCA 36 (25 March 2015)***

*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*

### **Media Statement**

Today the SCA upheld an appeal by Mr Sipho Magwaza against his conviction on one count each of murder and robbery. On 13 April 2000, a gang of armed men attacked a pension payment point at Klaarwater Community Centre in Marianhill, Kwazulu-Natal and made off with approximately R460 000.00. During the course of the robbery one of the security guards was fatally wounded and dispossessed of his firearm and its ammunition. Mr Magwaza was arrested in consequence of information furnished by a police informer some two months after the incident. A few hours after his arrest he had participated in a pointing out to a Captain in the SAPS and had made certain statements to him that amounted to a confession. That was the only evidence implicating him in the offences and he was eventually convicted on the strength of it by the Durban High Court. His appeal to the Full Court in Pietermaritzburg failed.

The SCA held that both of the courts below concentrated on the voluntariness of Mr Magwaza's conduct. Our Constitution, stated the SCA, now requires criminal trials to be conducted in accordance with notions of basic fairness and justice. In terms of s 35(5) of the Constitution: 'evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise detrimental to the administration of justice.' The SCA found that Mr Magwaza was not properly warned of his constitutional rights, including his right to silence and legal representation and that there was a high degree of prejudice to him because of the

close causal connection between the violation and the self-incriminating evidence and the rights infringement resulted in the creation of evidence which otherwise would not have existed.

After a survey of the relevant cases including international jurisprudence, the SCA concluded that the evidence should have been excluded. It followed that Mr Magwaza's conviction had to be set aside.

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