



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: 25 March 2015
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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.

A Z GCAM-GCAM

v

THE STATE

The Supreme Court of Appeal (SCA) today set aside a murder and robbery convictions of Mr Alfred Zwelidimule Gcam-Gcam (Gcam) for which he had been sentenced to life imprisonment by the Eastern Cape High Court (Mthatha) in July 2013. The SCA said that the case against him had been poorly investigated and prosecuted, and directed the registrar of the court to make the judgment available to the Minister of Police and the Independent Police Investigative Directorate.

Gcam was indicted, together with three other persons, on charges of conspiracy of commit robbery, robbery, five counts of murder, unlawfully possessing arms and ammunition. The charges arose from the robbery of a pay-point where social-grants were paid in Mpozolo District of Willowvale in the Eastern Cape on 4 June 2009. The robbers made off with R509 970. Four robbers and a police officer died

in an incident later that day.

The evidence on behalf of the State was that Gcam and nine other met on the evening of 3 June 2009 to plan the robbery. They left Ngolo, in the Mathatha area, at about 3 am on 4 June in two vehicles. Gcam drove the second vehicle, a GWM bakkie, which was intended to be the get-away vehicle. Most of them were armed. They arrived at the pay-point they intended to rob soon after day-break. But, because the police were in the vicinity, were unable to proceed with the robbery. The group of eight in the first vehicle abandoned the plan and drove home. Gcam, who was accompanied by one other person, did not follow them.

En route the first group came across another pay-point. They decided to rob it. They stopped their vehicle and started firing at the guards who were on duty. The guards returned fire, but fled thereafter. The robbers got hold of the money, put it into a sports-bag, and drove off.

After driving for some distance, they abandoned their vehicle, split into two groups and headed in different directions. After a while the police arrived on the scene and pursued the group with the loot. What happened thereafter was not clear from the evidence. But following one or more shooting incidents a police officer and four robbery suspects lost their lives. Gcam and three of the other suspects who had headed in a different direction were subsequently charged and convicted of the murders of the police officer and the four suspects who lost their lives.

Later that evening the remaining group contacted Gcam and he arrived to take them home.

The trial court convicted Gcam on the basis of a confession that he had made to the police after his arrest and on the evidence of an accomplice.

The SCA held that the confession was inadmissible because there was a reasonable possibility that it had been extracted from him force, threats or undue

influence by the police. It also found that the high court was wrong to reject his alibi that he was at work on night shift as an ambulance driver on the evening before the robbery.

In its concluding remarks, the SCA said that the result was regrettable because the case had been poorly investigated and prosecuted. It pointed to the fact that there had been evidence that the conspirators knew each other and had been in contact with each other by cell phone during these events. Yet the police had not presented any cell phone records to corroborate this.

The SCA also said that it was troubling that the police had recovered only R71 000 of the more than R500 000 that had been stolen on the scene of the deaths of the police officer and the four robbery suspects. The rest of the money, it seems, had simply disappeared. There was also evidence that some of the suspects may have been alive for a while after they had been shot, but there was no evidence of any attempt by the police to obtain medical assistance for them. The SCA accordingly referred these matters to the Minister of Police and the Independent Police Investigative Directorate for further investigation.