



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
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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.

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LESLEY NIEUWENHUIZEN V THE STATE

The SCA today dismissed the appeal against sentence in the case of Nieuwenhuizen v The State.

Ms Nieuwenhuizen had been convicted by the magistrates' court of 6 counts of fraud and sentenced to 6 years imprisonment, 2 years of which were suspended on certain conditions. She unsuccessfully appealed to the Northern Cape Division of the High Court (Kimberley).

She further appealed to this court with leave of this court.

The appellant convinced Attorney Dawid Jansen van Vuuren to assist her in her debt collection business. She was collecting money from government employees who owed certain companies. She received certain cheques which she should have deposited in the attorneys trust account but failed to do so. Mr Jansen van Vuuren advanced her with the equivalent amount of the cheques hoping that she would in turn deposit the cheques. She even transferred funds from the complainant's (Dawid Jansen van Vuuren) trust account into her trading account without the complainant's consent. She did this within a period of about three months. The offences were carefully planned.

It is settled law that for an appeal court to interfere with the sentence imposed – the court a quo must have materially misdirected itself or the disparity between the sentence which the appeal court would have imposed and the sentence imposed by the court a quo is strikingly or startlingly disproportionate.

This court found that she failed to demonstrate any remorse. It further found that a custodial sentence is the only one appropriate in these circumstances.