



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

22 September 2015

STATUS: Immediate

THABO MACBETH NKOSI v THE STATE (20727/14)

The Supreme Court of Appeal (SCA) today dismissed an appeal of an armed robber who had been convicted of the murder of his fellow robber, who had been shot by the victim in the course of the robbery. The SCA held that on the common cause and proved facts the appellant and his fellow robbers foresaw the likelihood of resistance and a shootout, hence the need to arm themselves with loaded firearms. The court held further that the appellant had been correctly held criminally liable for murder by the North Gauteng High Court, Pretoria, on the basis of *dolus eventualis* since he had reconciled himself with the possibility of one of them being killed in the course of the robbery. The SCA pointed to a number of decisions of our courts where accused persons who engage in a wild shootout with other persons in the course of an armed robbery, were held criminally liable on the basis of *dolus eventualis* for the unexpected deaths that may result.

The SCA emphasized that each case must be decided on its own facts and found that in this instance the appellant had been correctly convicted.

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