



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 9 September 2020

STATUS Immediate

***Lungisa v The State* (Case no 696/2019) [2020] ZASCA 99
(9 September 2020)**

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 dismissed the appeal of the appellant, Mr Andile Lungisa against the decision of the Eastern Cape Division of the High Court, Grahamstown.

Mr Lungisa, who was the leader of the African National Congress in the Nelson Mandela Bay Municipal Council, was convicted by the Port Elizabeth Magistrate's Court of assaulting a fellow councillor from the Democratic Alliance, Mr Ryno Kayser (the complainant), with a glass jug filled with water, which shattered over his head and caused him several life-threatening injuries with long lasting adverse effects. This occurred during a council meeting held on 27 October 2016. On 9 May 2018 he was sentenced to three years imprisonment of which one year was suspended for a period five years on certain conditions (effectively two years' imprisonment). His appeal in the high court failed against both his conviction and sentence. With the special leave of the Supreme Court of Appeal, he appealed against his sentence only.

The Supreme Court of Appeal found no basis to interfere with the sentence imposed by the trial court, on the grounds that that court had appropriately balanced the appellant's personal circumstances, the nature and seriousness of the crime committed and the interests of society. It observed that Mr Lungisa used a dangerous weapon when hitting the complainant on a sensitive part of his body, the temple, causing serious, potentially fatal injuries. While he was a first offender and respected by his community, the crime that Mr Lungisa committed was

serious and had devastating consequences. He did not behave in a manner expected by the community of its councillors, failed to take responsibility for his actions and showed total lack of remorse for his deeds.

ISISHWANKATHELO SOONONDABA

Namhlanje inkundla yezibheni, iSupreme Court of Appeal, ichithe isibheni sikaMnumzana Andile Lungisa ebesiphikisa isigwebo seSahlulo seNkundla ePhakamileyo yaseMpuma Koloni, Grahamstown.

UMnu Lungisa obeyinkokheli yombutho iAfrican National Congress kwiBhunga likaMasipala waseNelson Mandela Bay, wafunyanwa enetyala lokuhlasela ngokuyingozi ngejagi yegilasi enamanzi ugxa wakhe obenguceba weDemocratic Alliance, uMnu. Ryno Kayser (ummangali) owenzakala ngokumasikizi washiyeka eneziva emzimbeni nasemphefumleni eziya kuhlala ixesha elide. Oku kwenzeka kwintlanganiselo yeBhunga elo eyayibanjwe ngomhla we-27 kweye Dwarha ngo-2016. Ngomhla we-9 kuCanzibe ngo-2018 wanikwa isohlwayo sokuvalwa entolongweni iminyaka emithathu, ekwathi unyaka omnye kuloo minyaka waxhonywa ithuba eliyiminyaka emihlanu, phantsi kwemiqathango ethile (esona sigwebo yayiminyaka emibini entolongweni). Isibheni sakhe esiphikisa isigwebo nesohlwayo kwinkundla ePhakamileyo saphunza. Ubhena kuleNkundla ngemvume yayo ekhethekileyo ephikisa isohlwayo kuphela.

LeNkundla ifumanise ukuba ayinasizathu sakuphazamisa isohlwayo esabekwa yinkundla eyayivavanya ityala kuba loonkundla yazilungiselelanisa ngokufanelekileyo iimeko zombheni, ubuni nobuzaza lolwaphulo-mthetho kwakunye nokulungelwa koluntu. Ibalule ukuba uMnu Lungisa wasebenzisa isikhali esinobungozi wabetha ummangali kwindawo e ethe-ethe yomzimba, intlafuno, ngozi leyo yayinokumbulala. Naxa wayeqala ukophula umthetho ehlonitshwa luluntu, ityala lakhe libi linemiphumela enobuzaza kakhulu. Zange aziphathe ngendlela elindelwe luluntu kooCeba balo. Wala ukuthatha uxanduva lwezenzo zakhe, wabonisa ukungazisoli kwaphela.

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