



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 for the benefit of the media and does not form part of the judgment.

Mana v The State (201/2008) [2009] ZASCA 88 (11 September 2008)

Media Statement

Today the Supreme Court of Appeal (SCA) upheld an appeal by Sithembisa Mana against his conviction on two charges of robbery and one of the unlawful possession of a firearm. The charges arose out of an incident at the Algoa Park Post Office on 1 March 2002 when the postmistress was robbed of cash in excess of R30 000 and a security guard of his .38 special firearm. When the robbers made good their escape a cardboard box, which had been fashioned out of a piece of cardboard and white sticky tape, was left behind by one of the robbers on a counter inside the post office. The box was examined by a finger print expert who found an identifiable palm print on the inside of the box, which could not at that stage be linked to anyone. During 2006, the appellant was arrested on some unrelated charge and his palm and fingerprints were thereafter circulated within the SAPS. It was only then some four years after the robbery that a positive link was established between the appellant and the palm print which had been lifted from the inside of the box.

The evidence implicating the appellant in the robbery and upon which he was convicted was entirely circumstantial. His appeal to the Grahamstown High Court proved unsuccessful. The SCA held that whilst there is nothing wrong in principle with circumstantial evidence and it sometimes can be compelling, the present is not such a case. Absent any other evidence, the SCA held, the fingerprint evidence was wholly insufficient upon which to found a conviction. The SCA reasoned that a piece of cardboard such as the one used to fashion the box, was by its very nature a mobile object that was capable of use and re-use in the hands of diverse individuals. The evidence did not establish where the box originated from or even, for that matter, where the robbers may have come from. If indeed the robbery was planned, as appears to be the case, then the robbers may well have conveyed the box with them to the post office. In that event it was possible that the box had travelled a considerable distance on that very day prior to its use in the robbery. In those circumstances, the appellant's palm print may have come to find its way onto the piece of cardboard out of which the box was fashioned, in perfectly innocent circumstances. The conclusion therefore by the trial court, that the appellant was one of the participants in the robbery and that it is under those circumstances that he came to leave his palm print on the inside of the box, was unsustainable. That being so the convictions could not stand. It followed that the appeal had to succeed.

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