



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 29 September 2017
STATUS Immediate

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.

DPP v Heunis (196/17) [2017] ZASCA 136 (29 September 2017)

Today the Supreme Court of Appeal (SCA) handed down a judgment on appeal lodged by the appellant in terms of s 319 of the Criminal Procedure Act 57 of 1977 (CPA) against the judgment of the Circuit Court, Gauteng Division.

The respondent had been charged with the murder of the deceased by shooting her with a firearm. Although the respondent had pleaded not guilty to the charge, he tendered an elaborate plea explanation in terms of s 115 of the CPA; in which he basically admitted all the elements of the crime save for intent. He explained that he shot the deceased negligently and not intentionally.

The appellant's case revolved around the evidence of a police ballistic expert, whose conclusions are that, contrary to the respondent's version in the s115 plea explanation, the deceased was shot at close range. He concluded, based on his expertise that the respondent shot the deceased intentionally and not negligently.

At the end of the state's case, the respondent closed his case without tendering evidence to refute the state's case.

In his evaluation of evidence, the trial judge rejected the state's evidence and convicted the respondent on culpable homicide based on his s115 plea explanation.

The most crucial attack against the judgment of the court below is that the trial judge erred by giving undue evidentiary value to the respondent's s115 plea explanation whilst it was not repeated under oath as evidence.

The SCA found unanimously that the trial judge adopted an incorrect approach to the evaluation of evidence. It found that, although it was legally permissible to consider the respondent's s115 plea explanation as part of the body of evidence presented, the trial court erred in giving it evidentiary value. The SCA held that by virtue of the fact, the s115 statement was not repeated under oath and further that it was not subjected to cross-examination, it carried less if any evidentiary value.

In the result, the appeal was upheld and the conviction of the appellant on culpable homicide was set aside and replaced with a conviction on murder.

Regarding sentencing, the case was remitted to the trial judge for a reconsideration of the sentence in the light of the new conviction on murder.