



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 22 APRIL 2022

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Minister of Police and Another v Erasmus (366/2021) [2022] ZASCA 57 (22 April 2022)

Today the Supreme Court of Appeal (SCA) handed down judgment upholding, with costs, an appeal against the decision of the Eastern Cape Division of the High Court, Grahamstown (the high court) the court awarding Mr Erasmus damages in the sum of R250 000 for his detention during the period 5 May 2016 to 19 May 2016 as the court reasoned that the detention was not unlawful.

The issues before the SCA were whether Mr Erasmus' detention from 5 May to 19 May 2016 (the second period) was unlawful and whether the high court's award for damages in respect of Mr Erasmus' arrest and detention from 4 to 5 May 2016 (the second period) was appropriate.

On 4 May 2016 at 23h30, Warrant Officer Raynier Ritzma de Koning (W/O de Koning) charged Mr Erasmus with housebreaking and theft. W/O de Koning detained Mr Erasmus until his first appearance in court on 5 May 2016. On 5 May 2016, Mr Erasmus appeared in the magistrates' court for the first time. The magistrate's court, accordingly, postponed the matter to 12 May 2016 for the purposes of enabling Mr Erasmus to apply for bail in terms of s 60(11)(b) of the CPA. On 12 May 2016, the magistrate fixed the amount of bail in the sum of R500. As he was unable to raise the bail amount, the matter was again remanded to 19 May 2016, ostensibly, for the purposes of trial. He was kept in custody until the said date. On 19 May 2016, again, the police docket was not at court. The matter was then struck off the roll and Mr Erasmus was accordingly released from custody. The high court held that both the arrests and detention for the first and second period were unlawful.

The SCA found that no unlawful conduct of the police influenced the decisions that led to the second period of detention. The detention of Mr Erasmus from 5 May 2016 was caused by the effect of s 60(11)(b) of the CPA and the independent decision of the prosecutor to oppose bail. Mr Erasmus' detention from 12 May 2016 was caused by his inability to pay the bail amount of R500 that the magistrate had set in the exercise of his or her judicial discretion. In respect of the quantum of damages for the first period, the SCA held that there was a striking disparity in the amount of damages that it would award and that of the high court. The SCA therefore replaced the high court's award with an award in the amount of R25 000 which amount the appellants were willing to pay Mr Erasmus on the basis that his constitutional rights were not explained to him.

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