



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

Date: 2 June 2008

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.

EAL MOCKE v THE STATE (609/2007) [2008] ZASCA 80 (2 June 2008).

[1] The SCA today, 2 June 2008, upheld an appeal by the appellant, Mr Enrique Abrey Lendol Mocke, against the conviction by the Bellville Regional Court on a charge of murder and replaced it with a conviction of being an accessory after the fact to murder. It sentenced the appellant, who was 16 years old at the time of the incident on 6 April 2002 to 7 years imprisonment. The sentence imposed on the appellant, which was confirmed by the Cape High Court was set aside by the SCA and replaced with one of two years of correctional supervision, subject to certain conditions.

[2] The murder arose from an incident in which one Ms Maureen Adams of Ravensmead, was brutally killed. The State alleged that it was the appellant who killed the deceased by stabbing her with a knife or other sharp instrument and inflicted other acts of violence upon her. In his defence the appellant testified that it was the witness, Mr Henry Daniels, who committed the offence.

[3] The magistrate accepted the version of Daniels and rejected that of the appellant, without giving reasons and without making any credibility findings on the evidence of witnesses.

[4] The SCA, like the Cape High Court, found that the magistrate had in this regard misdirected himself. Unlike the Cape High Court which found that the evidence of Daniels could be relied on, the SCA took a contrary view. It found that Daniels who was a single witness and had also been implicated in the murder, had as much motive to kill the deceased as the appellant. It also found that his evidence could not be relied on as it was found to be untruthful in a number of material respects and his evidence was not corroborated in any material respect.

[5] The court found however that on his own version the appellant had made himself guilty of being an accessory after the fact to murder and returned that verdict.

[6] The SCA also ordered the State to pay to the appellant, the wasted costs occasioned by the non-appearance of the State's representative on 15 May 2008 – a date on which the matter was initially enrolled for hearing.