



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

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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

Motladile v Minister of Police (414/2022) [2023] ZASCA 94 (12 June 2023)

Today, the Supreme Court of Appeal (SCA) handed down judgment upholding an appeal against a decision of the the North West Division of the High Court, Mahikeng (the high court).

The issue before the SCA was whether damages in the amount of R60 000, which the high court awarded to the appellant, arising from his unlawful arrest and detention, was fair and reasonable having regard to the circumstances of case.

On 23 December 2014, Mr DM Motladile (the appellant) who was, at the time, in the business of transporting passengers, was requested by a man whom he did not know to transport him to a farm to purchase cattle, which he did. The man purchased the cattle, but unbeknown to the appellant the man apparently defrauded the seller of the cattle. On reporting the incident to the police, the seller approached the appellant for his contact details as he considered him to be a potential witness in his criminal case against the man who defrauded him. On 24 December, Warrant Officer Ngkodi (the investigating officer), from the Mahikeng Police Station (the police station), visited to the appellant's home. On being advised by his wife, Mrs Motladile, that the appellant was in Gaborone, the investigating officer provided her with his telephone number and asked that the appellant call him on his return. On Christmas morning, the appellant travelled to the police station where he expected to be of assistance in the investigation. But instead, on his arrival at the police station, the investigating officer promptly arrested and detained the appellant for the offence of theft under false pretenses. The appellant spent the following four days (and nights) in detention in the police cells at the police station.

The high court found that having regard to the facts and circumstances of the case, an adequate award would be an amount of R15 000 per day, which amounts to R60 000 for the four days that the appellant spent in detention.

The SCA found that in adopting the amount of R15 000 per day, the high court followed a practice that has developed in the North West Division of the High Court, Mahikeng of applying a 'one size fits all' approach of R15 000 per day to damages claims for unlawful arrest and detention. It held that the assessment of the amount of damages to award a plaintiff who was unlawfully arrested and detained is not a mechanical exercise that has regard only to the number of days that a plaintiff has spent in detention. Other factors must be considered, such as the circumstances in which the arrest and detention occurred, the presence or absence of improper motive or malice on the part of the defendant; the conduct of the defendant; the status and standing of the plaintiff; the simultaneous invasion of other personality and constitutional rights etc.

The SCA held that the high court misdirected itself by not taking all the relevant facts and circumstances into account in its assessment of the damages suffered by the appellant pursuant to his unlawful arrest and detention. It held that the high court failed to appreciate that the unlawful deprivation of the appellant's liberty was, in itself, a serious injury which constituted an impermissible infringement of his constitutional rights to freedom and security of the person, and to human dignity. Moreover, the high court disregarded the appellant's standing and status in the community as a traditional healer, and the extent to which his unlawful arrest and detention caused mistrust in the community, and diminished his good reputation and honour. The SCA considered an award of R200 000 to be fair and reasonable compensation for the damages arising from the appellant's unlawful arrest and detention.

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