



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: 28 March 2023

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

Francis v The State (1301/2021) [2023] ZASCA 30 (28 March 2023)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal against the decision of the Eastern Cape Division of the High Court, Makhanda (the high court), which refused Mr Reneal Allan Francis (the appellant) leave to appeal the sentence ordered by the Magistrate's Court for the Regional Division of the Eastern Cape held at East London (the trial court), which imposed an effective sentence of 15 years' imprisonment on the appellant in respect of convictions for dealing in drugs. No order was made as to costs.

The facts of the matter were as follows. The appellant was a police officer working in the crime prevention unit of the South Africa Police Service (SAPS) stationed at Mdantsane, which conducted crime prevention duties specifically in respect of dealing in drugs. An undercover agent was used to infiltrate and befriend the appellant and to arrange for the purchase of drugs, as information was obtained that certain police officers would seize drugs during raids and would look for potential buyers to purchase the seized drugs in order to enrich themselves. The agent testified that on two separate occasions the appellant first sold 46 and then 50 tablets containing methaqualone (Mandrax) to him on 14 November and 30 November 2012, respectively.

Pursuant to his conviction, the appellant was sentenced to 15 years' imprisonment on each count, to run concurrently. The trial court had found no substantial and compelling circumstances that justified a deviation from the prescribed minimum sentence. The appellant applied for leave to appeal against both his conviction and sentence, which the trial court refused. The high court also refused to grant leave to appeal on petition. Thus, the question on appeal was whether the high court should have granted leave to the appellant to appeal to it.

The SCA found, based on all the circumstances, aggravating and mitigating, no misdirection in the trial court's reasons for the sentences imposed. In this regard, the SCA found that there were clearly no substantial and compelling circumstances present to deviate from the prescribed minimum sentence. The appellant's personal circumstances paled in comparison to the aggravating factors. This, because there was clearly very little which was unusual in the appellant's personal circumstances, while, on the other hand, it was a serious aggravating factor for a law enforcement officer to be involved in criminal activities. In this regard, the SCA found that the appellant, a police officer whose primary duty was to uphold the law and curb the commission of offences, abused his position of power and authority and fuelled the drug dealing problem he had been employed to eradicate. The appellant was also not remorseful.

Accordingly, the SCA held that the application for leave to appeal was, therefore, correctly refused by the high court.

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