



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 December 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.

In a judgment delivered today, the Supreme Court of Appeal dismissed the appeal of Mr Stephanus Cornelius van Aardt, a 51 year old diary farmer of Somerset East, on a conviction of murder and a sentence of 12 years imprisonment.

The evidence was that Mr van Aardt launched a vicious and sustained attack on the deceased, Mr Eliot Magabane a 15 year old youth, by slapping him, hitting him with clenched fists, kicking and stamping on him with booted feet and hitting him with a spade. The deceased sustained multiple injuries the major ones of which were six broken ribs and brain injuries. He died of brain injuries.

In the appeal before the SCA Mr van Aardt's counsel argued that the evidence adduced by the State does not establish when and where the fatal injury was inflicted and what instrument or means was used to cause the injury. The defence also suggested that it was possible that some strangers attacked the deceased after Mr van Aardt gave the deceased a mere whipping with a stick mainly on his bum.

The SCA rejected these arguments and held that the appellant is the only person who assaulted the deceased and accordingly caused all the injuries sustained by him, which injuries caused the death of the deceased. The court stated that once it

has been established that the deceased died at the hands of Mr van Aardt it was not necessary to link up particular blows with particular injuries. The court looked at the assault as a whole in order to determine what Van Aardt's intention was. The court concluded that he was correctly convicted of murder.

On the question of sentence the SCA found that having regard to the sustained and viciousness of the assault and Van Aardt's lack of remorse, if anything, the sentence was on the lenient side.