



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL**

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From: The Registrar, Supreme Court of Appeal

Date: 30 MARCH 2010

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

MASEOLA v THE STATE

The Supreme Court of Appeal (SCA) today upheld an appeal by the appellant, Mr Kerston Mokgoake Maseola, against the sentence imposed on him by the North Gauteng High Court (Pretoria) on two counts of murder, the unlawful possession of an automatic firearm, the unlawful dealing in a firearm and the unlawful possession of ammunition. The High Court sentenced the appellant to an effective 43 years' imprisonment.

The prosecution arose out of an incident on 17 January 2004, at the old Fochville Road, outside Sebokeng, in which two policemen were shot and killed by the co-accused of the appellant, one Moloi. The murder weapon was an R4 automatic rifle, which was supplied by the appellant, thus giving rise to his conviction as an accomplice to murder. He was sentenced to 25 years' imprisonment on each of the murder charges, 18 years' imprisonment in respect of the unlawful possession of the automatic firearm, 6 years' imprisonment on the unlawful dealing in the firearm and 7 years' imprisonment in respect of the unlawful possession of ammunition. It was ordered that the sentences be served concurrently so as to result in an effective

sentence of 43 years' imprisonment. The sentence was antedated to 8 August 2005 in terms of the Criminal Procedure Act 51 of 1977.

On appeal, the SCA held that the cumulative effect of the sentences is so harsh and disproportionate that it is entitled to substitute its discretion for that of the trial court. Hence it upheld the appeal against sentences, holding that a sentence that strikes a proper balance is an effective sentence of 30 years' imprisonment.

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