



## THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

### **MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

#### **Minister of Police and another v Zweni (842/2017) [2018] ZASCA 97**

**From:** The Registrar, Supreme Court of Appeal

**Date:** 01 June 2018

**Status:** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.***

---

The Supreme Court of Appeal granted special leave to the appellants' application for leave to appeal against the order granted by the Eastern Cape Division of the High Court, Port Elizabeth, and the respondent in his application to cross-appeal the finding of the court a quo. The issue at the centre of the appeal was whether the respondent's initial detention, before his first court appearance was lawful, and whether further detention after his court appearance was lawful.

The appeal stemmed from the following factual background: The respondent, Sipho Zweni, was arrested and detained at the Motherwell police station on 23 September 2010 for allegedly raping a female child aged 11. His first court appearance was on 27 September 2010 whereafter he was detained further. He moved his first bail application on 7 October 2010 which he abandoned on 11 October 2010, whilst a second bail application on 2 March 2011 failed. Subsequently, he was detained until his acquittal on 14 February 2012.

The respondent instituted an action against the appellants, the Minister of Police and the National Director of Public Prosecutions, claiming damages for: (a) unlawful arrest; (b) unlawful detention from the date of his arrest, namely 23 September 2010 until his first appearance in court on 27 September

2010; (c) unlawful detention from his first court appearance until his acquittal on 14 February 2012; and (d) malicious prosecution.

The court a quo dismissed all the respondent's claims, save for the claim of unlawful detention from lawful arrest until the first court appearance, and awarded him an amount of R100 000 as damages.

- The SCA found that the evidence produced by the appellants in the court a quo justifying the respondent's initial detention was sufficient to prove that the respondent's detention from the date of the lawful arrest but before his first court appearance must have been lawful. Therefore, the court a quo erred in finding that the detention before his first court appearance was unlawful. It was further found by this court that the court a quo was correct in finding that continued detention subsequent to his failed bail application was lawful, as there was no evidence that any of the magistrates that presided behaved unlawfully in dealing with the respondent's criminal case.

As a result, the appeal was accordingly upheld and the respondent's claim and cross-appeal dismissed with costs.

**- END -**