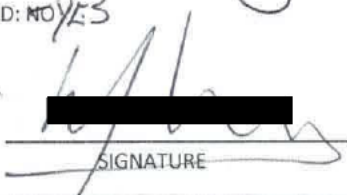




IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appeal Number: A097/2025

(1)	REPORTABLE: ☒ NO
(2)	OF INTEREST TO OTHER JUDGES: ☒ NO
(3)	REVISED: NO YES
	
27 OCTOBER 2025	
DATE	SIGNATURE

In the matter between:

KHOZA, SIMPHIWE LAWRENCE

APPELLANT

And

THE STATE

RESPONDENT

JUDGMENT

Karam AJ:

INTRODUCTION

1. The appellant was convicted on 24 May 2018, in the Orlando Regional Court, of robbery with aggravating circumstances.
2. On the same day he was sentenced to 10 years imprisonment.
3. Leave to appeal was refused in respect of conviction but was granted in respect of the sentence imposed.

ISSUES ON APPEAL

4. The issues to be determined are whether the trial court erred in imposing the sentence it did, and whether the sentence imposed is startlingly inappropriate in the circumstances.

LAW AND ANALYSIS

5. It is trite that punishment is pre-eminently a matter for the discretion of the trial court.

A court of appeal can only interfere with the sentence imposed where that discretion has not been judicially, properly or reasonably exercised, resulting in an irregularity or misdirection, or where the sentence imposed is shockingly inappropriate in that it is substantially different from that sentence which the appeal court would have imposed.

AD SENTENCE

6. The appellant was charged in terms of the Criminal Law Amendment Act 105 of 1997 ("the minimum sentence legislation"), in terms whereof he faced a minimum sentence of 15 years imprisonment as a first offender of such offence.
7. The trial court, correctly in my view, found that there was nothing substantial and compelling in the personal circumstances of the appellant.
8. On the contrary, there were multiple aggravating factors, inter alia:
 - 8.1 the fact that appellant was together with an armed co-perpetrator in the commission of the hijacking;
 - 8.2 the fact that the appellant physically attacked the complainant;
 - 8.3 the fact that the complainant was struck with the firearm wielded by the

co-perpetrator and suffered an injury to his finger;

8.4 the lack of any remorse;

8.5 the loss to the complainant of his two cellular telephones and cash in excess of R14 000,00. The recovery of the vehicle is of no credit to the appellant.

8.6 the fact that he has relevant previous convictions:

8.6.1 a motor vehicle theft for which he was sentenced to 7 years direct imprisonment;

8.6.2 the fact that within the year after his release on parole in 2013 in respect of the above offence, he proceeded to commit similar offences, for which he was subsequently sentenced to 15 years imprisonment. The appellant informed the court a quo that this was for robbery, theft and possession of stolen property.

This Court requested, as the court a quo ought to have, that this be investigated in order to attempt to ascertain whether that previous conviction was for robbery with aggravating circumstances, in which event, the appellant would have faced a minimum sentence of 20 years imprisonment. Counsel were, however, unable to assist this Court in

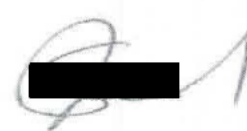
that regard.

9. The main thrust of this appeal was whether the court a quo, in imposing the sentence it did, adequately considered the fact that the appellant was serving a sentence of 15 years imprisonment.
10. It is clear that the court a quo properly considered this factor and for this very reason, deviated from imposing the minimum sentence of 15 years imprisonment and imposed the sentence it did.
11. Having regard to all of the aforesaid, I am of the view that, the sentence imposed is a proper sentence in the circumstances of this matter and that there is no merit in this appeal.
12. Accordingly, I propose the following Order:
 - 12.1 The appeal against sentence is dismissed.



W A KARAM
ACTING JUDGE OF THE HIGH COURT

I AGREE AND IT IS SO ORDERED

A handwritten signature in black ink, appearing to be 'S Mahomed', with a black rectangular redaction box covering the middle part of the signature.

S MAHOMED

JUDGE OF THE HIGH COURT

Appearances:

APPELLANT: Mr Musekwa
Legal Aid SA
Johannesburg Office

RESPONDENT: Adv Mpekana
Director of Public Prosecutions
Gauteng Local Division