

THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA  
MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL

## **State v Karolia**

**Supreme Court of Appeal -337/2003**

**Hearing date:** 3 May 2004

**Judgment date:** 28 May 2004

Appeal against sentence by the state in terms of s 316 B of the Criminal Procedure Act, 51 of 1977, (the Act) tests for a special entry by an accused in terms of s 317 of the Act; compulsory sentences prescribed by s 51 of the Criminal Law Amendment Act, 105 of 1977 and the existence of 'substantial and compelling circumstances'. A sentence of correctional supervision in terms of s 276(1)(i) of the Act and the payment of R250 000,00 set aside and replaced by a suspended sentence of imprisonment and a payment of R250 000,00.

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### **Media Summary of Judgment**

From: The Registrar, Supreme Court of Appeal

*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*

*The State v E Y B Karolia*

Mr Karolia, a motorcar salesman, of Lenasia was convicted in the High Court Johannesburg of murder, attempted murder and assault with intent to do grievous bodily harm. The court took all three charges as one for the purpose of sentence. It imposed a sentence of five years imprisonment in terms of which Mr Karolia was to be placed under correctional supervision in the discretion of the Commissioner of Correctional Services. One year of the aforesaid five years was suspended for five years on certain conditions including the payment by Mr Karolia of R250 000,00 for the benefit of the deceased's minor children. Mr Karolia duly paid the R250 000,00 and was released by the Commissioner after serving 8 months imprisonment.

The state appealed against the sentence as being unduly lenient. Mr Karolia in turn appealed against his convictions. The Supreme Court of Appeal today unanimously dismissed Mr Karolia's appeal. However, by a majority (Zulman JA delivering the judgment of the court concurred in by Patel AJA) upheld the appeal by the state and substituted a sentence of 10 years imprisonment on the murder count, 4 years imprisonment on the charge of attempted murder and 1 years imprisonment on the charge of assault with intent to do grievous bodily harm. It ordered all of the aforesaid

sentences to run concurrently. The sentences, save for 8 months thereof, were suspended for 5 years on condition that Mr Karolia is not convicted of an offence committed during the period of suspension in which violence is an element. The court recorded that Mr Karolia had already served the 8 months imprisonment and that he had paid the sum of R250 000,00.

In a minority judgment, Heher JA, whilst upholding the state's appeal on sentence substituted the sentence imposed by the High Court with a sentence of 10 years, 5 years and 6 months imprisonment on the murder, attempted murder and assault charges respectively. He also ordered the sentences to run concurrently recording that Mr Karolia had already served 8 months imprisonment. The effect of this sentence would have obliged Mr Karolia to serve a further 9 years and 4 months imprisonment whereas the decision of the majority of the Supreme Court of Appeal results in Mr Karolia's entire period of imprisonment being suspended.