



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**  
**MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF**  
**APPEAL**

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

**Date:** 04 December 2024

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*Masiteng v Minister of Police (944/2023) [2024] ZASCA 165 (04 December 2024)*

Today the Supreme Court of Appeal (SCA) handed down judgment, in which it dismissed, with costs, an application for leave to appeal against the decision of the Free State Division of the High Court, Bloemfontein (the high court). This Court addressed an application for reconsideration under s 17(2)(f) of the Superior Courts Act 10 of 2013 (the Act) concerning the fairness of damages awarded for unlawful arrest and detention. The President of the SCA referred the reconsideration application for oral argument in terms of s 17(2)(d) of the Act.

On 29 September 2019, Mr Ntjanyana Masiteng (the applicant), was unlawfully arrested without a warrant on allegations of assault with intent to cause grievous bodily harm. He was detained in inhumane conditions in Warden, Free State Province, for 42 hours before his release, as no charges were pursued. The applicant claimed R210 000 in damages for the infringement of his constitutional rights, humiliation, and emotional distress.

The Free State Regional Court (the regional court) awarded R30 000 in damages, which he challenged as inadequate in the high court. The high court dismissed his appeal, as did a subsequent petition to the SCA for leave to appeal. The applicant then applied for reconsideration under s 17(2)(f), which allows for the referral of dismissed leave to appeal applications in exceptional circumstances.

The SCA found no exceptional circumstances warranting reconsideration. The Court emphasised that s 17(2)(f) is intended to address potential grave injustices and is not an opportunity to rehearse arguments already considered. Refusing leave to appeal would not result in a denial of justice. The SCA held that the damages award was reasonable and within the discretion of the regional court. The Court reiterated that damages are assessed based on various factors, including the conditions of detention, the plaintiff's status, and comparable cases. It rejected the argument that the award was unjust due to the applicant's socio-economic status.

As a result, the SCA dismissed the application for leave to appeal with costs.

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