

Case Summary : Seoathaeng v S

(A209/2023) [2024] ZAGPPHC 460
(13 May 2024)

INTRODUCTION

The case of Seoathaeng v S (A209/2023) [2024] ZAGPPHC 460 emphasised the importance that where an individual is found guilty of separate offences which consist of one continuous incident, an order that the sentences should run concurrently should be made.

BACKGROUND

Seoathaeng ("Appellant") was convicted in the Regional Court Pretoria ("court a quo") for extortion and malicious injury to property to his former employer McDonald ("employer"). The Court a quo sentenced him to 15 (fifteen) years effective imprisonment, namely 10 years for extortion and 5 years for malicious injury to property. The Court a quo ordered that the sentences should run consecutively and not concurrently. The Judge President granted the Appellant's petition brought in terms of section 309C of the Criminal Procedure Act 51 of 1977.

PRETORIA HIGH COURT

The High Court had to determine whether the Court a quo misdirected itself in sentencing the Appellant and by treating the offences as separate offences and not taking into consideration the intentions of the Appellant.

In Mokela v The State (135/11) [2011] ZASCA 166 (29 September 2011) the Supreme Court Appeal ("SCA") held that in order for the two counts to run concurrently, the evidence has to show that the two offences are impossible to separate, and they were committed with one common intent. In S v Seoathaeng, the accused took a video of himself spitting on an ice cream cup and placing his hands in a cooldrink while wearing his employer's uniform. The Appellant proceeded to demand payment from his employer and threatened that if he were not paid, the video will be circulated around social media. It is evident that his malicious damage to property and extortion were committed with one common intent.

By **Ofentse Setoaba** (Candidate Attorney)
and **Jarrood van der Heever** (Senior Associate)

23 September 2024

The Pretoria High Court held that the Court a quo misdirected itself by not passing a concurrent sentence and consequently upheld the appeal and ordered that the sentences should run concurrently. The Court confirmed the principle that, where the offences constitute one continuous incident, an order that the sentences run concurrently should be made.

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VALUE

The case highlights that interlinked offences should be seen as one for purposes of sentencing and that concurrent sentences will be appropriate.



Jarrood van der Heever
(Senior Associate)



Ofentse Setoaba
(Candidate Attorney)