



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

***The Minister of Justice and Constitutional Development v X
(196/13) [2014] ZASCA 129 (23 September 2014)***

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Today the Supreme Court of Appeal (SCA) delivered a judgment dismissing the appeal by the appellant, the Minister of Justice and Constitutional Development, and upholding an order of the Western Cape High Court, Cape Town.

The issue before the SCA was whether the appellant was correctly held liable for payment of damages to the respondent, by virtue of the alleged negligent conduct of a public prosecutor during a bail application hearing held in the magistrates' court for the district of Ladismith (Cape).

The respondent's claim arose in the following circumstances:

Ockert Johannes Steyn appeared in the Ladismith Magistrates' Court on a charge of raping his 12 year old daughter on four occasions during 2006 and 2007. He applied for bail, which was granted, and on 15 June 2007 he was released from custody. On 9 July 2007 and in the neighbouring town of Oudtshoorn, Steyn abducted the respondent's five year old daughter from her residence and raped her twice. The respondent maintained that the combined negligent conduct of members of the South

African Police Service and the prosecutor caused Steyn to be released from custody, thereby allowing him the opportunity to abduct and rape her minor daughter. The high court declared the appellant and the Minister of Safety and Security liable, jointly and severally, for payment of such damages as the respondent may in due course prove that she has suffered in her personal capacity and in her capacity as mother and natural guardian of her minor child.

On appeal the appellant submitted that the high court erred in finding that the prosecutor had negligently failed to execute his prosecutorial duties and that the respondent failed to prove that she has suffered a psychiatric injury or emotional shock entitling her to claim damages in her personal capacity.

The SCA was in agreement with the finding of the high court that the prosecutor failed to exercise due care and to take reasonable precautions to avoid or minimise injury to the respondent and her minor daughter. His negligent failure to place all relevant information before the magistrate resulted in Steyn being released from custody, thereby allowing him the opportunity to abduct and rape the minor child. The SCA held further that the respondent has established the existence of a psychological injury or emotional shock for purposes of the merits of her claim in her personal capacity.

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