



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – 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 intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

**Alberts and 137 Others v The Minister of Justice and Correctional Services
ZASCA 25 (9 March 2022)**

Today the Supreme Court of Appeal upheld an appeal from the Eastern Cape Division of the High Court, Port Elizabeth (per Rawjee AJ). Mr Alberts and 137 others sued out a summons against the Minister of Justice and Correctional Services for damages arising from alleged assaults on them. The alleged assaults all took place during a 2 day period at the St Albans Correctional Centre where the plaintiffs were incarcerated at the time. Attached to the summons were 138 sets of particulars of claim.

The Minister entered a special plea. It contended that the Uniform Rules of Court required that only one set of particulars of claim can be annexed to a summons. In addition, it said that the plaintiffs could not join together in a single action since the claims did not depend upon the determination of substantially the same question of law or fact. The high court upheld the special plea and dismissed the plaintiffs' claims with costs.

On appeal, the Supreme Court of Appeal held that it was not impermissible to attach

a number of sets of particulars of claim to a summons, although the practice of doing so was not to be encouraged. As to whether the plaintiffs were entitled to join together in a single action, the alleged assaults all took place at the same place, during the same time period, with the same witnesses present and the questions of law and fact to be determined were substantially the same. In addition, under the common law, for purposes of convenience, the actions could be heard as one. As a result, the appeal was upheld and the order upholding the special plea and dismissing the plaintiffs' claims was set aside and substituted with an order dismissing the special plea with costs.