

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: 4 June 2025

Status: Immediate

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Van Vuuren v Mec for Health, Gauteng Province (054/2024) [2025] ZASCA 76 (4 June 2025)

Today the Supreme Court of Appeal (SCA) handed down a judgment in which it dismissed the appeal of Mr Jansen van Vuuren (Mr van Vuuren), against the judgment and order of the Gauteng Division of the High Court, Pretoria (the high court), sitting as a court of appeal.

The appeal arose from a claim for loss of support and emotional shock following the death of Mr van Vuuren's mother (the deceased), allegedly due to negligence by medical staff at Charlotte Maxeke, Johannesburg Academic Hospital in 2011. At the time, Mr van Vuuren was a minor, and his legal journey to identify the correct debtor, the Gauteng MEC for Health (the MEC), led to a protracted legal battle over procedural compliance.

At the heart of the matter was Mr van Vuuren's application for condonation for the late filing of the statutory notice in terms of s 3 of the Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002 (the Act). He argued that he only became aware of the correct debtor on 28 November 2016, after consulting attorneys, once he became a major. He then served the required notice on 31 March 2017, within the prescribed six-month period.

The high court, however, while accepting that Mr van Vuuren only learned of the MEC's liability in 2016, dismissed the application for condonation, suggesting that his father and uncle should have identified the correct debtor earlier. On appeal, the full court found that he had been aware of the identity of the debtor from December 2011. Both the high court and the full court considered that Mr van Vuuren's father and uncle could have acquired the knowledge of the debtor within three years of the date of the deceased's death

The core issue for determination by the SCA was whether Mr van Vuuren should be granted condonation for the late filing of the notice in terms of s 3 of the Act.

The SCA found that Mr van Vuuren had in fact complied with the Act, serving notice promptly after discovering the correct debtor. Since the notice was filed within six months of this discovery, and within a year of obtaining majority, condonation was unnecessary. The SCA declined to rule on whether the claim had prescribed, leaving that issue for the trial court.

As a result, the SCA made an order dismissing the appeal, with each party to pay their own costs.