



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
Date: 18 May 2007
Status: Immediate

**MIDI TELEVISION (PTY) LTD v DIRECTOR OF PUBLIC
PROSECUTIONS (WESTERN CAPE)**

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.

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The Supreme Court of Appeal (SCA) today (18 May 2007) held that a court may not prohibit a television broadcaster from broadcasting material until it had satisfied the Director of Public Prosecutions (DPP) that the broadcast would not interfere with a forthcoming criminal trial. It held that a prohibition on publication of material relating to forthcoming criminal proceedings was permitted only if it could be shown that the publication might cause substantial prejudice to the trial and that there was a real risk that the prejudice would occur.

The appeal concerned a documentary that was made by e-tv concerning a crime that had been committed in Cape Town. The DPP insisted on viewing

the documentary before it was broadcast so as to satisfy himself that it would not prejudice the forthcoming trial. When e-tv refused the DPP applied for and was granted an interdict by the High Court at Cape Town.

The SCA said that the constitutional protection of press freedom may be abridged only to the extent that it is necessary to do so for the protection of other rights. It held that the DPP must expect that that freedom will not be abused until he has adequate grounds for believing the contrary. He may not require the press to demonstrate that it will act lawfully as a pre-condition to the exercise of the freedom to publish. That had not been demonstrated and the order should not have been made by the High Court.

The order of the High Court was set aside.