



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: Monday, 4 June 2007

Status: Immediate

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

CENTRAL AUTHORITY v HOUWERT

In a judgment delivered today, the Supreme Court of Appeal has upheld an appeal by the Family Advocate against a judgment of the Pretoria High Court concerning a 5-year old boy, N, who was removed from the Netherlands by his mother (the respondent) in September 2003. The father then set in motion the provisions of the Hague Convention on the Civil Aspects of International Child Abduction (1980), which has been incorporated into South African law by the Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996. The father invoked the assistance of the Family Advocate in order to secure the immediate return of N to the Netherlands.

The High Court ordered the mother to return to the Netherlands for the purpose of attending a custody hearing in respect of N, should oral evidence be required. The court did not, however, order the return of N.

In a unanimous judgment, the SCA set aside the judgment of the High Court and ordered that the child be returned to the Netherlands so that the issues of custody and care of and access to N can be determined by the appropriate court in that country. The Court rejected the mother's defence that she had removed N from the Netherlands on a permanent basis with the consent of the father and accordingly held that N's retention in South Africa was wrongful in terms of the Convention.

In its judgment, the SCA laid stress on the fact that the primary object of the Convention is to secure the *swift* return of children wrongfully removed and to restore the status quo as expeditiously as possible so that custody and similar issues in respect of the child can be adjudicated upon by the courts of the country from which the child was removed. The Court expressed strong criticism of the delays that had occurred in the present case and issued directions that a copy of the judgment be forwarded to the Minister for Justice and Constitutional Development, as well as the Director-General of the Department, for their attention.
