



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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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

LANGA AND OTHERS v HLOPHE

The Supreme Court of Appeal (SCA) today held that justices of the Constitutional Court did not act unlawfully when they made a complaint to the Judicial Service Commission against the Judge President of the Cape High Court without first affording him an opportunity to be heard. It also held that they did not act unlawfully by issuing a media statement announcing that they had made the complaint.

The appeal was brought by the justices of the Constitutional Court against declarations made by the High Court at Johannesburg that they had acted in breach of the Constitution by laying the complaint and issuing the statement without first having afforded the Judge President a hearing.

The High Court found that although the justices were not performing judicial functions as a court when they made their decision they were nonetheless obliged to afford the Judge President a hearing before they did so. The SCA agreed with the finding by the High Court that the justices had not made the decision in the

performance of the judicial function of the court. It went on to find that, that being the case, there was no requirement in law for a hearing to be afforded before they arrived at their decision to lay a complaint and issue a media statement.

The SCA also held that, once having decided to make the complaint, the judges were not obliged by law to keep that secret. It held that if the imputation against the Judge President were true — a matter that the SCA was not called upon to decide — then it was clearly to the public benefit that that it should be known, and its publication would not be unlawful.

The SCA pointed out that it will always be distressing for a judge to learn in the media that he or she has been accused of misconduct. The remedies that were available to a judge in such a case were to insist upon an expeditious disposal of the complaint so as to clear his or her name, and, in appropriate cases, an action for damages for defamation.

The appeal against the declaratory orders made by the High Court was upheld and the orders were set aside.

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