



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: 30 March 2010  
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.*

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**LE ROUX V DEY**

Today the Supreme Court of Appeal (SCA) dismissed an appeal against an order of the North Gauteng High Court (Pretoria) finding in favour of the respondent in an action for defamation and awarding him damages, and upheld a cross-appeal by the respondent against a costs order of the high court.

The appellants published a manipulated photo of two naked gay bodybuilders sitting next to each other in a compromising position. The photo of the respondent (the vice principal of their school) was pasted on the face of the one bodybuilder and the face of the principal of the school onto the other.

The high court, in determining the objective ‘message’ conveyed by the publication, held that although it was obvious that the faces did not belong to the bodies, the

transposition of the faces onto the bodies associated the two teachers with the bodybuilders and their behaviour and that the photo created the impression that the two figures had low moral values and immodest sexuality. As to the question whether the publication was defamatory, it held that it ridiculed the respondent's moral values and disrespected his person. The high court also found that the respondent's dignity had been impaired but did not award him damages for impairment of dignity. It awarded the respondent costs on the magistrates' courts' scale.

The SCA held that the photo was defamatory of the respondent and that its publication was wrongful. It held in respect of the respondent's additional claim based on impairment of dignity that it was ill-founded as a particular defamatory act cannot give rise to two causes of action. It held in respect of the respondent's cross-appeal against the quantum of damages that the award of the high court was fair in the circumstances. In upholding the cross-appeal against the costs order of the high court, the SCA held that the matters of principle involved in the matter justified a costs order on the higher scale and also costs of two counsel.