



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME
COURT OF APPEAL

29 March 2011

STATUS: Immediate

THE MINISTER OF SAFETY AND SECURITY/ VENTER AND VAN
WYNGAARDT

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

1. The Supreme Court of Appeal today dismissed an appeal by the Minister of Safety and Security against a judgment of the North Gauteng High Court, Pretoria, holding the Minister liable for damages suffered by the respondents for the police's failure to inform the respondents of their rights and remedies under the Domestic Violence Act, 116 of 1998.
2. The appeal was successful to a limited extent in that the SCA found that the respondents were contributorily negligent through their failure to obtain a common law interdict when it was possible to do so.
3. The respondents had been the victims of an unlawful attack by the second respondent's ex-husband. Repeated attempts by the respondents prior to the attack to obtain assistance from the police against the attacker's threats and harassment, came to nothing. It was conceded by the Minister that the police had acted negligently. The SCA held that the police's omission, viz by not advising the respondents of the rights and remedies available under the Domestic Violence Act, caused the respondents harm. The court

emphasized the importance of victims of domestic violence being afforded advice by the police on their rights and remedies under the said Act.

4. The court determined the parties' respective negligence at 75 per cent for the Minister and 25 per cent for the respondents. The Minister was consequently ordered to pay 75 per cent of the respondents' damages as agreed or proven at a trial. The SCA upheld the appeal as far as the claim of the third respondent as representative of her minor children was concerned. The court found that there was no evidence supporting that claim, which ought to have been dismissed by the trial court. The Minister was ordered to pay the respondents' costs of appeal including the costs of two counsel.

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