



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE 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.

MEC FOR EDUCATION: MPUMALANGA v SKHOSANA

The Supreme Court of Appeal (SCA) today held, by a majority, that the MEC for Education: Mpumalanga was liable for the injury sustained by a twelve-year old Grade 5 school-learner (Solomon Skhosana) at Tjhidelane Primary School when an explosive device exploded in his hands. The incident occurred on 15 August 2007 outside the school premises. It then dismissed an appeal by the MEC against an order of the North Gauteng High Court, Pretoria.

The evidence established that on that day a teacher at the school, Ms Pendile Mashiane, had earlier confiscated a device from Solomon's classmate, Mbali. The teacher did not establish what the device was and whether or not it was harmful. After the school-day had ended Solomon and Mbali made their way to the school exit, where they were to wait for their transportation. Mbali had a device in her possession which Solomon described as a 'battery-like device with two wires', which she gave to him. She told him that he should

connect the device to the battery that he had for his ship-building project. After Mbali had left and Solomon was alone, he connected the wires protruding from Mbali's device to his battery. This caused the device to explode, which injured him. As a result of the injury Ms Onica Skhosana, Solomon's mother, sued the MEC in the high court. The high court found that the MEC was liable for the injury sustained by Solomon.

In dismissing the appeal, the majority found that the teacher was negligent in failing to establish what the device was, and that her negligence had caused the harm. The minority found that the evidence was inadequate to establish negligence. It held that absolution from the instance would have been the appropriate order.