

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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.

Hotz v University of Cape Town

The SCA today delivered judgment today in an appeal against the judgment of the Western Cape Division of the High Court granting a final interdict against the five appellants arising out of events that took place on the University of Cape Town (UCT) campus between 15 and 17 February 2016. The SCA held that on the facts it was appropriate to grant a final interdict, but that the terms in which it had been granted by the high court were too wide. It accordingly narrowed the scope of the order to one interdicting the appellants from engaging in unlawful activities in breach of UCT's rights and those of other students, staff and persons lawfully on the university campus. The prohibition on the appellants being on the campus without written authorisation from the Vice-Chancellor or his delegate was removed from the order.

The case arose from the Shackville protest in which protesters, some of who were students and some not, erected a shack in Residence Road on the upper campus and created an exclusion zone around it, there by blocking traffic and interfering with the free passage of students to the upper campus. The protesters refused to remove the shack and tried unsuccessfully to erect a second one elsewhere on the campus. During the

protest statues and the War Memorial were defaced with slogans; students forced their way into a residence and helped themselves to food intended for resident students; removed portraits, paintings and photographs from the walls of several buildings and defaced and burnt them. When the protesters were dispersed and the shack demolished, small groups of protesters burnt a bakkie, a Jammie shuttle bus and fire bombed the office of the Vice-Chancellor. Threats were made to burn the library and other buildings. These threats precipitated an urgent application for an interim interdict, which was granted. Thereafter the interdict was made final against the five appellants.

The court stressed that its judgment was not a judgment on the merits of the protest, but related only to the actions of the appellants and whether that warranted the grant of a final interdict. After a detailed analysis of the evidence it held that the actions of the appellants infringed UCT's legal rights and that the university had a reasonable apprehension of future harm, particularly as the appellants were unwilling to give an undertaking to desist in future from conduct causing further harm. However, the court limited the scope of the interdict to unlawful conduct on the university's premises. It ordered that each party would bear their own costs.