



MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

USMAN ISMAIL PATEL / NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS: JOHANNESBURG CASE NO 838/2015

From: The Registrar, Supreme Court of Appeal

Date:

Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

The Supreme Court of Appeal today refused the applicant's application for special leave to appeal. The United States (US) is seeking the applicant's extradition for allegedly violating the US Code between 2003 – 2007 by causing banks not to file currency transaction report (CTR) when depositing cash of \$ 10 000 or more. The offences against the applicant, called structuring, involves \$ 857 670. The applicant's case was that he could not be extradited because when the offences were allegedly committed in the US, structuring was not yet an offence in RSA. Reporting of deposits in excess of R 10 000 became an offence under the Financial Intelligence Centre Act 38 of 2001 only in 2010. There were two issues on appeal. The first concerned the double criminality principle: whether, in order to constitute an extraditable offence as defined in the Extradition Act 67 of 1962 (the Act) and the Extradition Treaty between US and RSA (Treaty), the offence involved must constitute an offence in both the requesting (US) and the requested (RSA) state at the date of its alleged commission, or at the date of the extradition request. The second issue was whether the certificate issued by the requesting state, stating that there is sufficient evidence to warrant the applicant's prosecution in that country, complies with s 10(2) of the Act. The SCA held that on a proper construction of the Act and Treaty, the offence involved must constitute an offence in the requesting state and requested state at the date of the request for extradition. On the second issue the court found that there was sufficient evidence to justify the applicant's prosecution on the alleged charges in the US. For these reasons the application for leave to appeal was refused.