

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 28 September 2018

STATUS Immediate

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

Centre for Child Law & others v Media 24 Limited & others (871/17) [2018]

ZASCA 140 (28 September 2018)

Media Statement

The SCA granted an order declaring that the provisions of s 154(3) of the Criminal Procedure Act 51 of 1977 were constitutionally invalid to the extent that they did not protect the anonymity of children as victims of crimes at criminal proceedings. Parliament was ordered to remedy the constitutional invalidity within 24 months of the date of the order. Pending Parliament's remedying the constitutional invalidity, the section was deemed to include such protection. It was held that the purpose of the limitation upon the right of the media to impart this information was twofold. First, it was to protect children who were victims at criminal proceedings from the glare of publicity. Second, it was to ensure that the section complied with the equality provisions of s 9 of the Constitution. Although the section granted anonymity to an accused and a witness at criminal proceedings who were under the age of 18 years, it offered no protection at all to the victim at criminal proceedings, who was also under the age of 18 years. The exclusion of child victims was therefore irrational and in breach of s 9 of the Constitution, which guarantees the right to equal protection and benefit of the law to everyone. The denial of equal protection to child victims, who were equally vulnerable, could not be justified. The limitation on the rights of the media was accordingly reasonable and justifiable in terms of s 36 of the Constitution. The SCA, however, refused to grant an order declaring that the section was constitutionally invalid to the extent that it did not continue to protect the anonymity of children, whether as an accused, a witness or a victim at criminal proceedings, on reaching the age of 18 years. The absence of any limitation on the nature and extent of the restriction upon the right of the media to impart this information, meant that the relief sought was overbroad and did not strike an appropriate balance between the

rights and interests involved. The limitation severely restricted the rights of the media and was accordingly neither reasonable nor justifiable, in terms of s 36 of the Constitution. The constitutional challenge to the provisions of s 154(3) of the CPA on this basis, accordingly failed.

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