

**SOUTH GAUTENG HIGH COURT, JOHANNESBURG**

**CASE NO: A3039/2011**

In the matter between

**TAKAWIRA, BIGGIE**

Appellant/Plaintiff

and

**THE MINISTER OF POLICE**

Respondent/Defendant

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**SUMMARY**

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**SPILG J and MLONZI AJ:**

***DAMAGES- WRONGFUL ARREST AND DETENTION- ACTIO INIURIARUM- QUANTUM***

*Under common law a claim under the actio iniuriarum for unlawful arrest and detention is a delict based on an infringement of rights to dignity, reputation, liberty and personal integrity. The arrest or detention therefore invades a multiplicity of rights;*

*The right to dignity is distinguishable from the right to reputation. The former is concerned with one of the most fundamental of rights guaranteed under the Constitution. See S v Makwanyane & another 1995 (3) SA 391 (CC).*

*Accordingly social status, while relevant in respect of the infringement of the reputation element, should not be isolated as the dominant criterion. It is wrong to suggest that dignity should be treated as an additional feature and not as one of the intrinsic elements of the broad range of rights infringed.*

*The right to dignity and the sequelae of its invasion, including its long term effect, on the individual remain to be appropriately weighted. Each case is dependent on its own facts and not merely by reference to social status or age when considering an appropriate award whether by reference to historic awards in comparable cases or otherwise.*