

**IN THE SOUTH GAUTENG HIGH COURT, JOHANNESBURG
(REPUBLIC OF SOUTH AFRICA)**

CASE NO: A153/2011

In the matter between:

OFORAH, VICTOR

Appellant

and

THE STATE

Respondent

SUMMARY OF REPORTABLE JUDGMENT

1. This appeal concerned the admissibility of evidence seized during the course of an illegal search and seizure. The Appellant was charged in the Regional Magistrate's Court, Johannesburg, with various counts of fraud, forgery and possession of stolen property. The only evidence that the State had against the Appellant consisted of documents and items seized by the State during the course of a search purportedly conducted pursuant to a warrant. There was no other evidence against the Appellant.
2. The warrant failed to comply with legal requirements in various respects. Among other things, it failed to comply with the requirements of intelligibility on a number of counts: (i) it did not identify the offence; (ii) it did not identify the person to be searched; (iii) it did not identify the premises to be searched with sufficient specificity; (iv) it did not identify the searcher.
3. In addition, the only items that the police were permitted to search and seize, pursuant to the warrant, were unidentified "*computers*". None of the evidence introduced against the Appellant emanated from computers. All of the documents seized fell outside the parameters of the search warrant.
4. Although the Magistrate allowed the evidence in the Appeal Court held that it was inadmissible because it was used in violation of section 35(5) of the Constitution which requires that such evidence **must** be excluded if its admission "*would render the trial unfair or otherwise be detrimental to the administration of justice*". The Court analysed the meaning of the latter

terms in the context of the case and concluded that the evidence should be disallowed because it would both render the trial unfair and be detrimental to the administration of justice.

A handwritten signature in black ink, appearing to read 'P.N. Levenberg', written over a horizontal line.

P.N. LEVENBERG, AJ
ACTING JUDGE OF THE HIGH COURT