

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

FROM: The Registrar, Supreme Court of Appeal

DATE: 8 NOVEMBER 2007

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.

The Supreme Court of Appeal gave judgment today upholding an appeal brought by the Minister of Safety and Security, the commanding officer of the Serious Economic Offences Unit and a member of the unit against an order made in the Pretoria High Court by Mr Justice Bertelsmann in favour of Ms S Bennett, Mr G Porritt and two companies, in which he declared the execution of certain search warrants to have been performed in an unconstitutional and unlawful fashion.

Appeal Judge Farlam, with whom Appeal Judges Nugent, Cloete, Ponnann and Mlambo concurred, held that Mr Justice Bertelsmann had misdirected himself in holding that the police in this case had intentionally removed privileged documents from the respondents' premises.

Appeal Judge Farlam said that the members of the police who executed the warrants adopted a procedure agreed to by the attorney acting for Ms Bennett, Mr Porritt and their companies. The documents seized were not read by the police but marked and placed in sealed boxes. Later the sealed boxes were opened in the presence of an independent advocate and (except for the last day) either Ms Bennett or Ms Porritt. Documents found to be privileged were returned to Ms Bennett and Mr Porritt. No member of the police force participated in the process and not a single document was read by any member of the police service or any other State official.

Mr Justice Farlam also rejected an argument put up by counsel for Ms Bennett, Mr Porritt and their companies that the whole search and seizure operation was rendered unconstitutional because the police had in addition to documents covered by the warrants, seized privileged documents which were not covered.