

SUPREME COURT OF APPEAL OF SOUTH AFRICA

PRESS RELEASE

27 March 2007

STATUS: Immediate

Minister of Safety and Security v Ndiniso

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 respondent's motor vehicle was seized by the police in Tsolo, Transkei, on the basis that a police officer had received a report that the vehicle model was different from that on the record of registration. The High Court, Transkei ordered the return of the vehicle, holding that the seizure was unlawful.

The Supreme Court of Appeal today dismissed an appeal against the high court order. A police officer may seize an article, without a warrant, only where he believes on reasonable grounds that he would be able to satisfy a magistrate or judge that the vehicle may afford evidence of the commission or suspected commission of an offence. The only ground for such reasonable belief advanced by the State was that a report had been received by the police officer about the disparity between the model of the vehicle itself and that reflected on the registration papers.

The report received by the police officer came from an unidentified source. The State had provided no evidence as to the origin of the report or its reliability. The seizure of the vehicle thus did not comply with the provisions of the Criminal Procedure Act. The SCA confirmed the order of the High Court that the vehicle be returned to the respondent.
