



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME
COURT OF APPEAL**

30 November 2009

STATUS: Immediate

**MINISTER OF SAFETY AND SECURITY v PIETER SAMUEL THEO SLABBERT
CASE NO 668/2008**

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 today upheld an appeal against a judgment of the High Court, Grahamstown: that court had ordered the Minister of Safety and Security (the appellant) to pay damages allegedly suffered by Mr Slabbert (the respondent) in respect of unlawful detention.

On 5 February 2005 the respondent was arrested by police officers for being drunk and disorderly in public. He was locked up in the police cells. His wife arrived whilst the police were completing the documents relating to his arrest and requested that he be released into her care. The police declined to do that. The respondent was released at 07h15 the next morning. He subsequently instituted action against the appellant and claimed damages for wrongful arrest, detention, assault and malicious prosecution. No allegation was made in the plaintiff's particulars of claim about the refusal of the police to release him upon his wife's request. All that was alleged was that the police had no legal justification for effecting the arrest and detention.

The court below found that the respondent had been lawfully arrested and that his initial detention that necessarily followed was lawful. It found, however, that his continued detention after his wife had sought his release was unlawful and accordingly awarded the respondent damages in the sum of R20 000.

The SCA held that the trial court had regard to issues which were not pleaded or canvassed in the trial. It further held that there was no factual basis for the finding and that the inferences drawn by the court were not supported by the established facts. This court thus set aside the order of the court below and replaced it with an order dismissing the plaintiff's claims with costs.

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