



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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

KOUGA MUNICIPALITY v MARK BELLINGAN & OTHERS

In December 2002 the Kouga Municipality published a by-law regulating liquor trading hours. Mr Bellingan and others were charged with contravening the terms of the by-law. They brought civil proceedings against the Municipality contending that the by-law was invalid because it had not been properly advertised. The Grahamstown High Court upheld the contention and the SCA agreed.

The SCA held that a person facing a criminal prosecution for a contravention of legislation alleged to be invalid was entitled to ignore the legislation and raise the invalidity when criminally charged, and also to bring civil proceedings for a declaratory order that the by-law is invalid for purposes of the prosecution.

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