



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 19 September 2016

STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

***Law Society of the Northern Provinces v Kyle (246/2015) [2016] ZASCA 120
(19 September 2016)***

MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) upheld the appeal of the Law Society of the Northern Provinces (the Law Society) against an order of the Gauteng Division of the High Court, Pretoria, which had suspended Mr Frederick Kyle (Mr Kyle) from practising as an attorney for a period of six months. On appeal, the SCA suspended Mr Kyle from practice until such a time as he satisfies the court that he is fit and proper to resume practice.

The Law Society had, in the court below, applied for Mr Kyle's suspension on a wide number of bases, including practising without a fidelity fund certificate, failing to account to clients, failing to pay other legal practitioners, and failing to register as an 'accountable institution' in terms of the Financial Intelligence Centre Act 38 of 2001. Mr Kyle, when faced with this application, did not deal with the merits of the complaints. Instead he raised a large number of procedural defences, including challenging the standing of the Law Society to discipline him. The court below considered it unnecessary to deal with all of the complaints, and on the basis that Kyle had failed to practice with a fidelity fund certificate, ordered his suspension for six months.

On appeal, the SCA held that the court below materially misdirected itself by not taking into account all of the other transgressions. The SCA held that it is the compounding effect of all the transgressions that played a material part in the sanction that should be imposed. An appropriate sanction should have taken into account all of Kyle's transgressions. Accordingly, the SCA held that an appropriate sanction is for Mr Kyle to be suspended from practice until such a time as he satisfies the court that he is once again fit and proper person to resume practice.

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