



**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** 28 November 2019

**STATUS** Immediate

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

*Director of Public Prosecutions, Western Cape v Schoeman & another (904/2017)*  
[2019] ZASCA 158 (28 November 2019)

**MEDIA STATEMENT**

The Supreme Court of Appeal (SCA) today dismissed the application for leave to appeal of the Director of Public Prosecutions, Western Cape (the DPP) against Mr Marc Schoeman and Mr Gerhard Botha (the respondents).

The respondents had, after a lengthy trial, been acquitted in the court below of charges in terms of the Prevention of Organised Crime Act 121 of 1998, a number of counts of fraud, and contraventions of the Value Added Tax Act 89 of 1991, the Income Tax Act 58 of 1962 and the Companies Act 61 of 1973.

The DPP applied unsuccessfully to the court below to reserve what were claimed to be four questions of law related to the acquittals, in terms of s 319 of the Criminal Procedure Act 51 of 1977 (the CPA). When the DPP petitioned the SCA for leave to appeal, it was ordered that the application for leave to appeal was to be argued before the SCA.

The SCA held in the first place that the factual bases for the reservations of the questions had not been set out, did not appear from the judgment of the court below and no request had been made to it for special findings on the facts. Secondly, the SCA held that the questions that the DPP had sought to reserve were questions of fact and not of law, as required by s 319 of the CPA. The DPP's application for leave to appeal was accordingly dismissed.