



**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE HIGH COURT
(EASTERN CIRCUIT LOCAL DIVISION)**

CASE NO: H15/2008
13603/2011

In the matter between:

JURITA STEYN

Plaintiff / Respondent

And

THE MINISTER OF SAFETY & SECURITY

First Defendant

**THE MINISTER OF JUSTICE & CONSTITUTIONAL
DEVELOPMENT**

Second Defendant / Applicant

**APPLICATION FOR LEAVE TO APPEAL
JUDGMENT DELIVERED ON 18 FEBRUARY 2013**

YEKISO, J

[1] On 27 July 2012 I handed down judgment in this matter in terms of which I determined that the first and the second defendant were liable, jointly and severally, the one paying the other to be absolved, to compensate the plaintiff in respect of damages she suffered in her personal capacity, as well as damages suffered by her minor

daughter, Megan Wilson in respect of injuries she sustained arising from her abduction and a subsequent sexual assault on her at Oudtshoorn on 11 July 2007.

[2] Subsequent thereto there was filed with the registrar of this court a notice of intention to apply for leave to appeal on behalf of the second defendant against the whole of my judgment handed down on 27 July 2012 on the grounds as set out in the notice of application for leave to appeal. The application for leave to appeal was argued before me whilst on circuit in the Eastern Circuit Local Division of the Western Cape High Court, George on Thursday, 29 November 2012. Once I had heard argument I reserved judgment, simultaneously indicating to the parties that my judgment in the matter would follow shortly. However, since the hearing of the application for leave to appeal, there have been intermittent intervening variables which had an effect of a delay in preparing and delivering this judgment.


[3] I have had an opportunity of considering the applicant's (second defendant's) grounds of appeal in the proposed appeal. Having considered these I am of the view that there is a reasonable possibility that another court could probably come to a different conclusion to the one I arrived at on a question as to whether the second defendant is vicariously liable for the acts and omissions of personnel in the employ of the National Prosecuting Authority. Consequently, leave to appeal is hereby granted to the applicant (second defendant) on all those grounds set out in its notice of application for leave to appeal dated 20 August 2012, inclusive of a question as to whether the plaintiff, in her personal capacity, has discharged the onus of proof in respect of

damages she allegedly suffered in her personal capacity. The National Prosecuting Authority is an organ of state in the national sphere of government. In view of the fact that the issues to be determined on appeal will in all probability have implications on the sphere of the operations of the National Prosecuting Authority nationwide, leave to appeal is granted to the Supreme Court of Appeal.

[4] In the result the following order is made:

[4.1.] Leave to appeal is granted to the applicant (second defendant) to the Supreme Court of Appeal on all those grounds set out in the applicant's notice of application for leave to appeal dated 20 August 2012 inclusive of the question whether plaintiff has succeeded to prove damages she has allegedly suffered in her personal capacity.

[4.2.] The costs of application for leave to appeal shall be costs in the proposed appeal.


N J Yekiso, J