

Media Statement



Tel: +27 12 845 6000

Email:
media@npa.gov.za

Victoria & Griffiths
Mxenge Building
123 Westlake Avenue
Weavind Park
Silverton
Pretoria

www.npa.gov.za

TO: ALL MEDIA

DATE: 15 JUNE 2012

RE: SCA UPHOLDS NPA's APPEAL ON SEXUAL OFFENCES ACT

The Supreme Court of Appeal (SCA) has today upheld the appeal by the DPP Western Cape against the Western Cape High Court judgment which confirmed the dismissal of sexual assault charges against Mr Arnold Prins. The SCA unanimously found both decisions of the Western Cape High Court and Riversdale Magistrate Court to be wrong and set aside that decision and dismissed the order of the Magistrate court which dismissed the charge and effectively dismissed the objection to the charge. The DPP will now recharge Mr Prins and reinstate the case so that the trial can proceed.

The NPA welcomes the SCA judgment as it confirms our strong believe that the courts have an inherent discretion to impose an appropriate sentence in cases where no penalty provision is provided by legislation. All the cases which are partly heard and had been postponed pending finalization of this appeal will now proceed. Cases which had been provisionally withdrawn will now be reinstated and trials will proceed. Prosecutors will now charge people in respect of new cases which had been brought to prosecutors by police for decision and where arrests were put on hold pending the SCA ruling.

The Full Bench of the Western Cape High Court had ruled in the unreported matter, *DPP WC versus Prins (A523/11)*, that section 5(1) of Criminal Law (Sexual Offences and Related Matters) Amendment Act 32

of 2007 does not disclose a punishable offence. Mr Arnold Prins was indicted on a charge of sexual assault in contravention of Section 5 (1) of the Act. The Regional Magistrate quashed the charge because it did not disclose an offence as Section 5 (1) of the Sexual Offences Act does not contain any penalty for the alleged offence. The DPP office appealed that judgment but the Western Cape High Court dismissed the State's appeal based on the principle that there is no punishment without a law.

The decision to appeal this judgment was informed by the far reaching implications on sexual violence cases in the whole province as well as the government's efforts in fighting the alarming rate of sexual violence especially against women and children. NPA will continue its aggressive approach in prosecuting sexual abuse cases without hindrance.

Issued by:

Eric Ntabazalila
DPP Western Cape Spokesperson
0730621222

And

Mthunzi Mhaga
NPA Spokesperson
072 198 6863