

June 2013

Dear *South African Law Reports* and *Criminal Law Reports* subscriber

Herewith the cases of interest in the June reports. Also included below are the table of cases and flynotes.

To be released at the end of May is the latest cumulative index to the *South African Criminal Law Reports*, covering the years 2010--2012.

Juta's law reports stock-reduction sale has begun, and will run until the end of June. Substantial discounts are being offered on part and full sets of the *South African Law Reports* and the *South African Criminal Law Reports*. Download the brochure [here](#) for more details.

JUDGMENTS OF INTEREST IN THE JUNE EDITIONS OF THE SALR AND THE SACR

SOUTH AFRICAN LAW REPORTS

The Dalai Lama and the visa that never came

When the Dalai Lama's visit to the country had to be cancelled because of the delay in processing his visa, the only inference that could be drawn was that Home Affairs were intent upon procrastination, that the matter had been deliberately delayed so as to avoid a decision. The minister had unreasonably delayed her decision on the visa and had acted unlawfully. *Buthelezi and Another v Minister of Home Affairs and Others* 2013 (3) SA 325 (SCA)

Eviction of disabled mother and children

Where proceedings for the eviction of a disabled mother involve the eviction of the children, the court has to consider the rights and the needs of the children, the disabled mother and the woman-headed household. The question whether alternative accommodation was available to the mother and children is a highly relevant consideration in such circumstances. Where the case involves the unfortunate family dynamic of a father seeking to evict his minor children with their mother, the circumstances cry out for a solution by way of mediation and engagement short of going to court. *Arendse v Arendse and Others* 2013 (3) SA 347 (WCC)

National demographics a barrier to policewoman's promotion

An Indian woman was refused promotion on the grounds that it would conflict with the national racial demographic. She challenged the decision on the grounds that it amounted to unfair discrimination since the plan was an absolute barrier to her appointment, and that the manner of its implementation and the targets set were inconsistent and arbitrary, and thus unfair. *Naidoo v Minister of Safety and Security and Others* 2013 (3) SA 486 (LC)

SOUTH AFRICAN CRIMINAL LAW REPORTS

Was guilty plea made while accused mentally impaired?

The applicant supplied affidavits from psychologists and applied to set aside his conviction for murder, maintaining that he was not in his sound and sober senses when he appeared in court. The case was one where the interests of justice demanded that the evidence be properly tested and evaluated, and was accordingly referred for the hearing of oral evidence. *S v Sewnarain* 2013 (1) SACR 543 (KZP)

Appeal conundrum

When the accused's case reached the full bench on appeal against sentence, the court found that there was merit in an appeal against the conviction, but no leave had been granted for this, so the court was powerless to consider it, and had to make a provisional determination, pending grant of leave to appeal by the President of Supreme Court of Appeal. *S v Mazongolo* 2013 (1) SACR 564 (WCC)

Right to a lawyer when making a statement to police

The policeman had offered to stop proceedings so that the accused could acquire a lawyer, but the accused decided to proceed and make a statement. It is not expected of the police officer taking a confession or statement to offer an accused person any legal advice as to how best to exercise his or her rights. There is no duty on the police to provide any further assistance than what is required in the Constitution. *S v Mngeni* 2013 (1) SACR 583 (WCC)

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SOUTH AFRICAN LAW REPORTS

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NEW RELEASES FROM JUTA

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The Supreme Court Act 59 of 1959 and the Magistrates' Courts Act 32 of 1944 and Rules
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Human Dignity: Lodestar for Equality in South Africa
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