



CONSTITUTIONAL COURT OF SOUTH AFRICA

Minister for Safety and Security v Van der Merwe and Others

Case No: CCT 90/10

Date of Judgment: 7 June 2011

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On Tuesday 7 June 2011 the Constitutional Court delivered a judgment in an application for leave to appeal against a judgment of the Supreme Court of Appeal. The matter involves a challenge to the validity of search and seizure warrants issued in terms of section 21 of the Criminal Procedure Act.

The warrants in this case were issued as a result of a suspicion by the Commercial Crime Unit of the South African Police Service (SAPS) that Mr van der Merwe, three other suspects and several companies, in which he has a financial interest, were involved in money laundering as well as financial and tax irregularities.

The SAPS caused search and seizure warrants to be issued by a Magistrate in Cape Town. Searches were carried out at the homes of Mr van der Merwe and Mr Fanaroff as well as at the business premises of some of the respondent companies. Several articles were seized.

The warrants did not specify the offences and were set aside as invalid on that basis by both the High Court and the Supreme Court of Appeal.

Writing for a unanimous Court, Mogoeng J held that a warrant issued in terms of section 21 of the Criminal Procedure Act to be intelligible must stipulate the offence on which it is based. Failure to comply with this requirement was found to be fatal to the validity of the warrants. For this reason, the application was dismissed.