

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**Sanderson v Attorney-General, Eastern Cape**

**Case CCT 10/97**

**Decided on 2 December 1997**

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**Media Summary**

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

The appellant, the deputy principal of an Eastern Cape school, had been charged with committing sexual offences against two female pupils at a school at which he had previously taught. His first court appearance was on 2 December 1994. Almost two years later he had not yet been brought to trial. He applied to a High Court for a permanent stay of the prosecution, alleging that the delay had been unreasonable and had infringed his constitutional right to a trial within a reasonable time after being charged in terms of s 25(3)(a) of the interim Constitution. The High Court dismissed the application and Sanderson appealed to the Constitutional Court.

In interpreting the right to a trial within a reasonable time, the Court considered what interests the right was designed to protect. It distinguished between trial-related prejudice caused by delay that may impair the accused's defence, and other forms of prejudice, such as pre-trial incarceration, restrictive bail conditions, anxiety and stress, loss of income and social ostracism. He concluded that the right was aimed at preventing all these forms of prejudice - even those not related to the conduct of the trial itself - resulting from the trial not being held within a reasonable time.

The Court held that in deciding what a reasonable time is, a court must make a value judgment, considering such factors as the kind of prejudice suffered by the accused, the nature and complexity of the case and lack of state resources which hamper the investigation or prosecution of the case. Although members of society who benefit from the criminal justice system have to tolerate the burdens it imposes, pre-trial delay should not become a form of punishment.

Applying these principles to the facts, the Court found that the only prejudice suffered by Sanderson had been social embarrassment. Because this social prejudice had not been seriously aggravated by the delay, the right in question had not been infringed. Consequently the appeal was refused.

The judgment of the Court was delivered by Kriegler J and was concurred in by the other members of the Court.

