



CONSTITUTIONAL COURT OF SOUTH AFRICA

Hugh Glenister v President of the Republic of South Africa and Others

Case CCT 28/13

Date of Judgment: 14 June 2013

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.

Today the Constitutional Court handed down a judgment refusing an application to amend an order handed down by this Court in *Glenister v President of the Republic of South Africa and Others* [2011] ZACC 6; 2011 (3) SA 347 (CC); 2011 (7) BCLR 651 (CC) (*Glenister II*).

Glenister II dealt with an application, brought by the applicant in the current case, to determine the constitutional validity of the National Prosecuting Authority Amendment Act (NPAA Act) and the South African Police Service Amendment Act (SAPSA Act). The applicant was successful in his challenge, and the Court ordered the respondents to pay the applicant's costs, including costs of two counsel, in the High Court and in this Court. However, the costs order made no provision for the qualifying fees of an expert witness.

The applicant contends in this Court that while the costs for the expert witness were requested, neither the majority nor minority judgments in *Glenister II* make reference to whether the costs of an expert witness should be included in the costs award against the respondents. The applicant argued that costs should follow the outcome because the services of the expert witness were both necessary and useful.

In its judgment, the Court reasoned that, in *Glenister II*, it was tasked with determining the constitutional validity of impugned statutes, a determination which is well within its competence. The Court placed no reliance on the expert witness in reaching its conclusion because the expert's testimony was of no "appreciable help" in deciding the issues. There was therefore no reason to include the qualifying costs of an expert in the order of *Glenister II*. The application was dismissed with no order as to costs.