



## JUTA'S ADVANCE NOTIFICATION SERVICE

SEPTEMBER 2014

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

Herewith the cases in the September reports. Also available this month is *Burrell's Intellectual Property Law Reports 2013*, see the table of cases below.

### JUDGMENTS OF INTEREST IN THE SEPTEMBER EDITIONS OF THE SALR AND THE SACR.

#### **SOUTH AFRICAN LAW REPORTS**

##### **Clarity on the four Eastern Cape Divisions**

The Grahamstown Division has jurisdiction over the entire Eastern Cape Province. The local seats (Bhisho, Mthatha and Port Elizabeth) have concurrent jurisdiction over their respective areas. Litigants may choose to proceed in Grahamstown rather than the local seat, but the judge may order that the matter be removed to the local seat on grounds of convenience. *Them bani Wholesalers (Pty) Ltd v September and Another* 2014 (5) SA 51 (ECG)

##### **Possession of a vehicle carrying a tampered-with engine number**

The premise that possession of a tampered-with vehicle would always be unlawful was wrong because it was possible to have a 'lawful cause' for the possession of such a vehicle. In casu applicant's possession of the vehicle pursuant to its return in terms of a court order would be only unlawful if it were established that he did not have lawful cause to possess it, but since an enquiry into the facts surrounding the applicant's possession could not be held in spoliation proceedings, the police first had to restore possession. *Ngqukumba v Minister of Safety and Security and Others* 2014 (5) SA 112 (CC)

##### **Interpretation of a contract**

If a contract required a close working relationship between the parties, commercial reality would suggest an intention not to be bound in perpetuity. In such cases a tacit term allowing for termination on reasonable notice would be imported in the interests of commercial efficacy. *Plaaskem (Pty) Ltd v Nippon Africa Chemicals (Pty) Ltd* 2014 (5) SA 287 (SCA)

#### **SOUTH AFRICAN CRIMINAL LAW REPORTS**

##### **Duties of prosecutors**

It needed to be stressed that the duty of prosecutors was not to secure a conviction at all costs, or to defend convictions once obtained, but to see that so far as possible justice was done. *S v Macrae and Another* 2014 (2) SACR 215 (SCA)

### **Prospects of rehabilitation for parole**

The court had to deal with two conflicting reports of two psychiatrists on whether 20 years after prisoner's incarceration, he still suffered from antisocial personality disorder and that his prospects of rehabilitation were nil. *Van Vuren v Minister of Correctional Services* 2014 (2) SACR 227 (GP)

### **Murder by driving a taxi?**

A driver of a taxi, in central city peak hour traffic, mounted the pavement and killed a pedestrian. Any right-minded person would have foreseen the possibility of death, and the driver possessed the requisite subjective intent for murder. However, on the evidence of the case, the driver had taken a risk which he thought would not materialise, and the second element of *dolus eventualis* was not established. *S v Ndlanzi* 2014 (2) SACR 256 (SCA)

### **Child and Youth Care Centres**

Two judgments from the Eastern Cape tackle the placement of juvenile offenders and children in need of care, particularly into a newly-built Child and Youth Care Centre in Bisho. *Jonker v Manager, Gali Thembani/JJ Serfontein School And Others* 2014 (2) SACR 269 (ECG) and *S v Goliath* 2014 (2) SACR 290 (ECG)

### **WE WELCOME YOUR FEEDBACK**

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Kind Regards

**The Juta Law Reports Team**

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