



JUTA'S ADVANCE NOTIFICATION SERVICE

JANUARY 2015

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

Herewith the cases in the January law reports.

We wish all our readers a peaceful festive break, and a prosperous new year.

JUDGMENTS OF INTEREST IN THE JANUARY EDITIONS OF THE *SALR* AND *SACR*.

SOUTH AFRICAN LAW REPORTS

Minister liable for negligent prosecutor

The prosecutor failed to put relevant information to the court at the accused's bail application, resulting in the accused being released on bail, which opportunity he used to rape a 5-year-old girl. The minister unsuccessfully argued that the prosecutor had not been negligent, and relied on an immunity defence. *Minister of Justice and Constitutional Development v X* 2015 (1) SA 25 (SCA)

The doctrine of entanglement

When a church minister announced her intention to enter a same-sex marriage, disciplinary action followed, then an appeal, followed by an approach to the high court, when the matter was referred to arbitration. In issue was whether the minister had shown good cause to set aside the arbitration agreement. *De Lange v Presiding Bishop, Methodist Church Of Southern Africa And Another* 2015 (1) SA 106 (SCA)

Conflicting medical expert opinions

A court's preference for one distinguished professional opinion, over another, is not sufficient to establish negligence. The court had to decide whether there had been failure to act in accordance with a practice accepted as proper in the relevant field. It had to subject the opinion to critical analysis, with a view to establishing whether it had a logical basis, and whether it reached a defensible conclusion. *Medi-Clinic Ltd v Vermeulen* 2015 (1) SA 241 (SCA)

SOUTH AFRICAN CRIMINAL LAW REPORTS

Provisions of Criminal Procedure Act ruled unconstitutional

Section 77(6)(a) was found to deprive the court of a discretion and to dictate a mandatory outcome, regarding an accused who is not able to understand the proceedings. It was found that the section dictated incarceration in prison, hospital or mental institution, and impermissibly infringed the rights of children in section 28(1) of the Constitution, not to be detained except as last resort. *De Vos NO and Another v Minister of Justice and Constitutional Development and Others* 2015 (1) SACR 18 (WCC)

Mother given life sentence for aiding the rape of her own children

The mother had been key to the perpetration by making her children available for rape and sexual abuse. She watched while they were being degraded, violated, stripped of their dignity and their innocence taken away from them. *S v HB* 2015 (1) SACR 76 (GP)

Gang of robbers given effective 25 year sentence

The gang committed a spate of robberies with military precision, severely traumatizing their victims. Despite some accused being young first offenders who had been in custody for duration of trial, no substantial and compelling circumstances could be found. *S v Tlale and Others* 2015 (1) SACR 87 (GJ)

WE WELCOME YOUR FEEDBACK

Please forward any comments regarding *The South African Law Reports* and *The South African Criminal Law Reports* to lawreports@juta.co.za

Kind Regards

The Juta Law Reports Team

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