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JANUARY 2019

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JUDGMENTS OF INTEREST IN THE JANUARY 2019 EDITIONS OF THE *SALR* AND *SACR* LAW REPORTS.

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SOUTH AFRICAN LAW REPORTS

Disqualification from refugee status: political crimes

In *Gavrić*, a Refugee Status Determination Officer disqualifies Mr Gavrić from eligibility for refugee status (s 4(1)(b) of the Refugees Act 130 of 1998). Mr Gavrić had been convicted of murder by a Serbian court. The case considers whether a s 3 refugee status decision is a prerequisite for a disqualification decision; and directs the approach to determining if a crime is political. *Gavrić v Refugee Status Determination Officer and Others* 2019 (1) SA 21 (CC)

An order that a third party provide information to a wronged party, to enable it to identify, and institute an action against a wrongdoer

In this case a company, Nampak, was robbed by unknown wrongdoers. Nampak sought an order that cellphone companies provide it with information, to enable it to identify the wrongdoers, and to institute an action against them. The court introduces this relief into South African law. *Nampak Glass (Pty) Ltd v Vodacom (Pty) Ltd and Others* 2019 (1) SA 257 (GJ)

Legality review: mistakes of fact

The Airports Company applied in this case to review its own award of a tender on the basis that it was flawed by mistakes of fact. The case considers this ground of legality review. *Airports Company South Africa v Tswelokgotso Trading Enterprises CC* 2019 (1) SA 204 (GJ)

SOUTH AFRICAN CRIMINAL LAW REPORTS

Dagga: private possession, use and cultivation

Prince concerns the constitutionality of statutory provisions criminalising private cultivation, use or possession of dagga. The Constitutional Court confirms, in part, the High Court's declaration of invalidity, and states the position for the period after its order, pending Parliament's intervention. *Minister of Justice and Constitutional Development and Others v Prince and Others* 2019 (1) SACR 14 (CC)

Use of exact words of oath not peremptory

The substance of the oath sworn to by the witness was sufficient to satisfy the requirements of s 162(1) of the Criminal Procedure Act 51 of 1977, despite the omission of the phrase 'the whole truth'. The use of the exact words was not peremptory. *S v Armstrong* 2019 (1) SACR 61 (WCC)

Ethical duty on prosecution to convey information to defence

Information was received that attempts had been made to bribe and threaten the presiding judge. The matter was investigated by the Director of Public Prosecutions for two years while the trial continued without the defence being informed thereof, precipitating the recusal of the judge and permanent stay of prosecution. The court found that the prosecution had an ethical duty to convey such information in the circumstances. *S v Brooks* 2019 (1) SACR 103 (NCK)

WE WELCOME YOUR FEEDBACK

Please send any comments or queries to lawreports@juta.co.za.

Kind Regards

The Juta Law Reports Team

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