

TEAM B

IN THE HIGH COURT OF THE REPUBLIC OF SOUTH AFRICA

(NORTH GAUTENG HIGH COURT)

Held at **PRETORIA**

CASE NO: 123/09

In the matter between

The Minister of Social Development and Another

APPLICANTS

And

Mr John Swann and Others

RESPONDENTS

RESPONDENT HEADS OF ARGUMENT

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FACTS

1. The First Respondents in the matter before the Court are Mr. and Mrs. Swann. The First Respondents have three minor children Susan, Mark and Veronica. The Second Respondent is Stefan Mistav who has two minor children in his care, Abram and Yasmeen. The Respondents come from Sentavia, a country which is politically unstable. On 21 August 2009 Mr. Swann informed the Board of Directors of the company for which he worked that he was moving to South Africa because he was concerned about the political instability in Sentavia.
2. On 1 October 2010 the Respondents, as well as all the children in their care, arrived at Johannesburg International Airport. On arrival in South Africa the group was met by an immigration official who informed the Respondents that the Sentavian authorities suspected the Respondents of child trafficking. The South African authorities detained both the Respondents and the minors and searched their luggage. In the Second Respondent's luggage the following was found: US\$50 000, two forged South African passports matching the appearances of Mr. Swann and the Second Respondent, two airline tickets in the names of the forged South African passports to the state of Allstan and lastly the phone number of General Zelusi, a member of the Allstan army.
3. The Respondents denied the allegations of child trafficking but the children were still removed from the Respondents' care and placed in temporary safe care. The Respondents are currently being detained at the airport police station. The Attorney General of Sentavia has requested the extradition of the Second Respondent so that he may be tried for activities relating to terrorism and child trafficking.

SUMMARY OF ARGUMENTS

The application for suspension of the First Respondents' parental rights and responsibilities on the basis of child trafficking should be dismissed

There is no sufficient reason to believe that child trafficking has taken place. The parental rights and responsibilities of the First Respondent thus cannot be suspended.

The separation of the minor children from the First Respondents is inconsistent with the best interests of the child

The best interests of the child are of paramount importance and there is a need for children to remain in the care of their parents. Separating the foreign minor children from their parents will be practically difficult.

The First Respondents and their children should be detained together in suitable detention facilities

There is a need for the children of the First Respondents to remain in the care of their parents as it is in their best interest and there is no reasonable or justifiable limitation of this right.

The Second Respondent does not have standing

The Second Respondent does not have standing to participate in these proceedings without assistance due as he is a minor and due to the nature of the proceedings against him.

The proceedings before the Court are deportation proceedings

The requirements for extradition have not been met while the requirements for deportation have been met. The rights of the Second Respondent as an unaccompanied foreign minor have been violated. The deportation proceedings are thus vitiated.

Alternatively, these proceedings are invalid due to the violation of the Second Respondent's rights which would occur if he were extradited

The Second Respondent's right to be detained for the shortest period of time will be violated if he is extradited. The State has an obligation to enter into negotiations with the Sentavian government in order to obtain assurance that there shall be no violation.

ARGUMENTS

1. The application for suspension of the First Respondents' parental rights and responsibilities on the basis of child trafficking should be dismissed

1.1. The First Respondents' parental rights and responsibilities can only be suspended if there is a reasonable belief of child trafficking

1. The Children's Act states that if a court has reason to believe that a parent or guardian of a child or any other person who has parental responsibilities and rights in respect of a child, has trafficked the child or allowed the child to be trafficked, the court may suspend the parental rights and responsibilities of that parent, guardian or other person and place the children into temporary safe care.¹ Thus, in order for the application for the suspension of the parental rights and responsibilities of the First Respondents to succeed, there must be sufficient reason to believe that child trafficking is present as demonstrated on a balance of probabilities. The Respondent submits that the facts before the Court do not show sufficient reason to believe that child trafficking has taken place.

1.2. The actions and intentions of the First Respondents do not amount to child trafficking

2. The Children's Act defines child trafficking as the "recruitment, sale, transportation, transfer, harboring or receipt of a child by any means, including the use of threat, force or other forms of coercion, abduction, fraud or deception for the purpose of exploitation."² . It is only necessary to prove intention to exploit the child for the definition of child trafficking to be applicable.³ Furthermore, such intention will suffice in charging the perpetrator of the crime.⁴ Thus, the intention to exploit the minor children is sufficient to prove that child trafficking has taken place.

¹ The Children's Act 38 of 2005 (hereafter "the Children's Act), section 287.

² The Children's Act, section 1.

³ "Trafficking in persons discussion paper 2006" SA Law Reform Commission Project.

⁴ Boezaart, T *Child Law in SA*, Juta & Co. Ltd, Claremont, page 205.

3. The definition of “exploitation” is found in the UN Protocol to Prevent Trafficking in Persons⁵ (hereafter referred to as “the Protocol”). The Protocol has been signed and ratified by the government of South Africa and is appended to the Children’s Act. South Africa is thus bound by its provisions. The Protocol defines exploitation as “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.⁶
4. As shown in the facts, Mr. Swann stated his reason for leaving Sentavia as being his concern for the safety of his family due to the political unrest in Sentavia.⁷ Furthermore, the South African Police Services searched the Respondents’ luggage and found US\$50 000, two forged passports matching the appearances of Mr. Swann and the Second Respondent and two airline tickets to Allstan in the names of the forged passports.⁸ Thus, while the Second Respondent was in possession of forged passports and airline tickets to Allstan, none of these documents were in the names of the minor children. The only documents which were procured for the minors in the care of the Second Respondent (passports allowing them to enter South Africa), were done so in the best interests of the children as they have no parents or guardians to procure such documents on their behalf.⁹ The procurement of these passports was necessary to allow the children to escape the political conflict in Sentavia. Therefore there is no reason to believe that the minor children would be transported to Allstan and exposed to child trafficking or any of the aforementioned means of achieving exploitation.
5. Therefore the definition of “exploitation” has not been met. Thus, because exploitation is not present in this matter and the definition of “child trafficking” is not applicable. Section 287 of the Children’s Act thus cannot be applied because, on a balance of probabilities, there is no reason to believe that child trafficking is present and therefore the parental rights and responsibilities of the First Respondents may not be suspended. In

⁵ UN Protocol to Prevent Trafficking in Persons, article 3.

⁶ The Protocol, article 3.

⁷ Facts, paragraph 6.

⁸ Facts, paragraph 9.

⁹ Facts, paragraph 13.

addition, if this section were to be applied it would be contrary to the best interests of the child standard.

2. The separation of the children from the First Respondents is inconsistent with the best interests of the child

6. The Constitution as well as the Children's Act states that the best interests of the child are of paramount importance in any matter concerning that child.¹⁰ This was applied in the case of *Director of Public Prosecutions, Transvaal v Minister of Justice and Constitutional development*.¹¹ The United Nations Convention on the Rights of a Child (hereafter the "CRC") states that the best interests of the child shall be a primary consideration in all actions concerning the children.¹² Furthermore state parties shall ensure that a child shall not be separated from his or her parent.¹³
7. The best interests of the child standard is found in the Children's Act¹⁴ which emphasises that there is a need for the child to remain in the care of the parents.¹⁵ In the case of *L v Lukoto* the court stated that children have the right to proper parental care.¹⁶ The Children's Act further stipulates that the Court must consider the practical difficulty of separating the parents from the children.¹⁷ In this matter the separation would cause practical difficulty as the children are foreign minors. Removing them from the care of their parents would leave them in the care of strangers in a country which is not their own and with which they are not familiar. Further, the Children's Act¹⁸ as well as the case of *McCall v McCall*¹⁹ state that one cannot separate children from their parents if the

¹⁰ The Constitution, section 28(2); Children's Act, section 9.

¹¹ *Director of Public Prosecutions, Transvaal v Minister of Justice and constitutional development and Others* 2009(4) SA 222(CC), paragraph 76.

¹² The United Nations Convention on the Rights of the Child (hereafter the "CRC"), article 3(1)

¹³ The CRC, article 9

¹⁴ The Children's Act, section 7.

¹⁵ The Children's Act, section 7(1)f(i).

¹⁶ *L v Lukoto* 2007(3) SA 569 (T), paragraph 21

¹⁷ The Children's Act, section 7(1)e.

¹⁸ The Children's Act, section 7(1)(i).

¹⁹ *McCall v McCall* 1994 3 SA (C), page 205 [D].

separation would mentally, physically and psychological harm them. This would be the case if the minors were separated from the First Respondents.

8. In the case of *Kleingeld v Heunis*²⁰ the Court stated that it is slow to substitute itself as parent of the child where there is no indication that the parents are not exercising parental rights in the best interests of the child.²¹ The Respondent submits that there is no indication in the facts that the parents are not acting in the best interests of their children. To the contrary, Mr. Swann indicated a year before leaving Sentavia that his intention in doing so was protecting his family and their interests.²² The Court should thus be slow to substitute itself as parent in this matter.

9. The First Respondents submit that the separation of the children from the First Respondents is inconsistent with the best interests of the child standard which is of paramount importance.

3. The First Respondents and their minor children should be detained together in suitable detention facilities

10. The First Respondents and their children should be detained together in suitable detention facilities. The Children's Act emphasises the need for a child to remain in the care of his or her parents.²³ This was also stated in the case of *McCall v McCall*.²⁴ Furthermore, the Immigration Act²⁵ as well as the case of *Lawyers for Human rights v Minister of Safety and Security*²⁶ state that a minor may not be separated from their parents or guardian when being detained. In the case of *M v S*²⁷ the parent of the minor child was placed in a suitable detention facility with her child, rather than being sent to prison, in order to comply with the best interests of the child standard. The Court held that the best interests of the child are of paramount importance and that, in order to limit this right as

²⁰ 2007 (5) SA 559 (T).

²¹ *Kleingeld v Heunis* 2007 (5) SA 559 (T), paragraph 11.

²² Facts, paragraph 6.

²³ Children's Act, section 7(f)(i).

²⁴ *McCall v McCall* 1994 3 SA (C), page 205 [D].

²⁵ The Immigration Act 13 of 2002, section 34(1)(e).

²⁶ *Lawyers for Human rights v Minister of Safety and Security and others* 2009 JOL 23612 (GNP), paragraph 5.

²⁷ *M v S Centre for Child Law Amicus Curiae* (2007) 12 BCLR 1312 (CC).

guaranteed by the Constitution²⁸, the limitation must be justified and reasonable.²⁹ The First Respondent submits that the limitation of the minor children's best interests in this case would not be justifiable or reasonable because there is no sufficient reason to believe that the First Respondents engaged in child trafficking. The rights of the First Respondents' children can therefore not be limited.

11. The Respondent thus asks that the Court order that the First Respondents be removed from the airport prison and placed in a more suitable detention facility with their children.

4. The Second Respondent does not have standing to appear in the current matter

12. The common law grants standing only to minors who act with the assistance of a guardian or curator.³⁰ This grants minors a limited capacity to litigate as they may not appear before a court without the aid and assistance of a major. Minors are persons below the age of eighteen.³¹

13. The Second Respondent currently has no parents or any individual appointed as either his guardian or curator by a court of law or otherwise. No major has so far assisted the Second Respondent in the litigation process other than counsel briefed by him. Additionally, the Second Respondent is seventeen years old³² and thus qualifies as a minor for the purposes of statute and common law as he is below the prescribed age of majority.

14. The Children's Act also provides that a child is also expected to participate in an appropriate manner in litigation proceedings, taking into account such a child's age, maturity and stage of development.³³ Should proceedings against a minor, who is without

²⁸ The Constitution, section 28(2).

²⁹ *M v S Centre for Child Law Amicus Curiae* (2007) 12 BCLR 1312 (CC), paragraph 26.

³⁰ *Weber v Santam* 1983 (1) SA 381 (A), page 386.

³¹ The Children's Act, section 17.

³² Facts, paragraph 5.

³³ The Children's Act, section 10.

assistance, be allowed to continue, such proceedings would be vitiated. This is due to a minor's youthful lack of experience and insight.³⁴

15. The interests of the Second Respondent are compromised by his lack of a guardian or curator's guidance and experience in briefing counsel and appearing before the honourable Court when facing serious and complex charges of child trafficking and terrorism. The proceedings against the Second Respondent before the court should thus be vitiated.
16. The Constitution provides that the best interests of the child are of paramount importance in all matters pertaining to the child.³⁵ This is supported by the Children's Act.³⁶ The Court has recognised the vulnerability³⁷ of minors which results from their minority. It is also acknowledged that minors are less able to protect themselves and are more needful of protection.³⁸ The court may also take into consideration any other relevant characteristic of the child when determining the best interests of the child.³⁹
17. The Second Respondent is more needful of such protection in the form of assistance in court proceedings as a result of his minority. His best interests would be compromised were his minority ignored as his vulnerability qualifies as any other relevant characteristic which may be used when determining a child's best interest.

5. The proceedings before the court are deportation proceedings

18. The distinction between extradition and deportation is important due to the difference in the purpose and procedure followed in each situation. The purpose of deportation proceedings is to ensure that an illegal foreigner leaves the borders of the Republic.⁴⁰ The purpose of an extradition is to ensure that an accused individual is delivered to a foreign

³⁴ *Phathlane v S* 1997 (2) All SA 500 (B), page 503.

³⁵ The Constitution, section 28(2).

³⁶ The Children's Act, section 9.

³⁷ *Centre for Child Law v Minister of Justice and Constitutional Development* 2009 (11) BCLR 1105 (CC), paragraph 26.

³⁸ *Supra*.

³⁹ The Children's Act, section 7(1) (g)(iv).

⁴⁰ *Mohamed and Another v President of the Republic of South Africa* 2001 JOL 8498 (CC), paragraph 29.

state where he is to face trial for alleged crimes committed in that foreign state.⁴¹ The procedure followed in deportation proceedings include certain minimum standards of detention⁴² which do not apply in extradition proceedings.

19. These are deportation proceedings due to the Second Respondent being an illegal foreigner who is an individual who is not a citizen and contravenes the Immigration Act by entering the Republic without a valid passport.⁴³ All illegal foreigners should be deported.⁴⁴
20. The Second Respondent admits that he qualifies as an illegal foreigner as he was not in possession of a valid passport. The provisions of section 32(2) of the Immigration Act do indeed apply to him and therefore it would have been compulsory for the Second Respondent to have been deported if due process had been followed.
21. However, such due process was not followed as there are minimum standards of detention which must be upheld should illegal foreigners be detained awaiting deportation⁴⁵ which the Applicant did not observe. Part of such minimum standards is that unaccompanied foreign minors should not be detained. If unaccompanied foreign minors are detained the proceedings deportation shall be invalid as this is seen as a violation of basic rights to dignity.⁴⁶
22. The Second Respondent was detained at the airport police station.⁴⁷ He was thus detained, even though he is a foreign minor in the Republic who is not accompanied by any parent or guardian. He is therefore an unaccompanied minor whose minimum standards of detention were disregarded by the Applicant. His human rights have thus been violated and he cannot be deported due to the incorrect procedure followed.

⁴¹ *Supra*.

⁴² The Immigration Act 13 of 2002, regulation 28 (1) Annexure B.

⁴³ The Immigration Act 13 of 2002, section 1.

⁴⁴ The Immigration Act 13 of 2002, section 32 (2).

⁴⁵ The Immigration Act 13 of 2002, regulation 28 (1), annexure B.

⁴⁶ *Lawyers for Human Rights v Minister of Safety and Security* 2009 JOL 23612 (GNP), page 33.

⁴⁷ Facts, paragraph 11.

23. The Second Respondent thus prays that the court find these to be deportation proceedings voided by virtue of the violation of the Second Respondent's rights.
24. In addition to the required elements for extradition proceedings not being met, the Applicant has not met the requirement of double criminality necessary for a valid extradition to take place.⁴⁸ In order for this requirement to be met an offence must be illegal in both the requesting and the requested state and the offences must be substantially similar.⁴⁹
25. The Second Respondent submits that the crimes for which the Second Respondent is wanted in Sentavia (child trafficking and terrorism) are not substantially similar in both Sentavia and South Africa and are thus distinguishable in nature. In Sentavia, child trafficking is a form of terrorism.⁵⁰ In South African Law there is no such causal link. The Second Respondent submits that this is a material difference as in South African Law, merely proving child trafficking would not result in terrorism being present as well. Thus, these are two distinctly different crimes that have different requirements to be proven.
26. Furthermore the Minister of Justice has not followed the correct procedure in instituting extradition proceedings as the Minister has not notified a magistrate and obtained a warrant of arrest before bringing this matter to court.⁵¹ The Second Respondent's right to due process has been violated. Therefore the proceedings before this court are not valid extradition proceedings.
27. Thus, the Second Respondent prays that the Court find these to be deportation and extradition proceedings.

⁴⁸The Extradition Act 67 of 1962, section 1 with special attention drawn to the definition of an "extraditable offence"; Dugard J, *"International Law: A South African Perspective"* Third Edition, Juta & Co, Landsdowne, South Africa, 2005, page 27.

⁴⁹ Dugard, J, *"International Law: A South African Perspective"* Third Edition, Juta & Co, Landsdowne, South Africa, 2005, page 216; *Harksen v President of the Republic of South Africa* 1998 (2) SA 1011 (C), paragraph .

⁵⁰ The Terrorism Act of 2000, section 174; Facts, paragraph 3.

⁵¹ The Extradition Act 67 of 1962, section 5(1)(b).

6. The Second Respondent should not be extradited

6.1. The State has a duty to enter into negotiations with the Sentavian government and has failed in this duty

28. The extradition proceedings are invalid due to the violation of the Second Respondent's rights which would take place should he be extradited. According to the Constitution, every child has the right to be detained for the shortest period of time possible.⁵² A child is an individual below the age of eighteen.⁵³ The Constitutional Court has interpreted this right to mean that life imprisonment as a minimum sentence for children is a violation of the right to be detained for the shortest period of time.⁵⁴ The State has an obligation to enter into negotiations with any foreign State to which an individual is to be deported in order to prevent a constitutional violation of the rights of such an individual.⁵⁵ If this does not take place, extradition cannot be completed.

29. The Second Respondent is seventeen and therefore a child in terms of the Constitution. He is thus vested with the right to be detained for the shortest period of time possible. Sentavia has a minimum sentence of life imprisonment for terrorism, the crime the Second Respondent is believed to have committed and which forms the basis of his alleged extradition. Should the proceedings be allowed to continue and the Second Respondent be found guilty, his rights would be violated. This would result in the Applicant having failed to meet their obligations in terms of the case of *Mohamed v President of Republic of South Africa*.⁵⁶ Therefore, the proceedings against the Second Respondent must not be allowed to continue until such negotiations take place.

30. Furthermore, there is no justifiable limitation of the Second Respondent's right to be detained for the shortest period of time in the matter before the Court. In order for a

⁵² The Constitution, section 28(1)(g).

⁵³ The Constitution, section 28(3).

⁵⁴ *Centre for Child Law v Minister of Justice and Constitutional Development and Others* 2009 (11) BCLR 1105 (CC), paragraph 63.

⁵⁵ *Mohamed and another v President of the Republic of South Africa* 2001 JOL 8498 (CC), paragraph 119.

⁵⁶ 2001 JOL 8498 (CC), paragraph 59.

justifiable limitation to be present it would have to be shown that such a limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.⁵⁷ A proposed limitation has to balance the extent of the limitation, with the purpose, importance and effect of the infringing provision, taking into account less restrictive means to achieve the purpose of the limitation.⁵⁸

31. The Second Respondent submits that the limitation is unwarranted as there are less restrictive means available to attain the purpose of the limitation, that is, combating child-trafficking and the administration of justice. The Court has found that in matters involving the sentencing of minors, not only should “detention be a last, not a first, or even an intermediate resort”⁵⁹ but should be treated differently from adults.⁶⁰ The Court has also found that children are more capable of rehabilitation than adults.⁶¹ Thus, should less restrictive means of attaining the purpose of the limitation be available in matters pertaining to children, they should be applied.⁶²

32. *In casu*, the State may endeavor to obtain assurance from the Sentavian government that a violation of the Second Respondent’s right to be detained for the shortest period of time possible would not occur. The Sentavian government would have to guarantee that, should the Second Respondent be found guilty of the charges leveled against him, he would not face life imprisonment as a minimum sentence.

33. The limitation of the Second Respondent’s right is against the value of human dignity as the minimum life sentence is harsh and ignores his vulnerability as a result of his minority. The value of equality is also limited as the Second Respondent would not enjoy the same rights as any other child under the provisions of the Constitution. Finally, the value of freedom is also limited as the Second Respondent could be detained for a prolonged period of time which disregards his lack of experience and maturity when the alleged offences took place. Therefore, such limitation is unjustified and unreasonable.

⁵⁷ The Constitution, section 36(1).

⁵⁸ The Constitution, section 36(1)(a),(c) and (e).

⁵⁹ *Centre for Child Law case*, paragraph 31.

⁶⁰ *Centre for Child Law case*, paragraph 35.

⁶¹ *Centre for Child Law case*, paragraph 27.

⁶² See footnote 55.

34. The Second Respondent therefore prays that the court find the extradition proceedings against the Second Respondent void on the basis that no assurance was obtained from the Sentavian government that a violation of the Second Respondent's rights would not occur and that any limitation of such a right cannot be justified.

6.2 *In the alternative, the extradition of the Second Respondent would be unreasonable*

35. The Constitution provides that the Court, when interpreting the Bill of Rights, must consider international law.⁶³ The Court has also stated that international law provides a framework within which the Bill of Rights can be evaluated and understood and that, for that purpose, decisions of tribunals dealing with comparable instruments, such as the European Court of Human Rights, may provide guidance as to the correct interpretation of particular provisions.⁶⁴

36. The Second Respondent submits that the Court must consider international case law in the current matter as it would be an additional aid in determining whether the decision of the South African government to extradite the Second Respondent was a reasonable decision.

37. The European Court of Human Rights has set certain administrative law principles such as the "Wednesbury test" which is to be used when determining the reasonableness of decisions to extradite individuals in extradition proceedings.⁶⁵ The content of the test is the question whether a reasonable Secretary of State would have made an order for extradition in the same circumstances.⁶⁶ The Court in that decision stated that, should the individual face the possibility of cruel or inhuman treatment, then if the proceedings are rendered unreasonable to should not be allowed to continue.⁶⁷

38. The Second Respondent submits that the reasonable Secretary of State would not have extradited the Respondent knowing that a minimum sentence of life imprisonment could

⁶³ The Constitution, section 39(1)(b).

⁶⁴ *S v Makwanyane* 1995 (6) BCLR 665 (CC), paragraphs 36-37.

⁶⁵ *Soering v The United Kingdom* 14038/88 (1989) ECHR 14 (7 July 1989), paragraph 35.

⁶⁶ *Supra*.

⁶⁷ *Supra*.

be set for the Second Respondent. Further, the Second Respondent is a member of the minority political rights group, the SPP, which is responsible for the terrorist attacks in Sentavia.⁶⁸ This would place the Second Respondent at risk should he be entrusted to their care due to both his membership in the SPP and his minority. Thus, the decision to extradite the Respondent is unreasonable and extradition proceedings should not continue.

39. Thus the Second Respondent prays that the Court find that the Second Respondent should not be extradited as such extradition would be unreasonable.

⁶⁸ Facts, paragraph 5.

PRAYERS FOR RELIEF

The Respondents thus prays that the Court grant the following order:

1. Dismiss the application to suspend the first Second Respondents parental rights and responsibilities over Mark, Susan and Veronica
2. Declare that the separation of the First Respondents from Mark, Susan and Veronica is not consistent with the principle of the best interests of the child and that they should be detained together as a family in suitable detention facilities
3. Declare that Stefan:
 - a) Does not have standing to be involved in litigation in his own name as he is a minor or alternatively,
 - b) Must be treated as an unaccompanied foreign minor facing deportation; and
 - c) Is not eligible for extradition to Sentavia.

LIST OF SOURCES

International Instruments

1. International Convention on the Rights of the Child 1989 (No. 44).
2. UN Protocol to Prevent Trafficking in Persons 2001 (No. 49).

South African Legislation

1. The Constitution of the Republic of South Africa 1996.
2. The Children's Act 38 of 2005.
3. The Extradition Act 67 of 1962.
4. The Immigration Act 13 of 2002.
5. The Protection of Constitutional Democracy against Terrorism and other Related Activities Act 33 of 2004.

International Case Law

1. *Soering v United Kingdom* 14038/88 (1989) ECHR 14 (7 July 1989).

South African Case Law

1. *AS v Minister of Home Affairs (GNP)* unreported case no. 2010/101.
2. *Centre for Child Law v Minister of Justice and Constitutional Development and Others* 2009 (11) BCLR 1105 (CC).
3. *Director of Public Prosecutions, Transvaal v Minister of Justice and Constitutional Development and Others* 2009 (4) SA 222 (CC).
4. *Harksen v President of the Republic of South Africa* 2000 (5) BCLR 478 (CC).
5. *Kleingeld v Heunis* 2007 (5) SA 559 (T).

6. *L v Lukoto* 2007 (3) SA 569 (T).
7. *Lawyers for Human rights v Minister of Safety and Security and Others* 2009 JOL 23612 (GNP).
8. *McCall v McCall* 1994 3 SA 201 (C).
9. *Mohamed and another v President of the Republic of South Africa* 2001 JOL 8498 (CC).
10. *P v P* 2007 5 SA 94 (SCA).
11. *Phatlane v S* 1997 (2) ALL SA 500 (B).
12. *S v M Centre for Child Law Amicus Curiae* (2007) 12 BCLR 1312 (CC).
13. *Soller v G* 2003 (5) SA 430 (W).
14. *Weber v Santam* 1983 (1) SA 381 (A).

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