

'Beware justice that is too swift'

Pair jailed by Cup court bid for release

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WHILE two Algerians head for the Pretoria High Court today for an urgent order to be freed after being jailed for 18 months by a special World Cup court for a theft they claim they know nothing about, experts say these courts can be commended, but one has to guard against simply chasing statistics.

"One must guard against justice being meted out too quickly, surely and wrongly," said Frans Haupt, director of the University of Pretoria's law clinic.

Justice and Constitutional Development Minister Jeff Radebe last week said the government would continue to use these courts so that swift and effective justice was provided for all.

The government will do an assessment at the end of the month to see where improvements are needed.

The World Cup's 56 dedicated courts processed 205 cases and handed down 122 convictions during the tournament.

One of these convictions was that of Algerians Yagoubi Nabil and Azibe Salim. On a 10-day trip to South Africa to watch the soccer, they were arrested at OR Tambo airport on June 24 as they were heading home.

But instead of returning to their country of origin, they are serving an 18-month sentence at a Benoni prison.

The pair claim they have no idea where the theft charges come from. They were only told that they stole €800 from "some white woman" whom they have never seen – not even when they were taken to court shortly before midnight three days later.

A man who told them through an interpreter that he was to be their attorney took all their cash – the R3 600 they could get together – as well as their watches and one man's tie, to make up his "fee of R5 000".

The Algerians, who do not understand a word of English, said in papers filed at court that they had no idea what was going on.

Arabic-speaking, they could only understand a little French spoken by the interpreter who arrived at the police station with their "lawyer" the next day. The lawyer, whose name is

not known, advised them to plead guilty, as "it will then all be over and they will go home".

They were never told they could apply for bail or their own legal representation. Instead of being taken to court within the normal 48 hours, they only faced a magistrate three days later, near midnight.

As they had no knowledge of the legal system and could not understand the proceedings, they pleaded guilty to get it over with. Instead, they received a lengthy jail sentence.

The Algerian embassy was not informed about their plight, but the pair managed to phone friends who contacted the embassy. The embassy appointed attorney Abdul Jaffer.

Jaffer said they would ask for the men's release today. The State did not file a notice that it was going to oppose.

Jaffer said he supported the initiative for quick justice, but the department had to put safeguards in place.

As in the case with the Algerians, "if people's constitutional rights are disregarded, it can lead to a miscarriage of justice".

Haupt said one must not, simply in an effort to combat crime, jeopardise the basic human rights of an accused.

"In a crime-ridden society like ours, there is a temptation to accept police brutality, undue pressure by prosecutors, a lack of access to legal representation and extremely harsh sentences, as being justifiable, until it happens to you."

But, Haupt said, the World Cup courts had been a success. "Many cases have been swiftly disposed of. The purpose, structure and commitment of all involved bear remarkable resemblance to the community courts of which Hatfield was the first.

"Criminal charges, especially less serious crimes, are heard without delay. This means the performance of the police, prosecutors, magistrates and defence lawyers are all closely monitored to ensure efficiency.

"Witnesses are still available and their memories are still fresh."

"Justice delayed is justice denied is true – for the accused who, if innocent, should be freed as soon as possible or if guilty start serving a sentence as soon as possible." But, he said, too swift justice also meant no justice at all.

