

## **SUPREME COURT OF APPEAL OF SOUTH AFRICA**

### **MEDIA STATEMENT – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal  
Date: 9 November 2006  
Status: Immediate

### **THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS v DR J A K VAN STADEN & OTHERS**

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

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The Supreme Court of Appeal (SCA) today (Thursday 9 November 2006) decided that a motor vehicle that is driven under the influence of liquor or while the level of alcohol in the driver's blood exceeds the prescribed limit, is liable to be forfeited to the State in terms of the Prevention of Organised Crime Act.

It held that the Act is not restricted to organized crime, but extends to ordinary crimes committed by individuals, and that a motor vehicle constitutes an 'instrumentality' of the offences referred to above and is thus capable of being forfeited to the State in terms of the Act.

The court also held, however, that a vehicle driven in those conditions is not liable to forfeiture in every case. It held that a court may only order the vehicle to be forfeited if such an order would be proportional to the particular offence, which requires a court to weigh the particular circumstances in which an order for forfeiture is sought.

The appeal followed upon an application by the Director of Public Prosecutions to the Eastern Cape High Court to grant preservation orders in anticipation of forfeiture orders being sought in relation to five vehicles. The High Court found that a motor vehicle is not an 'instrumentality' of the offences concerned and thus refused the orders. The SCA reversed its findings and remitted the applications to the High Court for that court to reconsider whether the orders were warranted in the circumstances of the particular cases.