

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Case NO. 448/2012

In the application between:

COMBINED PRIVATE INVESTIGATIONS

1st Applicant

DIRECTOR PUBLIC PROSECUTIONS:

FREE STATE

2nd Applicant

and

AC ROSSOUW

1st Respondent

THE MINISTER OF POLICE

2nd Respondent

THE MINISTER OF JUSTICE

3rd Respondent

THE STATION COMMISSIONER, SAPS,

VIRGINIA

4th Respondent

HEARD ON:

10 MAY 2012

CORAM:

MURRAY, AJ

JUDGEMENT BY:

MURRAY, AJ

DELIVERED ON:

5 JULY 2012

[1] This is an interlocutory application in which this Court is asked to discharge or confirm the rule *nisi* which was granted on an urgent

basis on 3 February 2012 and which was extended to 12 April 2012 and again to 10 May 2012 in order to serve before this Court together with the main application in case no 141/2012.

- [2] The rule *nisi* was obtained to retain the assets seized from the first respondent herein (the applicant in the main application) on 5 December 2011 in the SAPS 13 store until the main application had been finalised.
- [3] In the main application the said first respondent asked for the immediate return of the seized items. She based her application on allegations that the warrant of execution was invalid and that the search and seizure were therefore unlawful and that she was therefore entitled to their return.
- [4] Only the present applicant (the fourth respondent in the main application) opposed her application for the return of the said items. Before the opposing papers could be filed, however, the second respondent herein, the SAPS, decided that the search and seizure had indeed been unlawful and informed the first respondent that it intended to return the seized items to her.

[5] That prompted this urgent application to stay the return of the seized items pending finalisation of the main application. Only the first and second respondents herein opposed the urgent application and only regarding the costs orders asked against them.

[6] This Court has found the warrant invalid and the subsequent search and seizure unlawful. Since the same facts and the same law underly both these applications, I do not intend to repeat the reasons for my findings which are dealt with fully in the main application.

[7] Due to the order made in the main application, namely that the seized items must be returned, it would serve no purpose to confirm the rule *nisi*.

[8] In my view there is no reason for the costs not to follow the outcome.

[9] WHEREFORE the following order is made:

1. The rule *nisi* is discharged.

2. The first applicant is ordered to pay the costs of the application.

H. MURRAY, AJ

On behalf of applicant:

Adv. W.J. Groenewald
Instructed by:
EG Cooper Majiedt Inc
BLOEMFONTEIN

On behalf of fourth respondent:

Adv. P. Zietsman SC
Instructed by:
Naudes
BLOEMFONTEIN