

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA STATEMENT – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

ALWYN CAROLUS v THE STATE

From: The Registrar, Supreme Court of Appeal

Date: 20 March 2008

Status: Immediate

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.

The Supreme Court of appeal today dismissed an appeal by Mr Alwyn Carolus (the appellant) against his conviction on a charge of indecent assault and sentence of eight years' imprisonment in the Regional Court, Port Elizabeth, confirmed on appeal by the Grahamstown High Court (Froneman J, Schoeman J concurring).

This court found that the magistrate had properly assessed all the evidence placed before her and correctly rejected the appellant's

alibi defence. This court held that the complainant, who had been indecently assaulted on 12 December 1997, had positively identified the crime scene and also the appellant as the perpetrator of the offence. The court further held that the assault perpetrated against the complainant has been the most intrusive in nature and that the sentence imposed was appropriate.

The appeal against conviction and sentence was accordingly dismissed.

The court voiced its disapproval about the absence of the crime kit at the hospital which resulted in a DNA test not being performed and stated that this will bring the criminal justice system into disrepute. The court, in particular, was concerned about the delays in respect of the trial, which commenced some four years and three months after the commission of the offence and voiced its strong disapproval in this regard.

The Registrar of this court was directed to serve a copy of this judgment on the Minister of Justice and Constitutional Development, the Minister of Police and on the National Director of Public Prosecutions.