

SOUTH AFRICA / JUDGMENT

# South African Human Rights Commision v Qwulane (44/EQJHB) [2011] ZAEQC 3 (31 May 2011)

[2011] ZAEQC 3

COURT

Equality Court

CASE / FILE NUMBER

44/EQJHB

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IN

THE EQUALITY COURT OF JOHANNESBURG

HELD

AT THE JOHANNESBURG MAGISTRATE'S COURT

CASE

NUMBER: 44/EQJHB

DATE:31/05/2011

IN

THE MATTER BETWEEN:

SOUTH

AFRICAN HUMAN RIGHTS

COMMISSION.....

COMPLAINANT

AND

JON

QWULANE.....

RESPONDENT

## JUDGMENT

1.This is an application for judgment by default in terms of Rule 32 of Act 32 of 1944. The court finds that there has been proper service on the respondent. The respondent was not in attendance at court. The complainant relied on the founding affidavit and argued the matter.

2.The complaint is undefended. The respondent has filed no papers. In the circumstances there is only one version before court. It is that of the complainant. The court is not going to repeat the argument presented as it already forms part of the record. This argument is accepted.

3. In the totality of the submissions tendered by the complainant the court finds the following:

3.1 The complainant has the necessary *hens standi* to institute these proceedings.

3.2 This court has the necessary jurisdiction to adjudicate this matter.

3.3 The contents of the article and cartoon amount to hate speech.

3.4 The article and cartoon propagates hatred and harm against homosexuals. Homosexuals as represented by the complainant have suffered emotional pain and suffering as a result of the action of the respondent.

4. The court therefore grants judgment in favour of the complainant as follows:

4.1 The respondent is ordered to make an unconditional apology to the gay and lesbian community. Such apology is to be published in the Sunday Sun as well as one other national newspaper.

4.2 Damages in an amount of R1 00 000-00 is granted. Such amount is to be paid to the complainant and to be used to promote and raise awareness regarding the rights of gays and lesbians.

4.3 No costs are ordered.

DATED AT JOHANNESBURG THIS THE 31st DAY OF MAY 2011.

ADDITIONAL MAGISTRATE (EQUALITY COURT) JOHANNESBURG

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CASE PAGE              <https://chat.esheria.ai/case-law/south-africa/south-african-human-rights-commision-v-qwulane-unknown-topic-aeqc-2011>

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