

CENTRE FOR CHILD LAW AND ANOTHER v MINISTER OF HOME AFFAIRS
AND OTHERS 2005 (6) SA 50 (T)
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Citation 2005 (6) SA 50 (T)
Case No 22866/04
Court Transvaal Provincial Division
Judge De Vos J
Heard September 13, 2004
Judgment September 18, 2004
Counsel J van Garderen for the applicants.
No appearance for the respondents.
Annotations [Link to Case Annotations](#)

G

[zFNz]Flynote : Sleutelwoorde

Constitutional law - Duties of State - Children - Unaccompanied foreign children - Detention and deportation of - Semble: Government departments having duty to resolve crisis in detention and deportation of unaccompanied foreign children. H Constitutional law - Duties of State - Children - Unaccompanied foreign children - State having duty to provide legal representation to all unaccompanied foreign children illegally in South Africa - Court directing appointment of legal representative to each of children concerned 'if substantial injustice would otherwise result' - Constitution, s 28(1)(h). I

Constitutional law - Duties of State - Children - Unaccompanied foreign children - State having duty to fulfil socio-economic rights of children who lack family care, such as unaccompanied foreign children - State thus under duty to provide children who lack family care with rights and protection embodied in s 28 of Constitution. J 2005 (6) SA p51

Immigration - Deportation - Constitutionality - Unaccompanied foreign children - Present dealings of government A departments with unaccompanied foreign children, including detention and method of deportation, infringing children's rights in terms of ss 12, 28(1)(c), 28(1)(g), 28(2), 33, 34 and 35 of Constitution and ss 12 and 14 of Child Care Act 74 of 1983 - Departments directed to remedy their conduct and to appoint legal representative for each child 'if substantial injustice would otherwise result' - Semble: Government B departments having duty to resolve crisis in detention and deportation of unaccompanied foreign children.

Immigration - Detention - Constitutionality - Unaccompanied foreign children - Dealing of government departments with unaccompanied foreign children, including detention and method of deportation, infringing children's rights in terms of ss 12, C 28(1)(c), 28(1)(g), 28(2), 33, 34 and 35 of Constitution and ss 12 and 14 of Child Care Act 74 of 1983 - Court directing departments and other participants to remedy their conduct in dealing with unaccompanied foreign children and appointing legal representative to each of children 'if substantial injustice would otherwise result' - Semble: Government departments having duty to resolve crisis in detention and deportation of D unaccompanied foreign children.

[zHNz]Headnote : Kopnota

The present application arose out of the situation in which a number of unaccompanied foreign children, ear-marked for deportation, were being detained in a repatriation camp, where they were E accommodated together with the adults at the

camp and, when they were eventually deported, stood to be transported by truck and train to their country's border and then on to the nearest police station within their country. On the recommendation of the curator ad litem who had been appointed to the children (the second applicant), they were transferred from the repatriation camp to a place F of safety pending finalisation of children's court enquiries in respect of each of the children under s 12(2)(c) of the Child Care Act 74 of 1983.

Notwithstanding the recommendation of the curator, the Department of Social Development (represented by the third, fourth and fifth respondents) did nothing to facilitate the children's being brought before the children's court G or to assist in the investigation of the circumstances of each child, and, furthermore, continued to admit children to the repatriation camp. The Department of Home Affairs (represented by the first and second respondents), the SAPS (represented by the seventh and eighth respondents) and the company which ran the repatriation camp (the sixth respondent) also did nothing to give effect to the provisions of s 12(2)(c) of the Act or to their own stated policies of H bringing unaccompanied foreign children before the relevant children's court.

Held, that there existed a crisis in the handling of unaccompanied foreign children - they were being treated in a horrifying manner - that was being exacerbated by an insufficiency of resources, inadequate administrative systems and procedural oversights in the handling of the children, as well as by I the inaccessibility of legal representation in the adjudication process. (Paragraphs [14] and [31] at 56A - B and 59H.)

Held, further, that whilst the primary duty of meeting a child's socio-economic needs rested on its parents or family, the State had a direct duty to meet the socio-economic needs of children who lacked family care, as did unaccompanied J
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foreign children. In the case of children who lacked family care, there was thus an active duty A on the State to provide them with the rights and protection embodied in s 28 of the Constitution of the Republic of South Africa, 1996. (Paragraph [17] at 57B/C.)

Held, further, that the respondents' behaviour constituted a serious infringement of the children's fundamental rights as protected in ss 12, 28(1)(c), 28(1)(g), 28(2), 33, 34 and 35 of the Constitution, as well as their rights contained in ss 12 and 14 of the Child Care Act. B (Paragraph [22] at 58C.)

Held, further, that the department's persistence in admitting children to the repatriation camp even after the curator's recommendation was likewise a breach of ss 12, 28(1)(c), 28(1)(g), 28(2), 33, 34 and 35 of the Constitution as well as of ss 12 and 14 of the Child Care Act. The detention of those children at the repatriation camp, as well as the C manner in which they were being deported, was unlawful and invalid and had to cease immediately. (Paragraph [23] at 58D.)

Held, further, that the respondents' actions were also in direct opposition to national policies, including the Department of Home Affairs' passport instruction 1 of 2004 which set out standard D departmental procedures. (Paragraphs [24] - [26] at 58E - H.)

Held, further, that in the circumstances all unaccompanied foreign children who found themselves in South Africa illegally had to have legal representation appointed to them by the State. (Paragraph [29] at 59C/D.)

Held, accordingly, that: E

(1) the third, fourth and fifth respondents had to be directed to bring the children presently in detention at the place of safety before the children's court for

purposes of enquiries in accordance with the provisions of ss 12 to 14 of the Child Care Act, and to conduct investigations into the personal circumstances of each of those children; F

(2) the first, second and sixth respondents had to be directed to assist with the removal of the children presently at the repatriation camp to a place of safety, in accordance with the provisions of s 12(2)(c) of the Child Care Act;

(3) the third, fourth and fifth respondents be directed to bring the children thus removed to a place of safety before the children's court; G

(4) the seventh and eighth respondents had to be directed to comply with the provisions of s 12(2)(c) of the Child Care Act when arresting any unaccompanied foreign child and not to detain any unaccompanied foreign child at the repatriation camp without the child's first being dealt with by a children's court in accordance with the provisions of ss 12 to 14 of the Child Care Act; H

(5) the respondents had to be directed henceforth give effect to passport instruction 1 of 2004;

(6) the ninth respondent had to be ordered to appoint a legal practitioner to each of the children presently in detention at the place of safety, in terms of s 28(1)(h) of the Constitution if it appeared that a substantial injustice would otherwise result. (Paragraph [31] at 59J - 60J.) I

Semble: The order granted was merely a first step in resolving the problem and the respondents had a duty to find a solution amongst themselves which ensured that unaccompanied foreign children were dealt with in accordance with the provisions of the Constitution and the Child Care Act. (Paragraph [31] at 59H.) J

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[zCAz]Cases Considered

Annotations A

Reported cases

Government of the Republic of South Africa and Others v Grootboom and Others

2001 (1) SA 46 (CC) (2000 (11) BCLR 1196): compared

Lawyers for Human Rights and Another v Minister of Home Affairs and Another

2004 (4) SA 125 (CC) (2004 (7) BCLR 775): dictum at 138E - I (SA) applied B

Minister of Welfare and Population Development v Fitzpatrick and Others 2000 (3)

SA 422 (CC) (2000 (7) BCLR 713): referred to

S v Thomas 2001 (2) SACR 608 (W): applied

Soller NO v G and Another 2003 (5) SA 430 (W): referred to.

[zSTz]Statutes Considered

Statutes C

Constitution of the Republic of South Africa, 1996, ss 12, 28(1)(c), 28(1)(g), 28(2),

33, 34 and 35: see Juta's Statutes of South Africa 2004/5 vol 5 at 1-137 and 1-139/140

The Child Care Act 74 of 1983, ss 12 and 14: see Juta's Statutes of South Africa

2004/5 vol 5 at 2-108/109. D

[zCIz]Case Information

Reasons for the granting of an application pertaining to the detention and deportation of unaccompanied foreign children. The facts appear from the judgment of De Vos J. J van Garderen for the applicants.

No appearance for the respondents. E

Cur adv vult.

Postea (September 18).

[zJDz]Judgment

De Vos J: F

[1] On Wednesday, 8 September 2004, this Court granted an order upon an urgent application by the first applicant, the Centre for Child Law, and the second applicant, Advocate Ellis, who was appointed by this Court as the curator ad litem for children in detention at the Lindela repatriation centre during March this year. These are the reasons for the order. G

[2] The order was granted against the first respondent, the Minister of Home Affairs, the second respondent, the Director-General Home Affairs, the third respondent, the Minister of Social Development, the fourth respondent, the Director-General Department of Social Development, the fifth respondent, the Member of the Executive Committee of the Gauteng Department of Social Development, the sixth respondent, Busasa (Pty) Ltd t/a Lindela H Repatriation Centre, a registered company, the seventh respondent, the Minister of Safety and Security, the eighth respondent, the National Commissioner for the South African Police Service and the ninth respondent, the Commissioner for Child Welfare, Krugersdorp. I

[3] All the respondents, when faced with the application, filed notices stating their intention not to oppose the application and a notice to abide by the decision of this Court. J

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A summary of the events A

[4] On 3 March 2004, the Centre for Child Law brought an urgent application on behalf of a number of unaccompanied foreign children who were detained at Lindela. At the time of the main application, the detained children were not given separate accommodation from the adults also being detained at Lindela. They were also facing imminent and B unlawful deportation.

[5] It now transpires that children who are deported from Lindela back to their countries of origin are loaded into trucks and taken to the train station. There, they are transferred onto the train, transported to their country's border, loaded onto a truck, and taken to the nearest police station within that country. C

[6] The Court granted an interdict preventing the Minister of Home Affairs, the Director-General Home Affairs and Busasa from proceeding with the deportation of the children and also appointed Advocate Isabelle Ellis as curator ad litem for the children. The curator's powers and duties included, amongst D other things, to investigate the circumstances of the children in detention, to make recommendations to the Court regarding their future treatment and to institute legal proceedings in the enforcement of their rights. E

[7] The curator compiled a report that was filed in the Court file on 31 March 2004. The report recommended the following:

1. That the Department of Social Development be directed to remove the 92 children then at Lindela, with immediate effect, and to place them as a group in a place of safety, preferably Dyambo, pending finalisation of the children's court's inquiries in respect of each F child.

2. That the Department of Social Development be directed to effect the said placement within 48 hours after the filing of the curator's report, failing which they were to inform the Court and all relevant parties why they could not adhere to the order.

3. That the Department of Home Affairs be directed to enable and G allow the Department of Social Development's officials to intercept any child presumed to be under the age of 18 before that child was admitted to Lindela.

4. That the international social services based within the Department of Social Development be allowed to assist with the gathering of information pertaining to those 92 children's family connections and to assist with the children's court's inquiries into H the matter.

5. That the Department of Social Development be directed to assist the curator ad litem with the investigation and that the children's court inquiries be effected as soon as possible for each child. I

6. That the Department of Home Affairs, Social Development and the SAPS liaise with each other in order to find a solution pertaining to any future arrest of any illegal minor child.

[8] The children were moved from Lindela to Dyambo (a place of safety) on 2 April 2004. Unfortunately, during May 2004, the commissioner of the children's J

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court in Krugersdorp refused to conduct the children's court inquiries in respect of those children because he was of the view that foreign children fall outside the ambit of the A Child Care Act. During the same month, the curator successfully approached this Court with an application to set aside the commissioner's refusal to conduct children's court proceedings and to compel him to do so.

[9] However, since that application was granted on 21 May 2004, the Department of Social Development has taken no steps B whatsoever to bring, or cause the children to be brought before the Krugersdorp Children's Court, in order to afford the children's court commissioner the opportunity to conduct and finalise children's court inquiries in respect of each child. C

[10] It was alleged that the application was urgent due to the fact that 12 unaccompanied foreign children had been in detention since February 2004. It is now already September 2004. Due to such prolonged detention, their state of mind has deteriorated to the extent that there have been incidents of attempted escape, threats of suicide and a D stabbing. I agree with the applicants that, for these reasons, it is imperative that the children's court inquiries are finalised in respect of each child in order to resolve the children's predicament.

[11] I wish to reiterate that the third, fourth and fifth respondents have made no attempts to bring them, or cause them to be brought, before the children's court and to investigate the E children's circumstances for the purpose of opening and finalising children's court inquiries in accordance with the Child Care Act.

[12] The application before me now deals with four issues, namely:

1. The Department of Social Development's failure to bring a group of 123 unaccompanied foreign children presently detained at F Dyambo before the Krugersdorp children's court in order for inquiries to be opened for them in terms of the provisions of s 12(2)(c) of the Child Care Act.

2. The failure by the South African Police Service, the Departments of Social Development and Home Affairs and Busasa to give G effect to s 12(2) of the Child Care Act and their own stated policies to bring unaccompanied foreign children to a children's court in the districts where they have been found.

3. The respondents' failure to reply or comment on the curator's report and/or any other founding papers and correspondences H filed by the applicants.

4. The costs of the curator ad litem to date.

[13] At present, as already stated, there are 13 children left in detention at Dyambo. They are the only remaining children of the original group for whom a curator was appointed in the main application. From the facts stated in the founding affidavit, as

well I as the report filed by the curator ad litem, it is apparent that more children are being admitted to Lindela. I find this a situation of extreme concern. Various attempts were made by the applicants to solve the matter. These attempts were met with apathy and disinterest from the parties concerned. J

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[14] It is clear from the curator's report that insufficient resources, inadequate administrative systems and A procedural oversights in the handling of children, as well as the inaccessibility of legal representation in the adjudication process, have further exacerbated the crisis now existing in the treatment of unaccompanied foreign children.

The law: infringement of fundamental rights and prejudice B

[15] It has already been accepted that persons within our territorial boundaries have the protection of our courts and the Constitution. 1

[16] Section 28(2) of the Constitution provides that '(a) child's best interests are of paramount importance in every matter concerning the child'. 2 Although the phrase C 'best interests of the child' is well known in South African law, as it has historically provided the standard in terms of which the Court exercises its inherent jurisdiction as upper guardian of all minors, on a wide interpretation, s 28(2) goes considerably further than the original concept. 3 D

[17] Section 28(1) of the Bill of Rights provides protection to children in the following specific manner:

'28 Children

(1) Every child has the right - E

- (a) to a name and a nationality from birth;
- (b) to family care or parental care, or to appropriate alternative care when removed from the family environment;
- (c) to basic nutrition, shelter, basic health care services and social services;
- (d) to be protected from maltreatment, neglect, abuse or degradation; F
- (e) to be protected from exploitative labour practices;
- (f) not to be required or permitted to perform work or provide services

that -

- (i) are inappropriate for a person of that child's age; or
- (ii) place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
- (g) not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under G ss 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be -

(i) kept separately from detained persons over the age of 18 years; and

(ii) treated in a manner, and kept in conditions, that take into account the child's age; H

(h) to have a legal practitioner assigned to the child by the State, and at State expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and

(i) not to be used directly in armed conflict, and to be protected in times of armed conflict.' I

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Section 28 should be seen in the context of the Bill of Rights as a whole. 4 In respect of the socio-economic rights A referred to in ss 26 and 27, the Constitutional Court 5 has said that this section imposes a negative duty on the State and private parties to desist from preventing or impairing the right of access to socio-economic rights and also positive duties to extend access to socio-economic rights. This duty is, however, limited. 6 In view of the fact that children's socio-economic rights are neither described as a B right of 'access to' the relevant rights nor qualified, as in ss 26 and 27, one may conclude that these rights impose a direct duty on the State to ensure that those children who lack basic necessities of life are provided with them. However, in Grootboom 7 it was decided that the primary duty to fulfilling a child's socio-economic rights rests on C the child's parents or family. I agree with the view held by Liebenberg that this suggests that the State is under a direct duty to ensure basic socio-economic provision for children who lack family care, as do unaccompanied foreign children. There is thus an active duty on the State to provide those children with the rights and protection set out in s 28. D

[18] Chapter 3 of the Child Care Act 74 of 1983 provides the necessary mechanisms for the protection of children. It specifically provides that any child who appears to have no parent or guardian or, if the parent or guardian cannot be traced or the child has been abandoned or is without visible means of support or lives in circumstances likely to cause or be conducive his or her seduction, E abduction or sexual exploitation or lives in or is exposed to circumstances which may seriously harm the physical, mental or social wellbeing of the child, must be brought before a children's court for an inquiry to determine whether the child is a child in need of care and whether the child should be removed to a place of safety. F

[19] Section 33 of the Constitution provides that every person shall have the right to just administrative action, whilst s 34 thereof provides the right to have any dispute resolved through a fair public hearing before a court. G

[20] Section 13 of the Child Care Act, amongst others, provides that any child who appears to have no parent or guardian or, if the child has a parent or guardian who cannot be traced or has been abandoned or is without visible means of support, or lives in circumstances likely to cause or be conducive to his/her seduction, abduction or sexual exploitation; or who lives in or exposed to H circumstances which may seriously harm the physical, mental or social well-being of the child, must be brought before a children's court for an inquiry to determine whether the child is a child I 2005 (6) SA p58

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in need of care, and whether that child should be removed to a place of safety. A

[21] Section 12(2)(c) of the Child Care Act, amongst others, provides that any policeman, social worker or authorised officer may remove a child from any place to a place of safety without a warrant if the policeman, social worker or authorised officer has reason to believe that such child's circumstances are as described in B the above paragraphs.

[22] It seems to me that there can be no doubt that the respondents' behaviour as set out above is a serious infringement of the children's fundamental rights protected in terms of ss 28(2), 28(1)(c), 28(1)(g), 33, 34, 12 and 35 of the Constitution, whilst it also infringes their statutory rights contained C in ss 12 and 14 of the Child Care Act.

[23] The bringing of more children to the Lindela Repatriation Centre, subsequent to the curator's report having been filed, is also, to my mind, a breach not only of the aforementioned statutory rights, but also in direct conflict with the provisions of ss

28(2), 28(1)(c), 28(1)(g), 33, 34, 12 and 35 D of the Constitution. I am of the view that the detention of these children at Lindela is unlawful and invalid and should cease immediately. Furthermore, the way in which these children are being deported is not only unlawful, it is shameful. E

[24] South Africa is also a signatory to certain relevant conventions. These are the United Nations Convention on the Rights of the Child, which affords every child the right to health, the right to social security and to education. Second, the African Charter on the Rights and Welfare of the Child, which similarly affirms every child's right to education and health care. Thirdly, there is the United Nations Convention Relating to the Status of Refugees, which requires F States to provide compulsory primary education for refugee children of a standard equivalent to that provided to its own nationals. It is also important to take into account South Africa's own stated policy in this regard.

[25] There is a passport instruction, No 1 of 2004, issued by the Department of Home Affairs, containing the procedure that is G supposed to be followed by the particular department. The Department of Social Development's policy is set out in a letter addressed to the Director-General of Home Affairs and signed on behalf of the Director-General of Social Development. This document is dated 15 November 2001. H

[26] I need only state that all the respondents' actions insofar as unaccompanied minors are concerned, are in direct opposition to the stated policies as already set out.

[27] The second applicant also applied for and was granted an order in terms of s 28(1)(h) of the Constitution. This section provides as follows: I

'(1) Every child has the right -

...

(h) to have a legal practitioner assigned to the child by the State, and at State expense, in civil proceedings affecting the child, if substantial injustice would otherwise result.' J

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In the matter of Soller v G and Another 2003 (5) SA 430 (W) at 438, the Court interpreted the appointment of a legal A practitioner in terms of s 28(1)(h) as

'the task of presenting and arguing the wishes and desires of that child . . . should also provide adult insight into those wishes and desires which have been confided and entrusted to him or her as well as apply legal knowledge and expertise to the child's perspective . . . provide the child with a voice but is not merely a mouthpiece'. B

[28] The right to legal representation appointed by the State in respect of foreign citizens has, furthermore, been confirmed in the matter of S v Thomas 2001 (2) SACR 608 (W). C

[29] I am of the view that, in the circumstances of this case, all unaccompanied children that find themselves in South Africa illegally should have legal representation appointed to them by the State. This is especially so in view of the respondents' past track record in this regard.

[30] If one looks at the facts placed before me and the facts set out in the report filed by the curator ad litem, the D only conclusion one can reach is that the children are currently being treated in a manner which is horrifying in the extreme. It would be horrifying in the most abject society. In a society like ours, which prides itself on its noble sentiments, it is shameful. As South Africans, we are justifiably proud of our country and of our democracy, which has just celebrated its tenth birthday. We are

proud of those E policies that are enshrined in the Constitution, a constitution which is unparalleled in Africa, and, indeed, equals those of the most advanced countries in the world in terms of liberality and compassion. We have Nelson Mandela, who has become an icon world-wide because of, amongst other things, his love for all children and continued efforts F towards caring for those in need. We subscribe to the principles contained in the international treaties already mentioned. We claim to enforce the laws put in place to protect the rights of illegal immigrants, and especially those pertaining to children. Yet all these lofty ideals become hypocritical nonsense if those policies and sentiments are not translated into action by those who are put in positions of power by the State to do exactly that; who are paid to G execute these admirable laws, and yet, because of apathy and lack of compassion, fail to do so.

[31] The order granted is merely the first step towards finding proper solutions to the problem presently faced by unaccompanied H foreign children in South Africa. To my mind, the respondents have a duty to liaise with each other, to find a solution and to work on detailed practical arrangements to ensure that unaccompanied foreign children are dealt with in accordance with the principles already set out above. For these reasons, it was necessary for me to make the following order: I

1. First and second applicants' non-compliance with the Rules of Court is condoned and leave granted for this application to be heard as a matter of urgency;
2. Directing third, fourth and fifth respondents to bring, or cause to bring, the 13 unaccompanied foreign children presently in detention J

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at Dyambo Youth Centre (Dyambo), within five (5) days from date of this order, to the Krugersdorp children's court in order for A inquiries to be opened, conducted and finalised in accordance with the provisions of ss 12 to 14 of the Child Care Act 74 of 1983 (Child Care Act);

3. Directing third, fourth and fifth respondents to conclude investigations, or cause such investigations to be concluded, in B respect of the personal circumstances of each of the 13 foreign children detained at Dyambo, within 15 days from date of this order, and to file their reports with this Honourable Court confirming their compliance with this order.

4. Directing first, second and sixth respondents, and their employees, to adhere to the following procedures, with immediate C effect, in respect of any unaccompanied foreign child presently detained at Lindela Repatriation Centre (Lindela):

- 4.1 To compile a list containing the names, ages, gender and countries of origin of all foreign children presently in detention at Lindela, and, within one day of compiling such a list, to provide such to third, fourth and fifth respondents; D

- 4.2 To cause and assist third, fourth and fifth respondents immediately to remove these children and place them in an appropriate place of care or place of safety, in accordance with the provisions of s 12(2)(c) of the Child Care Act; E

5. Directing third, fourth and fifth respondents to, within 14 days of removing these children from Lindela to an appropriate place of care or place of safety, cause these children to be brought to the children's court in order for inquiries to be held, in terms of s 14 of the Child Care Act; F

6. Directing first to sixth respondents to report to this Honourable Court, within 15 days from date of this order, on their compliance with the directions as set out in paras 4 and 5 above;

7. Directing seventh and eighth respondents and their employees, to comply with s 12(2)(c) of the Child Care Act when arresting an unaccompanied foreign child, and to refrain from causing an unaccompanied foreign child to be admitted at Lindela G without such a child first having been dealt with by the children's court, in accordance with the provisions of ss 12 to 14 of the Child Care Act;

8. Directing all the respondents to henceforth give effect to Department of Home Affairs' Passport Control Instruction 1 of 2004 whenever unaccompanied foreign children are encountered; H

9. Directing first to fourth and sixth to eighth respondents to file their answers to the application brought under case No 5379/2004 and the curator's final report, dated 21 March 2004, within 15 days from date of this order, thereafter directing the applicants to reply thereto within 10 days after the filing of such answers, whereafter the curator ad litem's final report will be placed on the roll for a final order; I

10. Ordering the ninth respondent to appoint a legal practitioner for each of the 13 foreign children presently detained at Dyambo, in terms of s 28(1)(h) of the Constitution of South Africa, 1996, if it appears that a substantial injustice would otherwise result; J

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11. Directing respondents to inform all relevant employees of this order within five (5) days from date of this order, confirmation A of which must be included in any report filed with this Honourable Court;

12. Ordering respondents, save for ninth respondent, to pay the costs of the curator ad litem from date of her appointment to present;

13. Ordering respondents, save for ninth respondent, to pay the costs of this application, jointly and severally, the one paying the other to be absolved.' B
Applicants' Attorneys: Lawyers for Human Rights, Pretoria Law Clinic. Respondents' Attorney: State Attorney. C