**‘ConCourt set aside gynaecologist’s conviction and sentence on irregularities only’**

**Summary**

This matter concerned an Application to the Constitutional Court for leave to Appeal a Gauteng High Court decision which resulted in Dr Danie van der Walt (the appellant) being convicted of culpable homicide and sentenced to 5 years imprisonment following the death of his patient, a Pamela Daweti, who died from complications due to bleeding after the birth of her child in 2005.

The Application was dismissed by the court aquo on the basis that although her bleeding was not caused by  the appellant, her death would’ve been prevented if the doctor remained at the hospital after she gave birth. On Appeal the Appellant alleged an infringement of his constitutional rights to a fair trial on various grounds including, inter alia, that the trial court had made a ruling on the admissibility of evidence for the first time when handing down the verdict hence he was not aware of the ambit of the State’s case against him when he decided not to testify.

The Court held that a ruling on evidence which is significant to a conviction must be given timeously in order to afford an accused the opportunity to make an informed decision about their case and the required evidence to support their defence.  The Court concluded that the ruling on the admissibility of the evidence at such a late stage of the proceedings was irregular and unconstitutional. The Court further held that the conviction of the court aquo was set aside, not on the basis that the State had failed to prove beyond a reasonable doubt that the Appellant was guilty, but rather due to the irregularities committed by the trial court which infringed the Appellants right to a fair trial. The conviction and sentence was accordingly set aside and the matter was referred back to the trial court.

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Case citation: **Van der Walt v S (2020) ZACC 19**