

DEPARTMENT OF JUSTICE
DEPARTEMENT VAN JUSTISIE

SUPREME COURT OF APPEAL
HOOGSTE HOF VAN APPEL



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REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRICA

ENQUIRIES: MR COETZEE

DATE: 24 FEBRUARY 2010

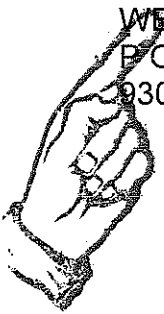
REF: 025/2010

REGISTERED MAIL: H/B + U

YOUR REF: CASE NUMBER: 52898/09

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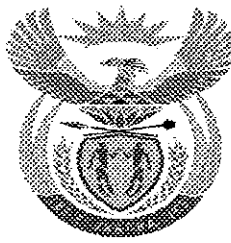
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JUDGMENT: MUSTAFA AMAN ARSE V MINISTER OF HOME AFFAIR AND TWO OTHERS

Attached please find a copy of the court order and judgment.


M COETZEE/ik
p.p., REGISTRAR



**THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA**

APPEAL CASE NO: 025/2010

BLOEMFONTEIN THURSDAY the 24TH day of FEBRUARY 2010

BEFORE :	THE HONOURABLE MR. JUSTICE MPATI	P
	THE HONOURABLE MR. JUSTICE CLOETE	JA
	THE HONOURABLE MR. JUSTICE CACHALIA	JA
	THE HONOURABLE MR. JUSTICE MALAN	JA
	THE HONOURABLE MR. JUSTICE THERON	AJA

In the appeal:

MUSTAFA AMAN ARSE

APPELLANT

and

**MINISTER OF HOME AFFAIRS
DIRECTOR-GENERAL DEPARTMENT OF HOME AFFAIRS
BOSOSA (PTY) LTD t/a PROSPECTS TRADING**

**1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT**

Having heard counsel on **24 FEBRUARY 2010** on an appeal from the judgment of the South Gauteng, High Court, Johannesburg of South Africa, delivered on the **7TH JANUARY 2010** and having read the record of the proceedings in the said Court. (Case number **52898/09**)

On this day, of 24th February 2010, the following order is made:

- (1) The appeal is upheld with costs including the costs of two counsel;
- (2) The order of the court a quo is set aside and replaced with the following order
 - (a) the detention of the appellant is declared to be unlawful;
 - (b) the first and second respondents are directed to re-issue the applicant with

an asylum seeker permit in accordance with s 22 of the Refugees Act 130 of 1998 which permit shall remain valid until a decision has been made on the appellant's application for asylum and, where applicable, the appellant has had an opportunity to exhaust his rights of review or appeal in terms of Chapter 4 of the Refugees Act and the Promotion of Administrative Justice Act 3 of 2000;

- (c) the respondents are directed immediately to release the appellant in possession of the asylum seeker permit as set out above; and
- (d) the first and second respondents are directed to pay the applicant's costs including the costs of two counsel.

M COETZEE
p.p.; REGISTRAR

