

# National Schools Moot Court Programme

## 2019 Problem Statement



1. Prince Tlou is 15 years old Grade 10 learner enrolled in the Saint Thomas Christian School (the School) in the Eastern Cape. The School was formed in 1939 and has, since its establishment, served learners of the Christian faith from Grades 8 - 12. The School created its own statement of faith and based it on their philosophy of education which is rooted in the belief that "Jesus Christ is the Author of all Truth," which is found in the Christian Bible. Teachers are committed Christians who deliver lessons from a Christian viewpoint in all subjects. Learners attend a weekly bible service in which they can participate actively through the worship team that leads the School's praise and worship activity. Parents are also encouraged to discuss and study scripture with their children on a daily basis.
2. In December 2016, Prince's parents were presented with the School's Code of Conduct, which they signed without delay as they were very happy that Prince would be enrolled in such a reputable school that observed the Christian religious practices.
3. Section 23 of the School's Code of Conduct provides that:  
*"Saint Thomas Christian School is a faith-based school committed to the spiritual growth of all learners, who must at all times observe the Christian religious practices."*
4. In addition to this, Section 24 of the School's Code of Conduct provides that:  
*"All learners must wear their hair in its natural state and may under no circumstances wear hair extensions of any kind."*
5. After enrollment, Prince participated in all the School's activities, and was elected as a class representative at the beginning of the 2019 school term. In March 2019, he joined the learners' worship team, and proceeded to lead the School's praise and worship team.
6. During the June school holidays, Prince and his parents decided to abandon the Christian faith and convert to Rastafarianism, joining a local Rastafarian congregation, which meets every Friday afternoon. As an expression of their new-found faith, his father bought dreadlock hair extensions for each family member. The dreadlocks are bought from a local salon owner who repairs and refurbishes old dreadlocks and attaches them to the new owner's hair. Each Tlou family member started to proudly wear these dreadlock extensions in celebration of their new religious identity.
7. Upon returning from the School holiday, the School Principal, Mr. Adams, noticed Prince's hair and immediately called him to his office and reminded Prince of Sections 23 and 24 of the School's Code of Conduct. He also requested that Prince remove his dreadlocks, a request he refused to follow. Instead, he informed Mr Adams that his family are now Rastafarian and no longer observe the Christian faith. In light of this, Prince requests permission to be excused from the weekly bible sessions, and to leave early on Friday's. Mr Adams informs Prince that as a Christian School, they are unable to make an exception for him. He also tells Prince that Rastafarianism is not a religion but a social movement.
8. On the 13<sup>th</sup> of July 2019, during a formal disciplinary hearing and after following the proper procedures, the School Governing Body (SGB) made a decision to suspend Prince for contravention of sections 23 and 24 of the Code of Conduct.
9. Prince and his parents decided to approach a legal aid clinic to challenge the constitutionality of the School's Code of Conduct as well as the decision to suspend Prince from School in the local High Court. The case was heard in the High Court on 16 August 2019. The lawyer acting on behalf of Prince argued that Prince's freedom of religion and right to a basic education has been violated and that there is no reason why he should not go back to school. The SGB argued that Prince's parents knowingly signed the Code of Conduct, which was aimed at maintaining discipline in the School and to further the founding Christian values of the School, and that his wearing of dreadlocks, for whatever reason, is in contravention of the School's Code of Conduct. The High Court ruled in favour of the SGB.
10. Prince and his parents applied for leave to appeal to the Supreme Court of Appeal, but leave was refused. Thereafter, they applied for leave to appeal directly to the Constitutional Court, where leave to appeal was granted. The appeal is set down for hearing in October 2019.

### The Applicants (Prince and his parents) must argue that

1. the application of sections 23 and 24 of the School's Code of Conduct is unconstitutional and violates Prince's constitutional right to freedom of religion, belief and opinion in terms of Section 15 of the Constitution of the Republic of South Africa; and
2. the SGB's decision to suspend Prince violates his right to a basic education in terms of Section 29(1) of the Constitution.

### The Respondent (The SGB of the School) must argue that

1. the application of sections 23 and 24 of the Code of Conduct is not unconstitutional and does not violate Prince's constitutional right to freedom of religion, belief and opinion in terms of Section 15 of the Constitution; and
2. the SGB's decision to suspend Prince does not violate his right to a basic education in terms of Section 29(1) of the Constitution.



Basic Education  
Justice and Constitutional  
Development

