

EPISODE 11

WHY DO SOME APPEAL COURTS GIVE ONLY SHORT ORDERS?

Understanding Summary Appeal Orders, Judicial Reasons and Public Confidence

Estimated Reading Time: 6–7 minutes

Introduction

Imagine spending years preparing an appeal.

Thousands of pages are filed.

Months—or even years—pass.

Then the court issues an order consisting of only one or two sentences.

Many litigants naturally ask:

- Did the Court consider all my arguments?
- Why were no detailed reasons given?
- Does a short order mean the Court ignored the evidence?

These are understandable questions.

This episode explains what summary appeal orders are, why they are sometimes used and why the giving of reasons plays an important role in public confidence in the justice system.

Understanding Leave to Appeal

An appeal is **not** a second trial.

Before many appeals proceed, the applicant must first obtain **leave to appeal**.

The purpose is to determine whether the matter satisfies the legal requirements for an appeal to be heard.

The Supreme Court of Appeal and the Constitutional Court therefore consider many applications that do not proceed to a full appeal hearing.

The Case Study

The first order considered in this episode was issued by the Supreme Court of Appeal.

The Court granted condonation but dismissed the application for special leave to appeal because, in its view, the legal requirements for special leave had not been met. The order itself did not provide further reasons.

The second order was issued by the Constitutional Court.

The Court stated that it had considered the application, concluded that the matter did not engage its jurisdiction and refused leave to appeal. The order likewise did not include detailed reasons beyond those conclusions.

These orders provide an opportunity to understand an important feature of appellate procedure.

Why This Matters

Justice must not only be done.

People should also understand how justice is administered.

Reasons serve many purposes.

They:

- explain judicial decisions;
- promote transparency;
- assist litigants;
- contribute to the development of the law;
- strengthen public confidence.

At the same time, appellate courts often deal with many applications and must allocate their judicial resources carefully.

Understanding these competing considerations helps explain why different forms of orders may be used.

OUBAS Analysis

Every institution exists to serve the people.

Courts are no exception.

OUBAS recognises that appellate courts must manage substantial workloads and determine many applications.

However, public confidence is strengthened when judicial decisions are communicated as clearly as reasonably possible.

OUBAS believes that institutions should continually seek better ways of serving the public.

Technology, clearer communication and continuous improvement may provide opportunities to strengthen transparency while preserving judicial independence.

The important question is therefore not whether courts should change.

The important question is:

How can courts continue improving the way they communicate justice to the people they serve?

OUBAS Reform Proposal

OUBAS proposes that consideration be given to:

- providing concise explanations where appropriate;
- using technology to improve communication with litigants;
- expanding public legal education on appellate procedures;
- continuously reviewing court processes to improve accessibility and public understanding.

Continuous improvement should be a permanent objective of every public institution.

Key Lessons

After reading this episode you should understand that:

- leave to appeal differs from a full appeal;
 - appellate courts sometimes issue concise orders;
 - concise orders communicate the outcome but may not contain detailed reasoning;
 - reasons contribute to transparency and public confidence;
 - institutions should continually improve how they serve society.
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OUBAS Knowledge Check

1. What is the purpose of leave to appeal?

- ☐ To determine whether an appeal should proceed.
 - ☐ To begin a new trial.
 - ☐ To reduce court costs.
 - ☐ To hear witnesses again.
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2. Does every application for leave to appeal proceed to a full appeal?

- ☐ Yes
 - ☐ No
-

3. What did the SCA order in the case study do?

- ☐ Granted condonation but refused special leave to appeal.
 - ☐ Ordered a retrial.
 - ☐ Upheld the appeal.
 - ☐ Sent the matter back to the High Court.
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4. Why are judicial reasons important?

- ☐ They promote transparency.
 - ☐ They assist litigants.
 - ☐ They contribute to legal development.
 - ☐ All of the above.
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5. According to OUBAS, what should remain a permanent objective of every institution?

- ☐ Continuous improvement.
 - ☐ Preserving old procedures at all costs.
 - ☐ Avoiding technology.
 - ☐ Reducing public participation.
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OUBAS Public Sentiment Survey

1. Before reading this episode, did you understand the difference between leave to appeal and a full appeal?

☐ Yes

☐ No

2. Should appellate courts provide brief reasons whenever reasonably practicable?

☐ Strongly Agree

☐ Agree

☐ Neutral

☐ Disagree

☐ Strongly Disagree

3. Which contributes most to public confidence?

☐ Transparency

☐ Fairness

☐ Timeliness

☐ A combination of all three

4. Have you ever received a court decision that you found difficult to understand?

☐ Yes

☐ No

5. What one improvement would you make to the appeal process?

Imagine you have been asked to redesign the communication between appellate courts and litigants.

What one innovation would make judicial decisions easier for ordinary people to understand while preserving judicial independence?

Outstanding ideas may be published in future **OUBAS Reform Papers** and discussed by AAP members.

Share Your Experience

Have you ever received a court decision that left you with unanswered questions?

How did it affect your understanding of the justice system?

Share your experience with OUBAS.

Continue Your Learning

 Visit the **OUBAS Bookstore** for books exploring appeals, civil procedure, constitutional law, judicial decision-making and institutional accountability.

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Every response contributes to the **OUBAS People's Index**, helping us better understand public knowledge, institutional confidence and ideas for improving society.

Next Episode

Episode 12

What Does "Vexatious Litigation" Really Mean?

Where should courts draw the line between protecting access to justice and preventing abuse of judicial processes?

Join us as we explore one of the most debated concepts in civil litigation.

OUBAS exists to educate, stimulate informed discussion and inspire practical solutions.

Knowledge grows when it is shared. Institutions improve when people participate.

The only constant in every successful institution should be innovation and continuous improvement.

Join the conversation. Join AAP. Help build a better Africa.