

Kate O'Regan Intervarsity Moot Competition – Fact set

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Facts

Pete and Luna Cameroon are the parents of 3 children, a daughter Harper aged ten and two sons, Andrew and Dalu, both aged 17. Harper and Andrew are their biological children and Dalu is adopted. Harper has aural and cognitive disabilities. They like to joke that they are the perfect rainbow family consisting of different races. The family resides in Nirvana, an exclusive, gated, high-end residential community in the town of Norton, in the heart of the Gauteng Province of South Africa.

Nirvana is self-contained and includes recreational parks, a sports complex, shopping mall, a gym, a pre-school, primary school and high school. Its security is handled by H4S, a private security company that boasts of its high-tech security and crime prevention prowess. H4S's services were retained by the Nirvana Home Owners' Association (HOA) which also owns the Mall and the three private schools at Nirvana.

Pete and Luna recently moved into Nirvana and are very unhappy about the following:

HS4 patrol cars have twice followed Dalu around Nirvana and he has noticed that when he is at Nirvana Mall, he is frequently stopped for random searches when he leaves shops whilst his brother Andrew, who is always with him, is not. His parents are concerned that their son has been racially profiled and is being victimised because he is a black African. Upon enquiring about this Pete and Luna have been told that H4S patrol cars are fitted with onboard computers that are run by H4S' Artificial Intelligence powered predictive policing program known as Robocop Patrol. Robocop Patrol has been trained on crime pattern datasets from the South African Police Services and private security companies. H4S officers in the patrol cars are directed to places by Robocop Patrol and they have followed Dalu not because of any personal prejudices but because their neutral high-tech program directs them to do so. The manager of Nirvana Mall has said that the electronic surveillance system they use, Robocop@Mall, alerts security guards at store entrances of suspicious behaviour which informs who they stop for spot checks.

Luna, a non-practising attorney, runs a business strategy consultancy firm. She does not want to work from home so she uses Nirvana's co-working space known as BizCube. BizCube is a



fully equipped working space. Luna works on her laptop but uses BizCube's Wi-Fi. She intends to campaign for the position of Chairperson of Nirvana HOA at the end of the year and has been researching HOA regulations, as well as having exploratory conversations with some neighbours whilst at the BizCube Coffee Shop. She trusts these neighbours and knows they have not told anyone about their conversations. Last week, whilst shopping at Nirvana Mall, Luna ran into the current chairperson Thando Bester, who said to her 'by the way, good luck at the HOA elections' before sauntering off. Luna was shocked and is concerned that her communication and activities at BizCube are being unlawfully surveilled.

Pete, a retired school teacher, has been assisting Harper with her schoolwork because she struggles to keep up in class since she must rely on lipreading to follow lessons and the educational technology in use is not inclusive. Pete has created accessible formats of some of the school's learning materials but has been threatened by the school with a copyright infringement claim for adapting these materials. Harper's marks have improved but they remain significantly below her grade's average marks in all subjects. She recently applied for a vacation placement at Nirvana Mall but her application was rejected because (1) she took too long to complete the AI driven online screening test online test used to establish applicants' skills level and (2) her school results.

Pete and Luna are suing Nirvana HOA and H4S in relation to these aspects.

Instructions

Prepare arguments for the High Court in favour of Pete and Luna Cameroon (the applicants) and Nirvana HOA and H4S (the respondents). Your submissions should comply with the general rules of the competition and cover all the issues raised by Pete and Luna Cameroon.