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JUDICIAL EDUCATION NEWSLETTER

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EDITORIAL TEAM & CONTRIBUTORS

Editorial Committee

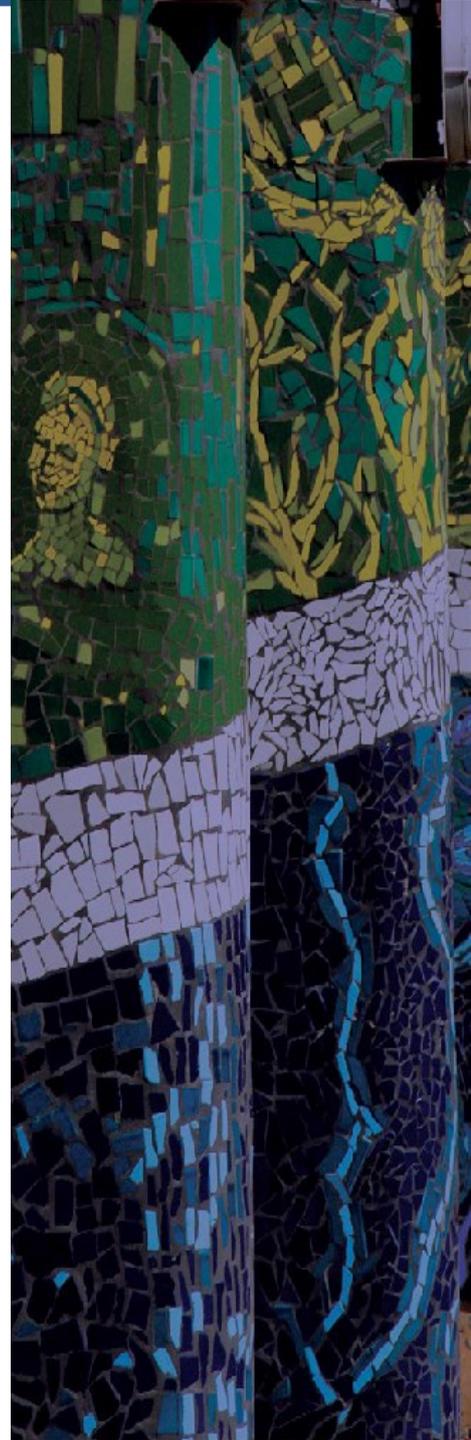
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3. Mr. Ian Cox - Regional Court Magistrate
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Dr Gomolemo Moshoeu
Chief Executive Officer, SAJEI

The 23rd edition covers an array of interesting topics. It is with great pride for SAJEI to note that some contributors have penned more than one article. Of note are Ms Kershni Zanetic, Mr Molau Ngoasheng, and Mr Jaco Van Niekerk. They should keep being examples of Judicial officers who are willing to share their experience and expertise. To other contributors, SAJEI appreciates your support.

As fate would have it, the SAJEI team suddenly lost another colleague, Mr Akho Ntanjana, Deputy Director Research during May 2025. We were left gutted and the shock paralyzed us. Through the power of the Almighty, we are picking up the pieces.

Kindly be informed that SAJEI is looking for two contract Judicial Educators. An advertisement has been circulated through the Chairperson of the Chief Magistrates Forum. Please look out for the advertisement, we are looking forward to your applications.

On behalf of SAJEI, I would like to thank the Editorial Committee under the leadership of the Editor-in-Chief, Ms Jinx Bhoola for the sterling work. Their dedication surpasses human understanding. Please keep up the good work.

Lastly, we are looking forward to the contributions to the 24th edition of the Newsletter. SAJEI is growing from strength to strength because of the support of the Judicial officers.





Ms Jinx Bhoola
Editor-in-Chief

This edition is a sad edition as SAJEI, has lost one of its stalwarts: Mr. Akho Ntanjana. What a gentleman and what a loss to the institute. He will be dearly missed by the institute. His commitment and professionalism to Judicial Education will not be forgotten. Our heartfelt condolences to his family, colleagues and friends May God continue to bless and comfort those that he is dear to.

This edition contained a number of topics which are of interest to judicial officers. The article by Mr Van Niekerk on the application of section 65J of the Magistrate's Court Act 32 of 1944 on emoluments attachment orders issued in terms of the Maintenance Act 99 of 1998, especially relating to the 25% cap is of particular importance and makes an interesting read. So too is the article of the role of the Judiciary in protecting Children's Rights and the best interests of a child.

Deportation orders in the lower courts and a different approach followed by the Limpopo division of the High Court by Ms Ntilane and Mr Marias illustrates that there

is no uniformity in respect of such deportation orders and perhaps it is time for the SCA, to bring about uniformity in this regard.

Section 28 of the Constitution and Sentencing Child Offenders to imprisonment by Ms Zanetic enlightens Magistrates to be mindful of the application of the Child Justice Act, when sentencing minors always remembering that the best interest of the child must always be considered.

The article on repeated acts of penetration cannot without more be equated with separate acts of rape by Ms Zanetic and Ms Vorster interrogates the Sexual Offences and Related Matters Amendment Act in so far discusses whether repeated acts of penetration amounts to one count of rape or multiple counts of rape.

The article on the psychology of Justice and Judicial temperament: Mastering emotions and beliefs on the bench by Mr Jerome Kom deals with emotional intelligence and ethical conduct on the bench.

Mr Mgoasheng's article on the amendment of section 93ter (1)(B) of the Magistrate's Act, discusses the impact and import of the amendment and its application. He penned a further article on Summary Judgment relating to credit agreements and its application.

The article by Mr Madzhiye on whether section 12(a) of the National Traffic, Act 93 of 1996 creates an offence for driving with an expired licence card considers the regulations and its legitimacy.

We were in awe of the budding writers and encourage them to continue to share their legal minds and interpretation of various pieces of legislation. To the SAJEI team thank you very much for all your hard work and dedication.

EDITOR-IN-CHIEF'S NOTE

Reminder: Every Magistrate is welcome to contribute by writing articles on law, judgments analysis or any topic that can enhance the judiciary. Articles will be edited by the editorial team before publication. Articles need not exceed 600 words (not more than two pages). You are all encouraged to take part in this, for it is your newsletter

Note: The views expressed by the writers are not necessarily the views expressed by the CEO of SAJEI and the Editor in Chief.



Mr. Akho Ntanjana



THE ROLE OF THE JUDICIARY IN PROTECTING CHILDREN'S RIGHTS WITH REFERENCE TO THE BEST INTERESTS OF A CHILD



Mr Jaco Van Niekerk
Acting Senior Magistrate

Introduction

This article investigates the active role that the Judiciary is required to play in protecting children's rights, with reference to the best interests of a child. The Judiciary, as guardian of children's rights, is well plenished with International, Constitutional and Legislative mandates to apply the paramountcy principle, set in section 28(2) of the Constitution, in vigorously seeking, protecting and upholding the best interests of a child. This is apparent from, to mention but a few, The United Nations Convention on the Rights of the Child (to which South Africa has committed itself), the Constitution, the Children's Act¹, and the Child Justice Act².

Whilst, no doubt, these instruments not only empower but also obligate the Judiciary to protect and uphold the best interest of a child, the role of the Judiciary must be translated into action. The powers that the Judiciary wields in protecting Children's rights are immense. However, all of these authoritative provisions and ideologies become an empty clatter when the wielder of these powers either does not harness her/himself with the knowledge of these powers or, being harnessed, does not give effect to it in the orders that are made.

The Judiciary, in its official capacity, does not go on walkabouts to see if all is well with children. But when a matter involving a child does come before the Judiciary, it is there that an effective role can be played – not merely by kicking the can down the road by 'referring' the 'problem' to others, but more so by getting hands dirty to get to the true facts and then to do something about it, even beyond the realm of officialdom.

Where, for instance, in a domestic violence hearing, the one parent of a child is suffering abuse at the hands of the other parent, which is being committed in the presence of the child, it is not sufficient for the Presiding Officer to merely grant a protection order to prevent this abuse, because the child has already been abused by being exposed to this. Even if the protection order does have the desired effect of not exposing the child to further domestic violence, that would likely not suffice to assist the child in dealing with the trauma. The power conferred upon the Domestic Violence Court to refer the matter to the Children's Court, premised on Section 5(1A) (b) of the Domestic Violence Act³, would not suffice, as those instances are limited to where a child appears to be in need of care and protection. Despite there being no statutory enactment for it, the pursuit of the best interests of the child would, it is submitted, demand that the Domestic Violence Court not only refer that child for counselling but also oversee that it actually gets done.

So too, where a court, be it a Maintenance Court, Children's Court, Domestic Violence Court, Divorce Court, Criminal Court or any other court, presides over evidence being received that a specific person (whether that person is a party to the proceedings or not) is failing to discharge her/his duty of support in respect of a child, irrespective of whether there is an existing maintenance order or not, that court ought to take steps that the failing person be held to account. It is suggested that the following recourses may be open to any of these courts:

THE ROLE OF THE JUDICIARY IN PROTECTING CHILDREN'S RIGHTS WITH REFERENCE TO THE BEST INTERESTS OF A CHILD

The Maintenance Court, by making an order to enforce the duty as this court is the court that was specially designed for this purpose. Where the failing person's failure *per se* is not before that court (e.g. because there is another child over which the court does not have jurisdiction, or where the complaint that the court is dealing with is not meant for dealing with a failure to maintain, e.g. where there is an existing order, but the present application is for variation of that order but it comes to light that the failing person has in any event failed to comply with the existing maintenance order where there is no application for enforcement), then the court (who has jurisdiction) ought to raise the aspect *mero motu* (while still adhering to the procedural requirements of fairness) or, where the court does not have jurisdiction, direct a request to the Legal Aid Board at the district where the child is, to address that failure. The court ought to monitor that request until appropriate proceedings have been instituted or until the failure has been resolved. Along these same lines, the other courts ought to act in pursuit of the child's best interests.

Conclusion

Therefore, while Judicial Officers have been given ample powers by the Legislature and South Africa's commitment to International Instruments, to give effect to the best interests of a child, each Judicial Officer must play an active role in both acquainting himself or herself of the necessary powers and walking the extra mile in giving practical and meaningful effect to a child's constitutionally guaranteed right by invoking those powers given to the Judiciary.

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- 1) Act 38 of 2005.
 - 2) Act 75 of 2008.
 - 3) Act 116 of 1998.



S28 OF THE CONSTITUTION AND SENTENCING CHILD OFFENDERS TO IMPRISONMENT



Ms Kershni Zanetic
Acting Regional Magistrate

Introduction

Generally, sentencing is the most daunting task faced by Judicial Officers. The issue however is compounded when child offenders are convicted of serious crimes and imprisonment would ordinarily have been imposed.

The legal position

Chapter 10 of the Child Justice Act¹ (the “CJA”) governs the sentencing of children in conflict with the law. The CJA however contains a new set of sentencing principles devoid of the traditional purposes of punishment that must be followed when sentencing child offenders. Section 69 of the CJA specifically outlines what Child Justice Courts must consider in order to reach appropriate sentences for child offenders. The most important of these themes being that:

- A) imprisonment should not be imposed except as a last resort and then for the shortest appropriate period²;
- B) restorative justice measures should be taken whenever possible; and
- C) the reintegration of the child into his/her family and into society is very important.

Section 69(1)(b) of the CJA further provides that one of the objectives of sentencing child offenders is to “*promote an individualised response which strikes a balance between the circumstances of the child, the nature of the offence and the interests of society.*” Evidently, the trite principle of proportionality when sentencing therefore remains equally applicable to child offenders³.

The CJA is also not read in isolation but in conjunction with other international instruments⁴ as well as the Constitution where all children are specifically given protection in section 28(2) dealing with the best interests of a child. In the seminal judgment of the Constitutional Court in *Center for Child Law v Minister of Justice and Constitutional Development and Others*⁵ Cameron J, writing for the majority, explained this provision in the context of sentencing child offenders stating that:

*“The constitutional injunction that “[a] child’s best interests are of paramount importance in every matter concerning a child” **does not preclude sending child offenders to jail.** It means that the child’s interests are “more important than anything else”, but not everything else is unimportant: the entire spectrum of considerations relating to the child offender, the offence and the interest of society may require incarceration as the last resort punishment”.*

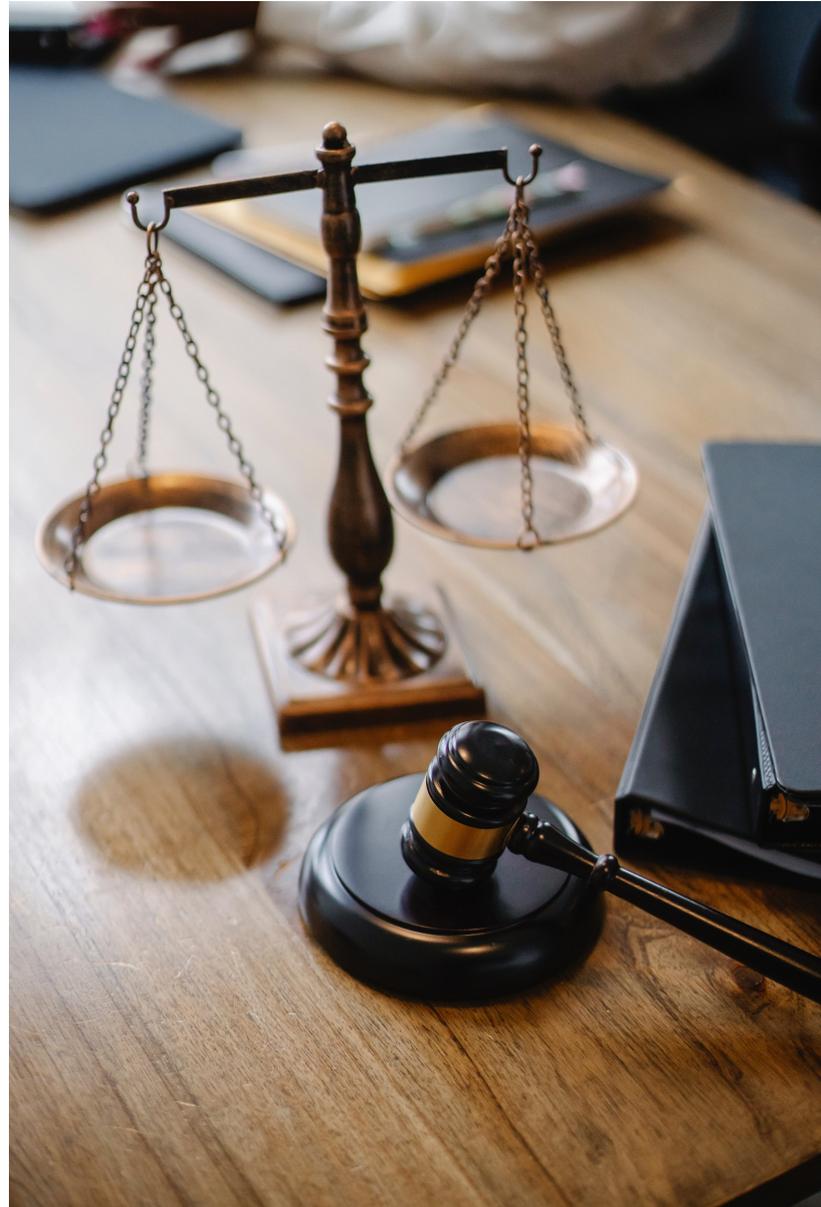
A sentencing Court’s responsibility in discharging this constitutional mandate is not straightforward though, when confronted with the competing rights of child victims in serious offences since they too are equally deserving of constitutional protection. The decision of *S v N.M.M and others*⁶ referring to the Supreme Court of Appeal’s decision of *S v BF*⁷, however reaffirms the approach that:

S28 OF THE CONSTITUTION AND SENTENCING CHILD OFFENDERS TO IMPRISONMENT

“The attention given to a child when considering sentence is not done in vacuum. The seriousness of the offence, its impact on the victims and the interests of the broader society must be taken into consideration. The law does not prohibit incarceration of children. However, s28(1)(g) provides that the child ‘may be detained only for the shortest of time’. Undoubtedly the use of ‘may’ suggest that were circumstances demand incarceration as the only appropriate sentence, it can be imposed.”

Conclusion

In applying the legal principles cited in the above-mentioned cases and the endemic violent crime prevailing in the country, sentencing trends show that the interests of society and the interests of the victim may well require that imprisonment as the last resort be imposed in deserving cases. This reminds us of the balancing act that the sentencing Court must inevitably strike in any sentence it imposes, even when dealing with child offenders and emphasizes the notion that incarceration is not precluded from consideration.



- 1) Act 75 of 2008.
- 2) See section 28(1)(g) of the Constitution of the Republic of South Africa Act 108 of 1996 and s77(1)(b) of the Child Justice Act.
- 3) See *S v Kwalase* 2000 (2) SACR 135 (C) at 139e - f, *S v B* 2006 (1) SACR 311 (SCA) ([2005] 2 All SA 1); *Director of Public Prosecutions, KwaZulu-Natal v P* 2006 (1) SACR 243 (SCA) (2006 (3) SA 515; [2006] 1 All SA 446) para 16.
- 4) See the UN Convention of the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
- 5) 2009 (2) SACR 477 (CC) paragraph [29].
- 6) (74/2019) [2020] ZALMPPHC 60; 2021 (1) SACR 440 (LP) (13 August 2020).
- 7) 2012 (1) SACR 298 (SCA) at para 11.

THE APPLICABILITY OF SECTION 65J OF THE MAGISTRATES' COURT ACT 32 OF 1944 ON EMOLUMENTS ATTACHMENT ORDERS ISSUED IN TERMS OF THE MAINTENANCE ACT 99 OF 1998



Mr Jaco Van Niekerk
Acting Senior Magistrate

Introduction

This article considers the applicability of Section 65J of the Magistrates' Court Act¹ on Emoluments Attachment Orders issued in terms of the Maintenance Act². Now and then, the Maintenance Court is faced with an application to oppose or set aside an emoluments attachment order. The opposition, at times, relies heavily on the principles applicable to the civil procedure in terms of the Magistrates' Court Act ("the MCA").

The Maintenance Act ("the MA") has two provisions in terms whereof the Maintenance Court is empowered to issue an emoluments attachment order ("EAO"), i.e. section 16(2) – for current maintenance - and 28(1) – for arrear maintenance. Each of these two provisions have its own requirements and considerations before it can be issued.

Section 29(3) of the MA requires employers who receive a notice in terms of a section 28(1) order of the MA to give priority to the payment of arrear maintenance over any order of court requiring payments to be made from the relevant emoluments.

The argument to oppose an EAO is often premised on section 65J of the MCA. Section 65J(1A) caps the total amount of emoluments that may be attached by court order to 25% of the debtor's basic salary. Section 65J(2C)(a) (ii) of the MCA also provides a basis for opposing an application for an EAO i.e. - 25% of the debtor's basic salary is already committed to other emoluments attachment orders **and** that the debtor will not have sufficient means left for his or her own maintenance **or that of his or her dependants**.

The requirement that there must be sufficient means left for the maintenance of the debtor's dependants, on its own, indicates that maintenance obligations are **preferent** before other creditors, and that maintenance obligations have NOT been intended to be included in the cap of 25%. Insofar as an EAO by the Maintenance Court may be said to be in competition with other creditors for that 25% cap, section 29(3) of the MA clearly puts maintenance obligations ahead of creditors.

HOWEVER, it is respectfully submitted that section 65J cannot find application in the Maintenance Court, for the following reasons:

- (i) Section 46 of the MA provides that until Regulations are made in terms of the Maintenance Act for the execution of maintenance orders (no Regulations have yet been made), the provisions of the Magistrate's Court Act and its Rules, in respect of the execution of orders shall apply "*...insofar as those provisions are not inconsistent with this Act or are not otherwise clearly inappropriate*".
- (ii) Section 65J creates its own procedure and requirements for the granting of an EAO. Both section 16(2) and 28(1) of the MA also prescribe their own procedure and requirements for an emoluments attachment order in respect of those respective sections. Therefore, section 65J of the MCA is thus clearly **inconsistent** with sections 16(2) and 28(1) of the MA.

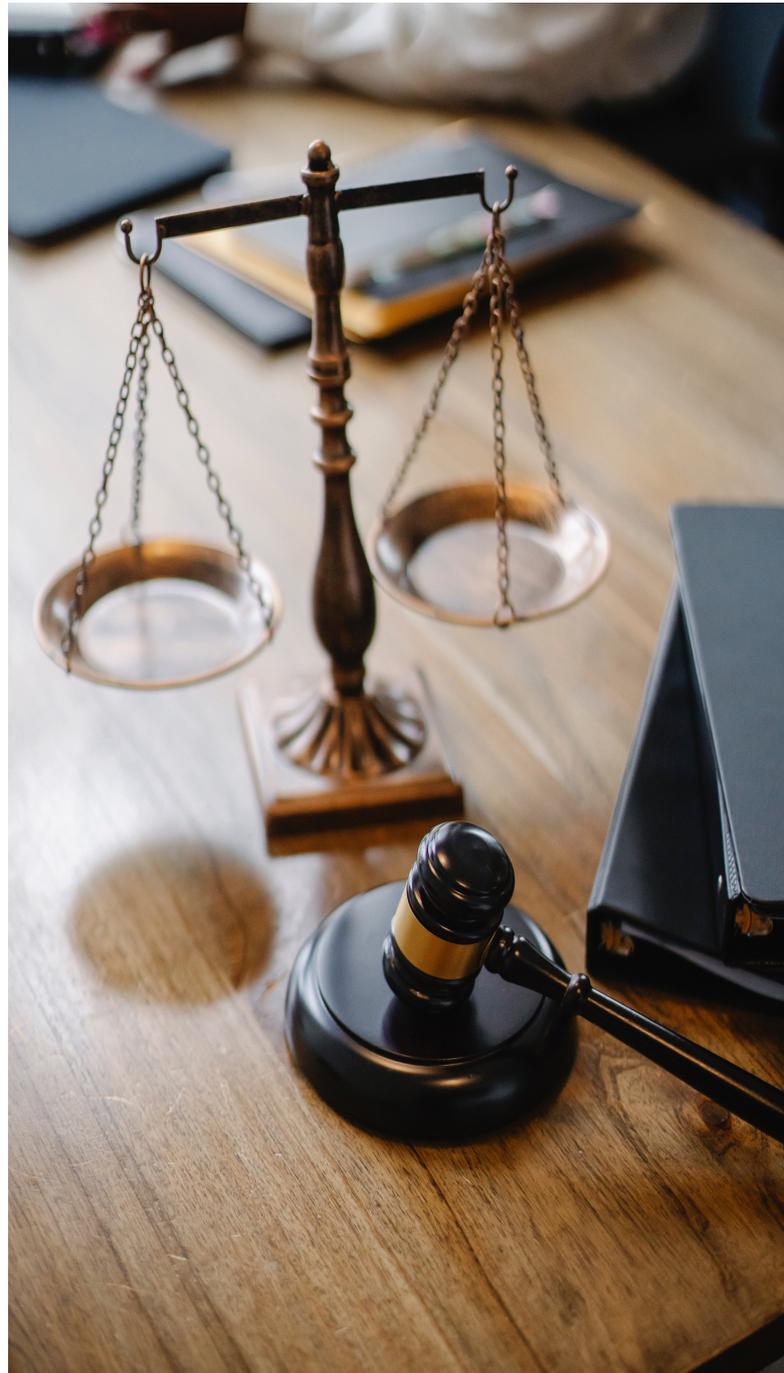
THE APPLICABILITY OF SECTION 65J OF THE MAGISTRATES' COURT ACT 32 OF 1944 ON EMOLUMENTS ATTACHMENT ORDERS ISSUED IN TERMS OF THE MAINTENANCE ACT 99 OF 1998

- (iii) But even if the view is held that this is not an inconsistency, then Section 65J of the MCA would be inappropriate. An example will illustrate: A maintenance defaulter shows the maintenance court that there are already 25% EAOs against his salary and argues, based on section 65J of the MCA, that a further EAO for the maintenance order cannot be granted. There are no other things that can be attached to secure the maintenance payments and the defaulter has clearly demonstrated that he will not comply with the maintenance order. This argument not only negates the requirement in section 65J(2C) (b)(ii) that there must be provision for the maintenance of the debtor's dependants, but is also inappropriate with regard to the paramountcy principle in section 28(2) of the Constitution, the relevant considerations to be applied in terms of sections 16(2) and 28(1) of the MA and the preamble to the MA insofar as it relates to the recovery of maintenance.
- (iv) Emolument Attachment Orders are about ensuring the best means of protecting, enhancing and ensuring compliance with maintenance orders. At the heart of social justice is *inter alia* an obligation to ensure that maintenance orders are complied with diligently and timeously. Sections 16(2) and 28(1) of the MA seeks to achieve precisely that. Any attempts or actual reliance in Section 65J are simply not sustainable.

Conclusion

It is therefore submitted that arguments premised on the provisions of the MCA cannot be used in order to oppose the issuing of an EAO in the Maintenance Court.

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- 1) Act 32 of 1944.
 - 2) Act 99 of 1998.





Mr Jerome Kom
Acting District Magistrate

Introduction

Judicial temperament is a quality presumed to be inherent of all Judicial Officers. However, defining this quality poses a challenge. During a special sitting of the Judicial Service Commission “the Commission” on 4 April 2022, the Commission concluded that candidates for judicial appointment should demonstrate good judicial temperament. This includes qualities such as fair-mindedness, humility, impartiality, courtesy, patience, respect, sensitivity to social context, a commitment to public service and a dedication to the equal administration of justice. Candidates are expected to exhibit courtesy, patience, and respect towards all participants, including unrepresented litigants, witnesses, practitioners and colleagues. Essentially, judicial temperament serves as a unifying framework for this comprehensive list of desirable traits that judicial officers should embody.

By the time individuals are ready to ascend to the bench, they typically possess engrained strengths and weaknesses in core temperamental traits. These traits are influenced by habitual patterns of emotional experiences that range from positive emotions like satisfaction and compassion to negative ones like fear and anger. Further, these traits are also subject to emotional self-regulation, .

which would manifest as tendencies to think things through, talking things out and the suppression of feelings or impulsive reactions.

Advantageous temperamental profiles will exhibit moderate to high levels of positive emotionality alongside moderate to high levels of self-regulation. Such traits enable judicial officers to navigate the demands of their role with resilience, displaying consistent patience, compassion, respect, level-headedness, and openness. Conversely, disadvantageous profiles often show high levels of negative emotionality coupled with low self-regulatory capacity, leading to coping difficulties over time and potentially resulting in impatience, disrespect, volatility, and defensiveness, along with indecision and a lack of courage to develop or apply the respective laws. While there is no rigid standard, it is crucial that all Judicial Officers meet a baseline of some degree of positivity, specially kindness and maintain at least moderate self-regulatory capacity.

They should avoid extreme negative emotionality, particularly anger. In as much as judicial officers should be able to divorce themselves from the matters before them in order to make objective decisions, judicial officers should also be trained to have empathy as a lack thereof may result in detachment and a failure to connect with the social context of legal disputes. Empathy is a useful tool to subdue the negative emotions such as anger.

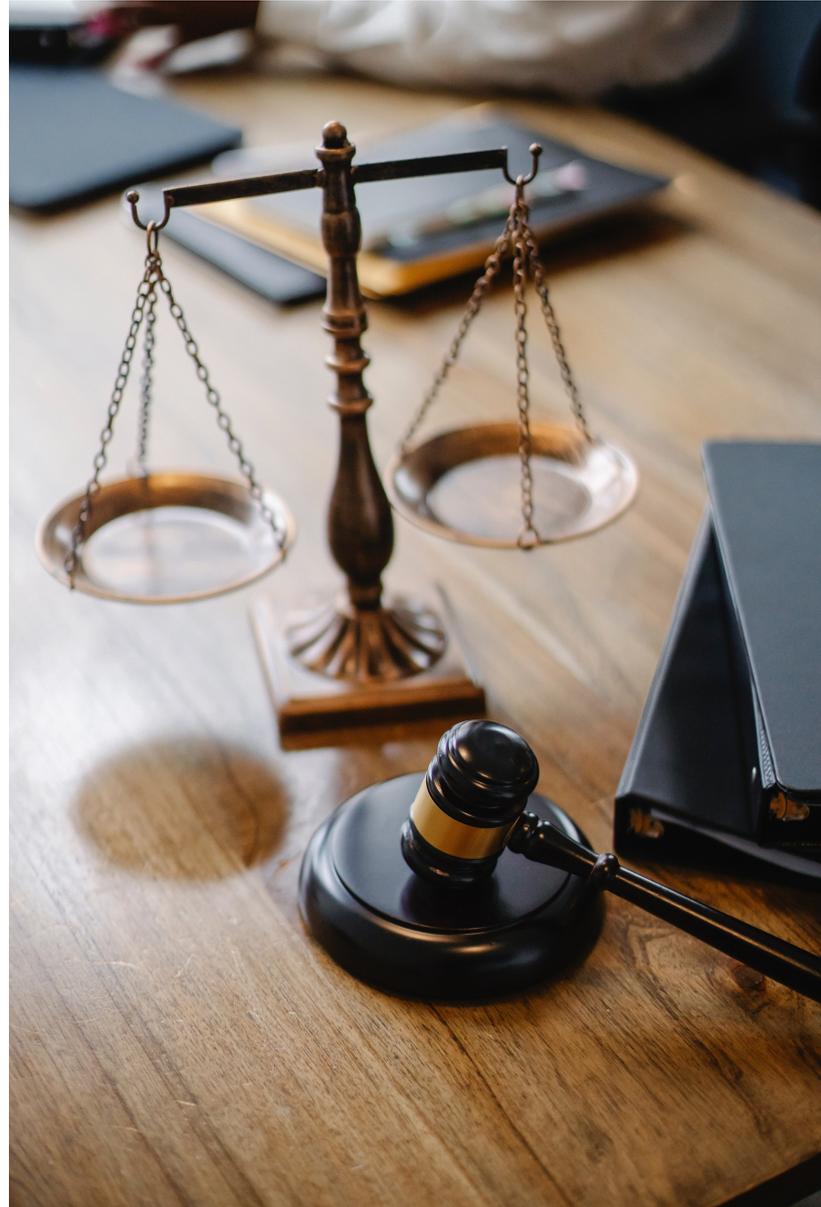
Judicial Officers can enhance certain aspects of their temperament, but they cannot be expected to fundamentally change or transcend their inherent traits. Temperament significantly influences a Judicial Officer’s behaviour, with its impact varying from relatively weak, when environmental constraints are strong and stress levels are low to very strong, when constraints are weak and stress is high.

Instead of viewing judicial temperament as a binary trait, we should consider which specific judicial roles align well with an individual's temperament. Additionally, we must develop effective methods to help Judicial Officers maximize the positive aspects of their temperament and create court environments that encourage and support desirable behaviours, given the expected range of temperamental traits among judicial officers. Outside of the courtroom, Judicial Officers are still humans and are subject to the same stressors as any other person that would negatively impact on their temperaments in the courtroom, as such, there must be a greater focus on maintaining the general wellness of the decision-makers.

However, temperament is not the sole determinant of judicial conduct. Judicial Officers also bring a range of other personality traits, habits, qualities and characteristics, including varying levels of intellect, integrity, and legal training. They hold differing declarative beliefs, such as commitments to diversity and equality. While a Judicial Officer's abilities and beliefs are crucial for upholding both perceived and actual fairness in the courts, these aspects are distinct from temperament.

Conclusion

Judicial temperament should be understood as a deep-seated and stable set of specific personality traits that are distinctly separate from a Judicial Officer's intellect, training, and ideology. These traits ultimately influence behaviours that shape how justice is delivered and perceived.



DEPORTATION ORDERS IN THE LOWER COURTS – A DIFFERENT APPROACH FOLLOWED BY THE HIGH COURT



Ms. Felleng Ntilane
Acting Regional Magistrate



Mr. Jacobus Marais
Acting Regional Magistrate

Introduction

In our previous article we referred to the unreported of *S v Cuna*¹ which found favour in and was quoted in several other decisions² where the courts interpreted the judgment to be authority for a criminal court to issue deportation orders in terms of the Immigration Act³. The matter of *Charles Rugave v S*⁴ followed a different approach and set aside a deportation order made by the Magistrate's court during sentencing on the grounds that the court had no jurisdiction to issue a deportation order. We sought to discuss and analyse the approach in both cases hereunder.

Case discussion

S v Cuna

In *Cuna*, the High Court criticized the failure of justice as the Department of Correctional Services did not alert the immigration officer that Mr. Cuna should be deported when he was released, while section 32(2) of the Immigration Act clearly dictate that "*Any illegal foreigner shall be deported.*"

Though the court in *Cuna* acknowledges that the Department of Home Affairs is responsible for all deportations, it goes further and criticizes the trial court for not giving

due weight and consideration to the fact that the Department of Correctional Services did not adhere to the pre-prescripts of the Immigration Act, and that the trial court has: "*...failed, as well, to make an order for the deportation of the Appellant*".

The High Court does not mention anywhere in its judgment of *Cuna* where a court of law derives its powers from in order to be able to make a deportation order. What the High Court does say is that –

- (i) "*It is our view* that, once an accused has been found guilty in terms of Section 49 (1) and sentenced ... the trial court must in addition make an order for her or his deportation.";
- (ii) "This situation, *in our opinion*, could have been alleviated by the trial court making a deportation order in addition to the sentence it imposed."⁶; and
- (iii) "This Appeal Court is in agreement that where possible, such sentences *should* be coupled with an order of deportation."⁷;

(own emphasis added by using italics and underlining)

DEPORTATION ORDERS IN THE LOWER COURTS – A DIFFERENT APPROACH FOLLOWED BY THE HIGH COURT

These remarks in *Cuna* are clearly expressed as *obiter dictum* and not meant as *ratio decidendi*. It would be wrong to accept that *Cuna* create legal authority for any lower court to have jurisdiction to issue a deportation order as it would “... read words into the section which are not there, in conflict with the principles of contextual interpretation.”⁸

As ‘creatures of statute’, the lower courts cannot exercise any powers not bestowed upon it by statute. Deportations are administrative actions within the duties of an immigration officer⁹. However, in light of the *Ncube* and *Chivabo*¹⁰ cases, all the courts within the jurisdictional areas of the High Courts concerned will be constrained to follow *Cuna* until such time as it is either confirmed or overruled by a superior court.

Charles Rugave v S

The concerned High Court, followed a different approach and in setting aside a deportation order made by the Magistrate’s court during sentencing in the unreported matter of *Rugave (supra)*, the High Court stated that:

“A magistrate’s court is a creature of statute. It only has the jurisdiction which is conferred upon it by statute. It exercises no inherent jurisdiction and can accordingly not adjudicate matters which fall outside of its expressly conferred jurisdiction and cannot grant orders other than those it is expressly authorized to grant”

and with reference to Sections 34(1) and 49(1)(a) of the Immigration Act, 2002,

“The two sections do not make a reference to the court having powers to deport a foreigner. It is therefore impermissible for a court to impose an order not expressly sanctioned by law.”¹¹

Following the principle of *stare decisis*, all the lower courts within the area of jurisdiction High Courts concerned are bound by the decision in the *Rugave* and are therefore prohibited by law from issuing any deportation orders when sentencing an illegal foreigner.

Conclusion

Given the aforesaid discussion and the apparent conflicting judgments in the different divisions of the High Court, only time will tell which approach will survive the scrutiny of the Supreme Court of Appeal. In our view it is best left to the immigration officers and the legislators to deal with deportation matters.

- 1) Luis Alberto Cuna v S [A6/2020] Gauteng Division, Pretoria dated 15/12/2020; 2022 JDR 3738 (GP); Maphosa v S [A198/2020] ZAGPPHC dated 01 March 2021. It should however be noted that in the matter of S v Jonga and Another (R 61-11) [2011] ZAGPJHC dated 18 August 2011 a deportation order by the lower court was set aside by the High Court even though the conviction was confirmed which is indicative of the fact that deportation orders are not compulsory upon conviction. ZAGPPHC 84 (1 March 2021)
- 2) S v Ncube & Others [R50-54/2024] Gauteng Division, Johannesburg dated 20/09/2024; S v Chivabo [HC 14/2024] ZANWHC dated 27 June 2024. Most of the later decisions in Gauteng and North-West Divisions of the High Court criticized lower courts for not adhering to the stare decisis principle and following the direction in the *Cuna*-case when they failed to issue any deportation orders when convicting persons for contravening section 49(1) read with other sections of the Immigration Act 13 of 2002
- 3) 13 Of 2002.
- 4) (Review case number 151/2026 dated 12 October 2016).
- 5) At par. 3.1.16
- 6) At par. 3.1.18
- 7) At par. 3.1.21
- 8) S v Khanye 2020(2) SACR 399 (GJ) and quoted with approval by Judge Petse DP in the matter of DPP, KZN v Ndlovu at par. 48 *infra*; see also Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA) par. 62
- 9) Section 34 read with the Regulations; see further S v Chicaca 1980 (2) SA 784 (T) and S v Noka 1980 (4) SA 384 (O) dealing with Act 59 of 1972, a predecessor of the current Immigration Act, 2002, where the courts held that deportation orders are administrative in nature and cannot form part of a sentence in a criminal matter as it would mean that the court then impermissibly usurps the administrative functions of an immigration officer.
- 10) See footnote 2 above.
- 11) Par. 7.

DOES SECTION 12(a) OF THE NATIONAL ROAD TRAFFIC ACT, 93 OF 1996 CREATE AN OFFENCE FOR DRIVING WITH AN EXPIRED LICENCE CARD?



Mr Raguvhu Madzhiye
District Magistrate

Introduction

In the course of my duties in the district court examining admission of guilty fine documents in terms of section 57 of the Criminal Procedure Act¹, I came across a matter wherein accused was charged in terms of section 12 (a) of National Road Traffic Act², (“NRTA”) for driving with an expired licence card. He paid an admission of guilty fine. Upon reading the NRTA and its regulations, I doubted if the admission was in accordance with justice. Unfortunately, I could not find a High Court decision to provide clarity.

The reading of section 12(a) prohibit anyone to drive a motor vehicle on a public road except under the authority and in accordance with the conditions of a licence or deemed licence issued to him or her in terms of Chapter IV of the NRTA which deals with fitness of drivers. Sections 34 and 35 of the NRTA, empower the court to cancel, suspend or disqualify the holder of a driver’s licence in certain circumstances.

Section 15 lists other conditions which may justify the disqualification, suspension or cancellation of a driver’s licence.

Regulation 101(2)(a) provides that the period of validity of a driving licence issued or deemed to be issued in terms of section 18 of the NRTA shall be indefinite, unless such licence has been suspended or cancelled in terms of the NRTA.

In my view, Regulation 101(2)(a) should be read in conjunction with Regulation 108(5)(a), which governs the licence card usage eligibility. Regulation 108(5)(b) provides that the holder of a driving licence card may apply for a new card in the manner contemplated in Regulation 109. The word ‘may’, is directory, and not peremptory. The validity of a licence is indeed indefinite. Therefore, non-renewal of a driver’s licence card does affect its validity.

Conclusion

I appreciate the fact that the Government has a duty to prevent and reduce road carnage. However, I am of the view that, the section 12(a) of the NRTA does not create an offence in circumstances of expired driver’s licence card. To this end, we find the basis of contravention or infringement in Regulation 108(5)(a) and (b). The fitness of the driver is what the legislature intended to monitor on a five-year interval.

1) Act 51 of 1977.

2) Act 93 of 1996.



Mr Molau Ngoasheng
Acting Regional Magistrate

Introduction

Section 145(1)(a) of the Criminal Procedure Act¹ (“CPA”) conferred upon the superior court judges to sit with or without assessors during a criminal trial. Section 93ter(1)(b) was inserted by section 3 of the Magistrate’s Amendment Act² to make provision for two assessors to be appointed where the accused is standing trial on a murder charge in the Regional Court.

Section 93ter provides that before any evidence has been led or in considering a community-based punishment in respect of any person who has been convicted of any offence, the Judicial Officer shall summon to his assistance any one or two persons who, in his opinion, may be of assistance at the trial of the case or in the determination of a proper sentence unless such an accused request the trial be proceeded with without assessors.

Case discussions

On reading of this provision, it is clear that Section 93ter(1)(b) is couched in peremptory terms, namely that a Judicial Officer “shall” be assisted by two assessors unless the accused who is charged with murder requests that the trial proceed without assessors.

In *Shange v S*³, Lewis JA stated that where the Magistrate had not sat with assessors, and the accused had not requested that the trial not proceed with assessors, the Court was not properly constituted and that the convictions and sentences had to be set aside.

In *Mntambo v S*⁴, the Court held that the appellant was not afforded an opportunity by the Magistrate to decide whether to request that the trial proceed with or without assessors before he was asked to plead and the conviction and sentence was set aside.

This proviso has created a confusion as different Courts interpret the mandatory proviso differently. For example, in *S v Langalitsmoni*⁵ it was held that the provisions of section 93ter be explained directly to the accused despite the presence of a legal representative. In *S v Ngomane and Another*⁶ the Court declined to follow that precedent and held that there was no need for the Magistrate to explain to the accused what the CPA provides in respect of assessors, and what his rights in that regard are, when the accused is represented.

In *Director of Public Prosecutions, KwaZulu-Natal v Pillay*⁷, the Court held that compliance with section 93ter (1) is a fact-based enquiry and that it is equally undesirable to lay down a general rule regarding what must be done to establish compliance with the section. However, in paragraph 35, the Court held that the presiding officer must ensure that the Court is constituted in accordance with section 93ter (1) and that he must do so before any evidence is led.

On the 3rd April 2024, the Judicial Matters Amendment Act⁸ repealed section 93ter (1)(b) by deleting mandatory provision for two assessors. What is left of the section is to allow the Court to appoint any person to assist it if the Court intends imposing a community-based sentence. This is the discretion left to the Regional Courts.

Conclusion

I am of the view that the deletion of the mandatory proviso was a good move and this will put to rest the confusion caused by different interpretations of section 93ter by various divisions. Further to that, it would avert situations where guilty parties get scot free on a technicality or failure to comply with section 93ter(1)(b).

-
- 1) Act 51 of 1977.
 - 2) Act 14 of 1954.
 - 3) [2017] ZASCA 51.
 - 4) (Case no:478/2020) [2021] ZASCA 17 (11 March 2021).
 - 5) 2020 (2) SACR 65 (ECM).
 - 6) 2021 (2) SACR 654 (GP).
 - 7) (706/2022) [2023] ZASCA 105 (23 June 2023).
 - 8) Act 15 of 2023.



REPEATED ACTS OF PENETRATION CANNOT WITHOUT MORE BE EQUATED WITH SEPARATE ACTS OF RAPE



Ms Kershni Zanetic
Acting Regional Magistrate



Ms. Heloise Vorster
Acting Regional Magistrate

Introduction

The question of what constitutes multiple rapes remains a complex and evolving issue. Considering recent legislative amendments and conflicting judicial interpretations, Courts are challenged when establishing if repeated acts of sexual penetration during one incident, amounts to multiple acts of rape. This article explores the implications of the amendment on prevailing legal precedent on the subject .

Prior to the now amended section 51(1) of the Criminal Law Amendment Act¹ the Court would then be obliged, to impose a sentence of life imprisonment unless there are substantial and compelling circumstances warranted a departure from the prescribed minimum sentence. Effective from the 5th of August 2022, section 51(1) of the Criminal Law Amendment Act, has been amended to the extent that it no longer makes provision for rape “**more than once**” by an accused person. The recent amendment forces the Prosecution to determine at the onset, in circumstances where seemingly multiple acts of rape had been committed, whether multiple charges are to be formulated and preferred against an accused.

Prior to the enactment of the Sexual Offences and Related Matter Amendment Act² (“SORMA”) which came into effect on the 16th of December 2007, rape was a common-law offence defined as the unlawful and intentional intercourse with a woman without her consent. Intercourse was then limited to a man inserting his penis into a woman’s vagina. Section 3 of SORMA vastly expanded on the definition of rape, defining it as: “*Any person (A), who unlawfully and intentionally commits an act of sexual penetration with complainant (B), without the consent of B, is guilty of the offence of rape.*” The term “**sexual penetration**” has now been progressively defined in section 1 of SORMA to include penetration, irrespective of sex either anally, orally, or vaginally by means of a genital organ, object or part of an animal.

REPEATED ACTS OF PENETRATION CANNOT WITHOUT MORE BE EQUATED WITH SEPARATE ACTS OF RAPE

In the leading judgment on 'multiple acts of rape' of *S v Blaauw*³, decided when rape was a common law crime, much emphasis was placed on the aspect of ejaculation as an indicator of the perpetrator forming a second intention to rape and the lapse of time between the individual acts of penetration. Though ejaculation is not a precursor or an element of rape, the *Blaauw* judgment must pertinently be assessed under the expanded definition of penetration which comprises a wider purport as outlined above, in order to ascertain if such acts qualify as separate acts of sexual penetration.

Pursuant to the enactment of SORMA, the issue was again discussed by the Supreme Court of Appeal in *Tladi v The State*⁴, where it was found having regard to the legal principles outlined in *Blaauw* supra that the complainant's evidence did not suggest that there had been an interruption in the sexual intercourse in that there was not any appreciable length of time between the acts of rape to constitute two separate acts of sexual intercourse and therefore two separate acts of rape.

Conclusion

Multiple acts of penetration remain a contentious issue with no consensus when one act of sexual penetration ends and another one begins, to qualify it as separate acts of rape. Furthermore, from case law, it seems that the definition of sexual penetration does not assist to simplify it. The only conclusion is that each case should be decided on its own merits. When the State charged an accused with multiple counts of rape, the Court will have to consider factors such as any interruption in sexual penetration,

the time lapse between the acts of rape and any link between them, before convicting an accused on multiple counts of rape.

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- 1) Act 105 of 1997.
 - 2) Act 32 of 2007.
 - 3) 1999 (2) SACR 295 (W).
 - 4) (895/12) [2012] ZASCA 85.





Mr Molau Ngoasheng
Acting Regional Magistrate

Introduction

This article seeks to emphasise the role of the Judicial Officers when faced with summary judgment applications. Rule 14 of the Magistrates' Court Rules¹ deals with summary judgment applications. The purpose of summary judgment procedure is to afford a plaintiff, who has an unanswerable case against a defendant who has no defence, a much speedier remedy than that of waiting for the conclusion of a trial action. This rule is similar to Rule 32 of the Uniform Rules of the High Courts. The application for summary judgment may only be made until such a time that the defendant has delivered a plea in which defendant either admit, deny or confess and/or avoid allegations made by the plaintiff.

Application

In *Nedbank Limited t/a MFC v Mokgadi Donald Matshethe*², the plaintiff and defendant entered into a written instalment vehicle sale agreement (credit agreement). In terms of the credit agreement, the plaintiff provided credit to the defendant to purchase a vehicle. The salient terms of the credit agreement furthermore state that should the defendant fail to pay the instalment on due date or fail to satisfy any of his obligations in terms of the agreement, the plaintiff shall:

- without prejudicing any of its other rights in law, be justified in cancelling the agreement and in the instance of such cancellation;
- claim return and possession of the vehicle;
- be entitled to retain all instalments already made by the Defendant; and
- to claim payment of the difference between:
 - * the amount outstanding at date of cancellation of the agreement less a rebate on finance charges calculated from date of termination of the agreement; and
 - * the amount at which the vehicle is valued in terms of the agreement or the re-sale value thereof.

The defendant breached the credit agreement by failing to pay four consecutive monthly instalments from 29 February 2024 and was in arrears in the sum of R15 400.93. The plaintiff delivered a section 129 notice of the National Credit Act ("NCA")³ to the defendant which was followed by combined summons, and the summary judgment application notwithstanding substantial payments being made for the amount that was outstanding in arrears.

The defendant entered an appearance to defend the application. On receipt of summons, the defendant made two payments and despite these payments, the plaintiff proceeded to institute the summary judgment application. The application for summary judgment seeks to confirm the unilateral cancellation of the credit agreement between the parties. Further, upon the confirmation of the cancellation, the plaintiff seeks to have the defendant return the vehicle to the plaintiff, forfeit the monies already paid, and recover the costs of the suit on an attorney-client scale.

The court was critical of the plaintiff seeking to cancel the agreement based on three outstanding instalments. At para [64] the court stated:

“However, despite the availability of specific performance as the primary remedy for breach under the contract—an option that is competent, enforceable, and just under the circumstances—the plaintiff’s choice to cancel the agreement could lead to unjust and overly prejudicial consequences for the debtor. This approach undermines the objectives of the National Credit Act, which seeks to promote fairness and prevent exploitative outcomes. The election of cancellation in this context appears irrational and would likely result in an unfair outcome, especially when a less drastic remedy like specific performance is available and more appropriate. Courts are required to confirm the cancellation of credit agreements regulated under the National Credit Act due to the essential need for judicial supervision and protection in such matters. This responsibility arises from the courts’ role in ensuring that the individuals whom the National Credit Act aims to protect, as outlined in its preamble, are safeguarded and that the Act’s objectives are fully realised. In my view, the plaintiff’s or aggrieved party’s choice of remedy in such cases must be subjected to judicial scrutiny, where its rationality, justification, and appropriateness are examined closely—particularly when the agreement falls under the provisions of the National Credit Act.”

The court emphasised that the cancellation of a contract and the return of the vehicle based on failure to pay three instalments could lead to unjust and overly prejudicial consequences for the debtor. The court was of the view that the plaintiff’s or aggrieved party’s choice of remedy in such cases must be subjected to judicial scrutiny, where its rationality, justification, and appropriateness are examined closely—particularly when the agreement falls under the provisions of the National Credit Act⁴. The court went on to allude that since the breach was based on a contract, the plaintiff had less drastic primary remedy in the form of a specific performance which is competent and enforceable under the circumstances.

Conclusion

The court found that the plaintiff’s decision to cancel the credit agreement was unfounded and inappropriate, as specific performance should have been the primary and appropriate remedy in the circumstances. Lessons to be learned from this judgment is that courts are not there as rubber stamps nor there to endorse or condone injustice; they are tasked with judicial oversight and ensuring fairness and protecting the vulnerable. Ensuring that the individuals whom the NCA aims to protect, as outlined in its preamble, are safeguarded and that the Act’s objectives are fully realised.

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- 1) Rules regulating the conduct of the proceedings of the Magistrates’ Courts of South Africa.
 - 2) (3439/2024) [2024] ZALMPPHC (26 September 2024).
 - 3) Act 35 of 2005.
 - 4) Act 34 of 2005.



Ms Sizophila Sokhela
Law Researcher, SAJEI

Introduction

The case summaries for this edition are on sentencing of convicted accused persons, and highlight the principle that the Trial court has sentencing discretion which the Appeal Court can only interfere with if the exercise of the discretion was not exercised judicially. In the event that the Appeal Court finds that the Trial court's decision was unreasonable, arbitrary, or based on incorrect principles, it may intervene and adjust the sentence. The Appeal Court may either confirm a sentence imposed by the Trial court if it finds the discretion was properly exercised or set aside the sentence if it finds the Trial court erred in applying the law or facts

Furthermore, the case summaries discuss circumstances where an imposition of a mandatory minimum sentence may be deviated from.

Parkies v S¹

The case concerned an appeal against the sentence. The appellant was the second of two appellants who were convicted of attempted murder ("count 1"), robbery with aggravated circumstances ("count 2") and unlawful possession of a dangerous weapon ("count 3").

Appellants were sentenced to 8 years imprisonment for count 1, 15 years imprisonment for count 2 and cautioned and discharged for count 3. These sentences were cumulative, which amounted into an effective 23 years imprisonment.

The issue before the Appeal Court was whether the trial court had erred in imposing a cumulative sentence, and ought to have imposed a concurrent sentence. The Appeal Court held that it is trite law that the imposition of sentence falls within the trial court's discretion. The Appeal Court will only interfere if the reasoning of the sentencing court was vitiated by misdirection or sentence imposed induced a sense of shock or said to be startlingly inappropriate. The sentence should be of such a nature, degree, or seriousness that it shows that the trial court did not exercise its sentencing discretion or exercised it improperly or unreasonably.

The Appeal Court found that section 280 of the Criminal Procedure Act² ("CPA") provides the sentencing court with the discretion when sentencing an accused on several sentences, to order that such sentences run concurrently to have a cumulative effect. The court referred to the case of *Mopp v S*³, where the court had stated that "*failure by the trial court to order the sentences imposed to be served concurrently in terms of section 280 of the CPA does not constitute a misdirection, where the court had exercised its sentencing discretion reasonably, in such case, there is no basis for the Appeal Court to interfere with the sentence.*"

In the present case, the Appeal Court held that the record of proceedings showed that the trial court was mindful of concurrent sentencing and opted not to make such an order, having considered all the circumstances before it. Furthermore, the appeal court found that there were more aggravating factors than mitigating factors on the facts of the case. The Appeal Court found no fault on the sentencing court and accordingly dismissed the appeal.

S v Malgas⁴

The Supreme Court of Appeal (“SCA”) set aside a sentence of life imprisonment and substituted it with an effective sentence of 25 years imprisonment in favour of the appellant. The case discusses circumstances where a mandatory minimum sentence may be deviated from. The appellant, a 22-year-old, was accused of premeditated murder committed in common purpose with another accused. The offence fell under section 51, part 1 of schedule 2 of the Criminal Law Amendment Act⁵ (“Minimum Sentences Act”), warranting a sentence of life imprisonment.

The SCA found that the High Court had erred in its proposition that the circumstances of the case would have to be classified as exceptional first before they may be classified as substantial and compelling.

The SCA found that the circumstances in which the crime was committed were undoubtedly such as to render it necessary to impose a sentence of imprisonment for life unless substantial and compelling circumstances justified an imposition of a lesser sentence. The SCA considered the personal circumstances of the appellant, her relative youth, clean criminal record, vulnerability to her co accused’s influence whom she was residing at the latter’s home and the fact that the appellant was dragooned into the commission of the offence by a domineering personality were strongly mitigating factors.

Furthermore, the fact that the appellant gained nothing from the commission of the offence, and her spontaneous confession brought to light the commission of a crime which would have gone undetected were deserving of recognition. She was young enough to make her rehabilitation a prospect even after serving a long period of imprisonment. The appellant’s personal circumstances, considered cumulatively, were taken as substantial and compelling circumstances in terms of the Minimum sentences Act, and accordingly the appeal succeeded.

Grobler v S⁶

The accused was convicted of 11 counts of fraud involving approximately R1.5 million. The Regional Court imposed a sentence of 3 years correctional supervision in terms of section 276 (1) (h) of the CPA plus 5 years imprisonment wholly suspended on certain conditions including the reimbursement of the complainants. The High Court *mero motu* increased the sentence to 5 years direct imprisonment. The issue before the SCA was whether the High Court erred in doing so.

The SCA referred to the cases of *S v Pieters*, *S v Malgas*; *Director of Public Prosecutions v Mngoma* and *S v Le Roux and Others*, . that it was trite that the imposition of sentence is pre-eminently a matter for discretion of the trial court and a court of appeal will not interfere with the exercise of such discretion unless it can be said that the sentencing court did not exercise its discretion judicially by reason of an irregularity or material misdirection or that the sentence was shockingly inappropriate or that the trial court acted unreasonably

The SCA found that there was no indication in the High Court’s judgment why it saw it fit to interfere with the sentence imposed by the Regional Court. The Regional Court, in arriving in its decision, was aided by a comprehensive correctional supervision report with a strict regime entailing community service, monitoring by the commissioner, rehabilitative programmes and the appellant to remain under house arrest outside of working hours for a period of 3 years.

The Regional Court further considered the appellant’s personal circumstances and aggravating circumstances. It is also considered a custodial and non-custodial sentence and decided that a non-custodial sentence weighed heavily as it was feasible if the appellant was economically productive to reimburse the complainants.

The appeal accordingly succeeded. The SCA ordered the sentence imposed by the High Court to be set aside and confirmed the sentence imposed by the Regional Court.

Prince v S*

The appellant was convicted of rape in terms of section 51 part 1 of schedule 2 of the Minimum Sentences Act, in terms of which a life imprisonment sentence was applicable. Having found that substantial and compelling circumstance existed to deviate from imposing a sentence of life imprisonment, the Regional Court sentenced the appellant to 20 years direct imprisonment.

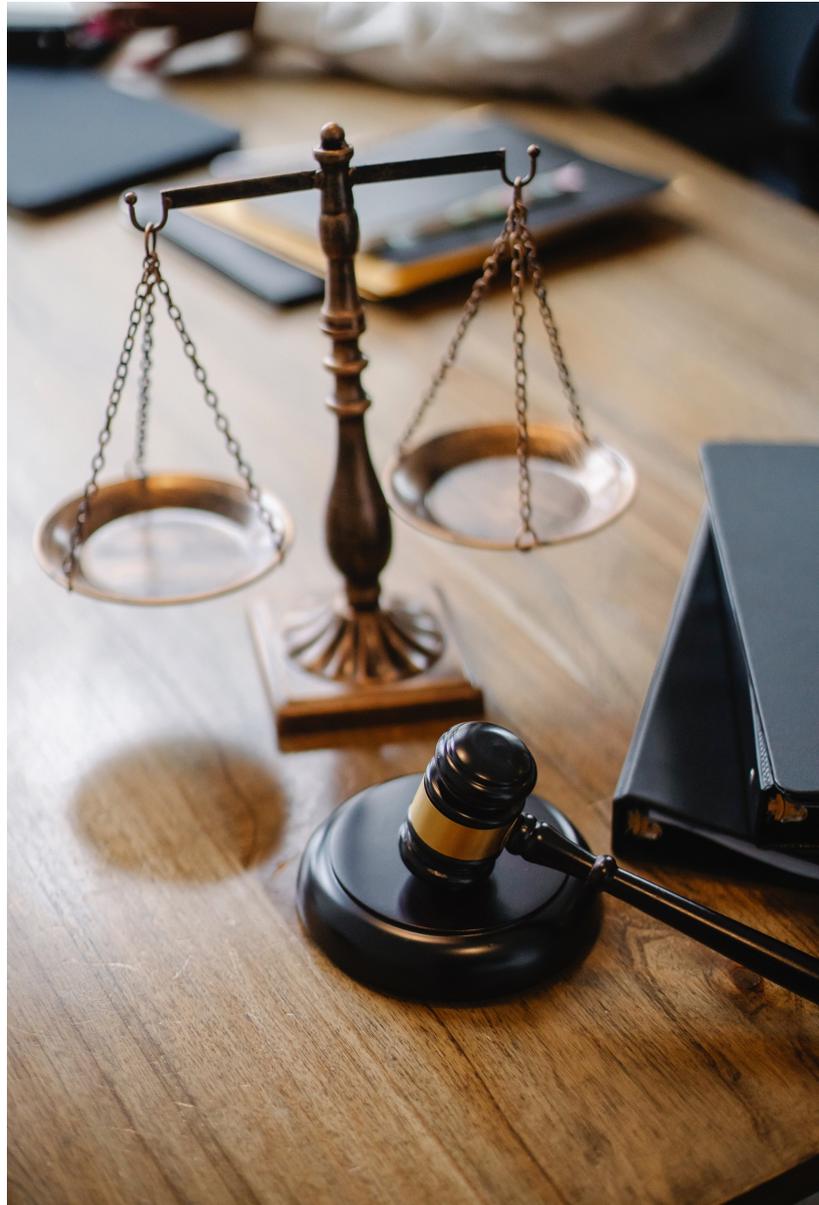
At the time the sentence was imposed, the appellant was serving a 16 years imprisonment sentence for conviction of murder, unrelated to the present case. The issue before the Appeal Court was whether the Regional Court had erred in not directing that the sentences should run concurrently.

The Appeal Court found that the Regional Court had misdirected itself in the exercise of its sentencing discretion by ignoring the provisions of section 280 (2) of the CPA which provides:

“such punishment, when consisting of imprisonment, shall commence the one after the expiration, setting aside or remission of the other, in such order as the court may direct, unless the court directs that such sentence of imprisonment shall run concurrently.”

The Appeal Court held that the effect of the sentence, if it runs concurrently, had to be considered as well. Failure of the trial court to order that the sentences run concurrently would constitute a misdirection and result in inducing a sense of shock. The appeal against sentence therefore succeeded. The Appeal court set aside the sentence of 20 years imprisonment and substituted it with a sentence of 20 years imprisonment of which 10 years imprisonment was ordered to run concurrently with the 16 years imprisonment sentence served by the appellant.

- 1) (A90/2023) [2024] ZAGHPPHC 372 (23 April 2024) North Gauteng High Court
- 2) Act 51 of 1977.
- 3) [2015] ZAECHGHC 136 (25 November 2015).
- 4) (117/2000) [2001] ZASCA 30; [2001] 3 All SA 270 (A); 2001 (2) SA 1222 (SCA) 19 March 2001.
- 5) Act 105 of 1997.
- 6) (433/2013) [2014] ZASCA 147; 2015 (2) SACR 210 SCA (26 September 2014).
- 7) S v Pieters 1987(3) SA 717 (A) at 727 F-H; Deputy of Public Prosecutions v Mngoma 2010 (1) SACR 427 SCA at para 11; S V Le Roux and Others 2010 (2) SACR 11 (SCA) para 35.
- 8) [2014] JOL 32271 (FB) Bloemfontein High Court.



5.2.5 FINALISATION OF ALL MATTERS BEFORE A JUDICIAL OFFICER

All Judicial Officers must strive to finalise all matters, including outstanding judgments, decisions or orders as expeditiously as possible. It is noted that some cases may, due to the complexity and magnitude thereof, take longer to finalise than the norms set out herein.

(i) Finalisation of civil cases:

- a) High Court – within 1 year from the date of issues of summons.
- b) Magistrates' Courts – within 9 months from the date of issue of summons.

(i) Finalisation of criminal cases

- a) In order to give effect to an accused person's right to a speedy trial enshrined in the Constitution, every effort shall be made to bring the accused to trial as soon as possible after the accused's arrest and first appearance in court.
- b) The Judicial Officer must ensure that every accused person pleads to the charge within 3 months from the date of first appearance in the Magistrate's Court. To this end Judicial Officers shall strive to finalise criminal matters with 6 months after the accused has pleaded to the charge.
- c) All Judicial Officers are enjoined to take a pro-active stance to invoke all relevant legislation to avoid lengthy periods of incarceration of accused persons whilst awaiting trial.



It is with profound sorrow that we announce the untimely passing of Mr Ntanjana on Sunday, 11 May 2025, at the age of 37. Mr Ntanjana's life, though cut short, was one marked by purpose, passion, and an unwavering pursuit of knowledge and excellence. Below is a snippet of Mr Ntanjana's life as told in the first person.

My name is Akho Ntanjana. On Sunday, 11 May 2025, my journey on this earth ended abruptly as I met my untimely death at the tender age of 37. I leave behind my loving parents, beautiful wife, siblings, relatives and a wide circle of friends and colleagues. Born on 4 November 1988, I was raised in a small village called Qugqwala in the Eastern Cape, where I completed and obtained my matric certificate. My passion for justice and law was ignited from a very young age, which led me to the University of Fort Hare where I earned my Bachelor of Law degree (LLB) in 2010. Immediately thereafter I continued with my academic journey at the University of Pretoria, completing a short course in project management, followed by a prestigious LLM in Human Rights and Democratization in Africa. At the time of my untimely passing, I was pursuing my second LLM at the University of Pretoria specializing on Extractive Industries in Africa, inspired by my dream of becoming an advocate in mining law.

Apart from my professional life, I was a devoted husband to my lovely wife Lusanda Ntanjana whom I had the privilege for our paths to cross. I knew instantly that she was the one I wanted to spend my life with. She made me the happiest man on earth when she agreed to be my wife. Our life together was a beautiful journey of laughter, shared dreams, love and growth and of course a bit of sadness. Though our life together was abruptly cut short, I will forever cherish the good memories I take with me beyond the grave, and I hope our love and memories will carry her as she now has to embark on this journey without me. I used to tell her that only death will separate us, I guess I am a man of his word.

During my spare time, I engaged in physical exercise at the gym, I loved to gym. I loved reading, spending time with my wife, family and friends.

To my colleagues, whom I spent most of my time with, I hope my passing has taught you that tomorrow is not guaranteed to anyone. Cherish each and every moment of your lives and live in the moment, *carpe diem!*

This is not goodbye but a “*until we meet again in another realm*”.

Tribute from colleagues

Akho left us abruptly without a warning. To say we were shocked and crushed to hear about his passing would be an understatement. Akho was a gentle, kind and loving soul. He was not only a brilliant legal mind but also a man of warmth, humility, and compassion. He was a devoted husband, a beloved son, a loving sibling, and a trusted friend to many. His intellect, humility, and kindness left an indelible mark on all who had the privilege of knowing him. His presence lit up every room, as his muscular physique demanded attention. He was a fit and healthy man who was health conscious, watched what he ate and loved to exercise, hence his untimely death is difficult to comprehend and accept. Our lives were enriched by his presence and contagious loud laughter.

Akho was not just a colleague, he was a steady presence, someone you could count on no matter what the day brought. Always ready with a warm smile, a thoughtful word, or a helping hand, Akho made our workplace more than just a place we showed up to. What we admired most about Akho was his quiet strength and consistency. His impact was felt deeply by those of us who had the privilege to work closely with him. Beyond his professionalism, Akho had a kindness that was genuine and rare. He reminded us, without ever saying it out loud, that how we treat people matters. That showing up with integrity and compassion is more powerful than we realize.

TRIBUTE TO OUR BELOVED COLLEAGUE, MR AKHO NTANJANA

4 November 1988 – 11 May 2025

Though Akho's journey on this earth has come to an end, the legacy he leaves behind, through his work, his values, and the love he shared, will continue to inspire and guide us. We are all devastated by his passing. His death is a tremendous loss to SAJEI and OCJ.

He left big shoes to fill especially with his work and dedication to the South African Judicial Education Journal which he was extremely passionate about. Though his hard work, dedication and excellence, the Journal became an accredited publication in January 2024, a milestone which was a meritorious moment to him.

Some of the colleagues used to call him *sgadtlagadtle* which loosely translate to "muscle man" due to his muscular physique. Despite his intimidating muscular physique, some of the colleagues used to call him "teddy bear" as he was a 'softie' in the inside. Losing Akho has left a space we all can feel. But we cherish the memories, shared laughs, quiet chats, the fights, the everyday moments that now feel so precious, and of course the photos we took which froze those moments forever.

Rest in eternal peace, Akho. Your love, light, and legacy will never fade. You will never be forgotten.



Ms Hangwelani Maringa
Director: Research & Curriculum Development



WALL OF FAME



STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Name	Designation	Status of Legal Practitioner	Province	Date of Action
Hendrick Christiaan Truter	Attorney	Suspended	Western Cape	2025-05-09
Sharon Anne De Lange	Attorney	Struck	Free State	2025-05-08
Malusi Good-enough Mhlongo	Attorney	Suspended	KwaZulu Natal	2025-05-08
Matshediso Caroline Tladi	Attorney	Suspended	Free State	2025-05-02
Siphiwe Freeman Dube	Attorney	Struck	Gauteng	2025-04-15
Ingrid Eulenda Mokwena (Sole)	Attorney	Suspended	Limpopo	2025-03-28
Tinyiko Justice Mnisi	Attorney	Suspended	Limpopo	2025-03-28
Nozipho Cokisa Dlali	Attorney	Struck	Free State	2025-03-06
Johan Gerardus Van Es	Attorney	Suspended	Free State	2025-03-27
Hermanus Johannes Kleyhans	Attorney	Suspended	Free State	2025-02-27
Lynn Swartz	Attorney	Suspended	Western Cape	2025-02-21
Seeiso Motumi	Attorney	Struck	Western Cape	2025-02-19
Nokulunga Pretty-Joyce Ndlovu	Attorney	Suspended	Mpumalanga	2025-02-18
Dean Williams De Jager	Attorney	Suspended	Gauteng	2025-02-11
Peter Daniel Stuurman	Advocate	Suspended	Western Cape	2025-01-31
Litata Smith	Attorney	Suspended	Mpumalanga	2025-01-28
Tjaart Knoetze	Attorney	Suspended	Mpumalanga	2025-01-28
Mr D L Shabangu	Attorney	Struck	Gauteng	2025-01-23
Daniel Johannes De Wet	Advocate	Suspended	Free State	2025-01-23
Mr C Mbiza	Attorney	Struck	Gauteng	2025-01-20
Kabelo Matee	Attorney	Struck	Free State	2025-01-17
Sibongseni Enerst Nene	Attorney	Suspended	KwaZulu Natal	2025-01-14
Mpho Clement (Mavhungu)	Attorney	Suspended	Gauteng	2025-01-14
Boy Joseph Tshabangu	Attorney	Suspended	Free State	2024-12-12
William Phatu Junior Mashela	Attorney	Suspended	Gauteng	2024-12-10

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Ashraf Mahmood Limbada	Attorney	Suspended	Eastern Cape	2024-12-10
Heinrich Francisco Gonzales	Attorney	Struck	Western Cape	2024-12-06
Delia Petronella Southon	Attorney	Suspended	Western Cape	2024-12-06
Zuko Mack Michael Nonxuba	Attorney	Struck	Gauteng	2024-12-04
Mr I M Segale	Attorney	Struck	Gauteng	2024-11-28
Mr P M Suping	Attorney	Struck	Gauteng	2024-11-18
Mr G E Timber	Attorney	Suspended	Gauteng	2024-11-12
Mr M J Mosikari	Attorney	Suspended	Gauteng	2024-11-12
Mr I S Phadu	Attorney	Suspended	Gauteng	2024-11-12
Mr T L Malete	Attorney	Suspended	Gauteng	2024-10-31
Mr T E Manamela	Attorney	Struck	Gauteng	2024-10-30
Mr H C Viljoen	Attorney	Struck	Gauteng	2024-10-29
Mr P J Viver	Attorney	Struck	Gauteng	2024-10-25
N Ndlovu	Attorney	Suspended	Gauteng	2024-10-24
N I Khumalo	Attorney	Suspended	Gauteng	2024-10-18
Mr N Malherbe	Attorney	Struck	Gauteng	2024-10-10
Mr Lufuno Dagada	Attorney	Struck	Gauteng	2024-10-10
Ms Phetogo Lemogang Ramaru	Attorney	Struck	Gauteng	2024-09-12
Adv Chabeli Johannes Molatoli	Attorney	Struck	Gauteng	2024-09-10
Mr Alugumi Given Mulaudzi	Attorney	Suspended	Gauteng	2024-09-25
Mr Darren Roger Sampson	Attorney	Struck	Gauteng	2024-10-29
Mr P J Vivier	Attorney	Struck	Gauteng	2024-10-25
Ms E De Vos	Attorney	Suspended	Gauteng	2024-10-26
Mr T S Nkosi	Attorney	Struck	Gauteng	2022-11-15
Ms M F Muzila	Attorney	Suspended	Gauteng	2024-10-13
Mr M A C Ndhlovu	Attorney	Struck	Gauteng	2024-10-01
Mrs R Singh (Ramdin)	Attorney	Struck	Gauteng	2024-06-25
Ms Prudence Chilwane	Attorney	Suspended	Gauteng	2024-06-11
and Mrs Z L M Vilakazi (Mtshali)	Attorney	Suspended	Gauteng	2024-06-11
Mr M K Latakomo	Attorney	Suspended	Gauteng	2024-06-11

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Mr K M Mokoena	Attorney	Suspended	Gauteng	2024-06-13
Ms N A Nonxuba	Attorney	Suspended	Gauteng	2024-06-06
Mr M M Ncongwane	Attorney	Suspended	Gauteng	2024-06-05
Ms J M Halles	Attorney	Suspended	Gauteng	2024-06-04
Mr S M Maeyane	Attorney	Stuck	Gauteng	2024-06-03
Sive Dlula	Attorney	Suspended	Gauteng	2024-05-27
Dawid Nel	Attorney	Suspended	Gauteng	2024-05-27
Ms C M Kotsokwane	Attorney	Stuck	Gauteng	2024-05-16
Loriane Samantha	Attorney	Suspended	Gauteng	2024-05-16
Mr A Mkhabela	Attorney	Stuck	Gauteng	2024-05-16
Mr L Dagada	Attorney	Suspended	Gauteng	2024-05-14
Mrs C Coertzen	Attorney	Stuck	Gauteng	2024-05-10
Mr M.L Mabena	Attorney	Stuck	Gauteng	2024-05-07
Ashley Micheal Youngman	Attorney	Stuck	Gauteng	2024-04-09
Mr D R Ntombela	Attorney	Suspended	Gauteng	2024-04-16
Miss S L De Jager	Attorney	Suspended	Gauteng	2024-04-16
Ms Bianca Gugu Gumede(Ndlovu)	Attorney	Suspended	Gauteng	2024-04-09
Mr S Muskat	Attorney	Suspended	Gauteng	2024-04-08
Letlhogonolo Meisie Matjeni	Attorney	Suspended	Gauteng	2024-03-23
Jacobus Cornelius Van Eden	Attorney	Stuck	Gauteng	2024-03-14
Kagisho Sebati	Attorney	Stuck	Gauteng	2024-03-13
Johannes Barnard Luttig	Attorney	Stuck	Gauteng	2024-03-07
Mr J M Moraswe	Attorney	Suspended	Gauteng	2024-03-07
Daniel Petrus Spangenberg	Attorney	Suspended	Gauteng	2024-03-05
Petrus Makhabane Thobejane	Attorney	Stuck	Gauteng	2024-02-05
Isiah Simon Makhanazi	Attorney	Suspended	Gauteng	2024-02-29
Davide Kgagiso Mogwerane	Attorney	Suspended	Gauteng	2024-02-20
Marius Coertze	Attorney	Stuck	Gauteng	2024-02-20
Mr M J Chipu	Attorney	Stuck	Gauteng	2024-02-15
Cliffort Jabulane Chauke	Attorney	Stuck	Gauteng	2024-02-15

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Ms S J Van Royeen	Attorney	Suspended	Gauteng	2024-02-06
Mr P Sadike	Attorney	Stuck	Gauteng	2024-01-23
Mr J N Bouwer	Attorney	Suspended	Gauteng	2024-01-16
Mrs M S Nkanyane	Attorney	Suspended	Gauteng	2023-12-21
Mr P L Samuels	Attorney	Suspended	Gauteng	2023-12-21
C V Maholobela	Attorney	Suspended	Gauteng	2023-12-05
Sisa Nhlabathi	Attorney	Suspended	Gauteng	2023-12-05
Mr G Malumane	Attorney	Suspended	Gauteng	2023-12-02
Computer Mbiza	Attorney	Suspended	Gauteng	2023-11-16
Ephraim Gezani Baloyi	Attorney	Suspended	Gauteng	2023-11-16
Naomie Marais	Attorney	Stuck	Gauteng	2023-11-14
Lesego Joshua Mogotsi	Attorney	Suspended	Gauteng	2023-11-09
Aadila Laher	Attorney	Suspended	Gauteng	2023-11-09
Tiragalo Solomon Sejwane	Attorney	Stuck	Gauteng	2023-11-09
Tshepang Walter Mokotedi	Attorney	Suspended	Gauteng	2023-11-09
Lebogang Aubrey Manong	Attorney	Suspended	Gauteng	2023-11-09
Stephanus Gerhardus Schoeman	Attorney	Stuck	Gauteng	2023-10-26
Darren Phillip Carpenter	Attorney	Stuck	Gauteng	2023-10-26
Tinashe Martin Gede	Attorney	Suspended	Gauteng	2023-10-19
Alex Molefe Methula	Attorney	Suspended	Gauteng	2023-10-17
Ury Ngwanaletsba Ratseke	Attorney	Stuck	Gauteng	2023-10-17
Kulani Lionel Dhumazi	Attorney	Stuck	Gauteng	2023-10-12
Raymond Tonderayi Bombo	Attorney	Stuck	Gauteng	2023-10-12
Cliffort Jabulane Chauke	Attorney	Suspended	Gauteng	2023-10-03
Jacob Abel Masingi	Attorney	Stuck	Gauteng	2023-09-13
Matome Ignatious Seanego	Attorney	Suspended	Gauteng	2023-09-07
Labry Laenat Nkuna	Attorney	Suspended	Gauteng	2023-09-05
Jacobus Cornelius Van Eden	Attorney	Suspended	Gauteng	2023-09-05
Hendrik Comilis Viljoen	Attorney	Suspended	Gauteng	2023-09-05
Mmatlou Lesley Matsi	Attorney	Suspended	Gauteng	2023-08-30

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Stephen Phillip	Attorney	Suspended	Gauteng	2023-08-22
Petrus Makhabane Thobejane	Attorney	Struck	Gauteng	2023-08-22
Frederick Jacobus Jordaan	Attorney	Struck	Gauteng	2023-08-17
Sitembiso Yena	Attorney	Suspended	Gauteng	2023-08-15
Teodore Avel Tromp	Attorney	Suspended	Gauteng	2023-08-15
Tsepo Luthando Masango	Attorney	Suspended	Gauteng	2023-08-15
Zaina Jadewin Sujee	Attorney	Suspended	Gauteng	2023-08-08
Aloysius tikwe Sefatsa	Attorney	Suspended	Gauteng	2023-08-08
Solani Phanuel Gudlhuza	Attorney	Struck	Gauteng	2023-08-03
Teboho Sophonia Tsunke	Attorney	Suspended	Gauteng	2023-08-03
Jonathan Meir Berkowitz	Attorney	Suspended	Gauteng	2023-08-03
Madoda Gbriel Nhlanhla	Attorney	Struck off from roll	Gauteng	2023-08-01
Noxolo Fatyela	Attorney	Suspended	Gauteng	2023-07-27
Bormventure Ndhlovu	Attorney	Struck	Gauteng	2023-07-25
Nosipho Thembeka Zibani	Attorney	Suspended	Gauteng	2023-07-18
Gert Pieter Johannes Labuschagne	Attorney	Suspended	Gauteng	2023-07-07
Naomie Marais	Attorney	Suspended	Gauteng	2023-06-21
Velaphi Solomon Mkhabela	Attorney	Suspended	Gauteng	2023-06-13
Marlize Du Preez	Attorney	Suspended	Gauteng	2023-06-13
Hassan Ebrahim Kajee	Attorney	Struck off from roll	Gauteng	2023-06-06
Primrose Sheilla Chisango	Attorney	Struck off from roll	Gauteng	2023-06-06
Mxolisi Reginald Maome	Attorney	Suspended	Gauteng	2023-06-05
Mokoro Marcus Ngele	Attorney	Suspended	Gauteng	2023-05-31
Ntombesihlanu Virginia Sonqishe	Attorney	Struck	Gauteng	2023-05-17
Felix Zelithini Thuketana	Attorney	Struck	Gauteng	2023-05-16
Lehodi Lesley Nkoana	Attorney	Struck	Gauteng	2023-05-16
Paulus Molathegi Suping	Attorney	Suspended	Gauteng	2023-05-09
Jankie Kau Maswabi Makinta	Attorney	Suspended	Gauteng	2023-05-09
Jonathan Meir Berkowitz	Attorney	Suspended	Gauteng	2023-05-02
Frederick Jacobus Jordaan	Attorney	Suspended	Gauteng	2023-05-02

STRUCK OFF AND SUSPENDED LEGAL PRACTITIONERS

JANUARY 2023 - MAY 2025

Judy Maseeiso Halles	Attorney	Suspended	Gauteng	2023-04-20
Danelle Kamffer	Attorney	Suspended	Gauteng	2023-04-20
Greg De La Hunt	Attorney	Suspended	Gauteng	2023-04-20
Martinus Mhongo	Attorney	Suspended	Gauteng	2023-04-18
Nkosinathi Trevor Nsele	Attorney	Struck	Gauteng	2023-04-18
Jan Jacobus Wagener	Attorney	Suspended	Gauteng	2023-04-12
Clara Maria De Kock	Attorney	Suspended	Gauteng	2023-04-11
Themba Benedict Langa	Attorney	Struck	Gauteng	2023-03-31
Keitumetse Caroline Molefe	Attorney	Suspended	Gauteng	2023-03-14
Mathule Jonas Matakanye	Attorney	Suspended	Gauteng	2023-03-14
Onkabetse Mongez Mabena	Attorney	Suspended	Gauteng	2023-03-09
Collin Ntulini	Attorney	Suspended	Gauteng	2023-03-07
Lodwick Makgahlela Mashsba	Attorney	Struck	Gauteng	2023-02-27
Wynand Naude	Attorney	Suspended	Gauteng	2023-02-22
Songezo Nyila	Attorney	Suspended	Gauteng	2023-02-22
Niclas Modise Ditshipi Mabuse	Attorney	Suspended	Gauteng	2023-02-21
Mmabatho Olivia Moektsi	Attorney	Struck	Gauteng	2023-02-07
Bonginkosi Dalingcobo Mndiyata	Attorney	Suspended	Gauteng	2023-02-16
Gareth James King	Attorney	Suspended	Gauteng	2023-02-16
Sahail Essack	Attorney	Suspended	Gauteng	2023-02-16
Timela Amos Kagisho Bapela	Attorney	Suspended	Gauteng	2023-02-14
Gerhard Nothnagel	Attorney	Struck	Gauteng	2023-02-14
Desmond John Mitchell Barry	Attorney	Suspended	Gauteng	2023-02-07
Michelle Neething	Attorney	Suspended	Gauteng	2023-02-01
Jonannes Hendriks Petzer	Attorney	Struck	Gauteng	2023-01-31
Louise Christine De Villiers	Attorney	Suspended	Gauteng	2023-01-31
Boniswe Makhosazane Sabela	Attorney	Struck	Gauteng	2023-01-26
Maria Eulalia De Freitas Salgado	Attorney	Struck	Gauteng	2023-01-24
John Gino Adolph	Attorney	Struck	Gauteng	2023-01-24
Tarquin Jonathan Bishop	Attorney	Struck	Gauteng	2023-01-24
Isaac Mokgobi	Attorney	Struck	Gauteng	2023-01-20
Jacobus Marthinus Van Staden	Attorney	Struck	Gauteng	2023-01-19
Rishikar Thulsie	Attorney	Suspended	Gauteng	2023-01-19
Karen Maria Faurie	Attorney	Suspended	Gauteng	2023-01-17
Wynand Breytenbach	Attorney	Suspended	Gauteng	2023-01-17
Conelius Modulathoko Kgaka	Attorney	Struck	Gauteng	2023-01-13
Maemo Johannes Chipu	Attorney	Suspended	Gauteng	2023-01-03

LIST OF UPCOMING TRAINING

JULY - SEPTEMBER 2025

NO	COURSE CODE	COURSE	DATE	PROVINCE
JULY				
1.	DCM 39	Family Court Skills: Maintenance Act (in-person)	30 June – 04 July 2025	Limpopo
2.	DCM 40	Criminal Court Skills: Plea Proceedings (virtual)	01 July – 04 July 2025	KZN
3.	DCM 41	Civil Court Skills: Costs (virtual)	01 July – 04 July 2025	Free State
5.	DCM 44	Family Court Skills: PATSAAs (in-person)	07 – 11 July 2025	North West
6.	DCM 42	Civil Court Skills: Judgment Writing (in-person)	08 – 10 July 2025	Gauteng
7.	DCM 45	Civil Court Skills: Interpleaders (in-person)	14 – 18 July 2025	Eastern Cape Region 2
8.	DCM 46	Children's Court Skills Adoptions (in-person)	15 – 17 July 2025	Mpumalanga
9.	DCM 47	Criminal Court Skills: Section 342A of Criminal Procedure	15 – 18 July 2025	Mpumalanga
10.	DCM 48	Children's Court Skill: Children in need of care and protection (in-person)	21 – 25 July 2025	Western Cape
11.	DCM 49	Criminal Court Skills: Record Keeping and Section 342A of CPA (in-person)	21 – 25 July 2025	North West
12.	DCM 50	Family Court Skills: Domestic Violence Act, Protection from Harassment Act	21 – 25 July 2025	KwaZulu Natal
13.	DCM 51	Civil Court Skills- Application Proce- dure (in-person)	21 – 25 July 2025	Eastern Cape Region 1
14.	DCM 52	Equality Court Skills: PEPUDA (in-person)	29 – 31 July 2025	Gauteng

LIST OF UPCOMING TRAINING

JULY - SEPTEMBER 2025

AUGUST				
15.	DCM 53	Civil Court Skills: Application Procedure (virtual)	04 – 08 August 2025	KwaZulu Natal
16.	DCM 54	Family Court Skills: Domestic Violence Act (virtual)	05 – 06 August 2025	Free State
17.	DCM 55	Criminal Court Skills: Bail Applications (in-person)	04 – 08 August 2025	Eastern Cape
18.	DCM 56	Family Court Skills: Protection from harassment (in-person)	11 – 15 August 2025	KwaZulu Natal
19.	DCM 57	Criminal Court Skills: Judgment writing (in-person)	11– 13 August 2025	Eastern Cape
20.	DCM 58	Civil Court Skills: Evictions (in-person)	12 – 14 August 2025	Gauteng
21.	DCM 59	Civil Court Skills: Action Procedure (in-person)	11 – 15 August 2025	Western Cape
22.	DCM 60	Criminal Court Skills: Immigration (in-person)	19 – 22 August 2025	Eastern Cape
23.	DCM 61	Family Court Skills: Non-Verbal Communication and GBVF (in-	18 – 21 August 2025	Gauteng
24.	DCM 62	Civil Court Skills: Application Procedure (in-person)	18 – 22 August 2025	Northern Cape
25.	DCM 63	Children’s Court Skills: Parental rights and responsibilities (in-	25 – 28 August 2025	KwaZulu Natal
26.	DCM 64	Civil Court Skills: Evictions and executions (in-person)	25 – 29 August 2025	KwaZulu Natal
27.	DCM 65	Criminal Court Skills: Specific Offences (in-person)	25 – 29 August 2025	KwaZulu Natal
28.	DCM 66	Family Court Skills: PATSAA (virtual)	26 – 27 August 2025	Eastern Cape

LIST OF UPCOMING TRAINING

JULY - SEPTEMBER 2025

SEPTEMBER

SEPTEMBER				
29.	DCM 67	Criminal Court Skills: Immigration (in-person)	02 – 05 September 2025	KwaZulu Natal
30.	DCM 68	Children's Court Skills: Adoptions (in-person)	02 – 04 September 2025	Gauteng
31.	DCM 69	Civil Court Skills: Evictions (in-person)	02 – 05 September 2025	Limpopo
32.	DCM 70	Family Court Skills: Maintenance Act (virtual)	02 – 03 September 2025	Free State
33.	DCM 71	Children's Court Skills: Child Justice Act (in-person)	02 – 08 September 2025	Mpumalanga
34.	DCM 72	Criminal Court Skills: Immigration (in-person)	10 – 12 September 2025	Limpopo
35.	DCM 73	Criminal Court Skills: Immigration (in-person)	16 – 18 September 2025	Eastern Cape
36.	DCM 74	Civil Court Skills: Damages Delict (in-person)	16 – 18 September 2025	Gauteng
37.	DCM 75	Children's Court Skills: Guardianship (virtual)	16 – 19 September 2025	Northern Cape
38.	DCM 76	Family Court Skills: CFM (in-person)	15 – 19 September 2025	Western Cape



10 YEARS
2011 - 2021

