JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/125/01/2025

In the matter between:

ADV M D TEFFO **COMPLAINANT**

and

JUDGE R MOKGOATLHENG **RESPONDENT**

Date: 13 November 2026

Decision: The complaint against Judge Mokgoatlheng is dismissed in terms of section 17(4)(*a*) of the Judicial Service Commission Act 9 of 1994.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MAJIEDT J):

Introduction

[1] The complainant, Adv Teffo, lodged a complaint, dated 15 January 2025, against the respondent, retired Judge Mokgoatlheng. The complaint arose from the respondent's conduct while presiding in the Senzo Meyiwa trial.[1]

[2] On 31 March 2025, the then Acting Chairperson (Acting Deputy Chief Justice Madlanga) determined that the complaint would proceed under section 17 of the Judicial Service Commission Act 9 of 1994 (the Act) only in relation to the alleged threat of civil proceedings against the late Adv Mngomezulu. The remainder of the complaint was dismissed under section 15(2)(*d*) of the Act.[2] This ruling is therefore confined to that single issue.

[3] The respondent was invited to comment on the complaint and furnished written submissions dated 27 October 2025. The complainant was invited to comment on those submissions and furnished a reply on 17 July 2026. I have considered the complaint, the respondent's submissions, the complainant's reply and the material relevant to the issue referred under section 17.

[4] The material issue can be determined on the information before me. There is no reasonable likelihood that a formal hearing will contribute to determining the merits of the complaint.

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[1] *S v Sibiya and others*, Gauteng Division of the High Court, Pretoria CC 67/2020.

[2] Section 15(2) of the Act provides, "[a] complaint must be dismissed if it—

(a) does not fall within the parameters of any of the grounds set out in section 14 (4);
(b) does not comply substantially with the provisions of section 14 (3);
(c) is solely related to the merits of a judgment or order;
(d) is frivolous or lacking in substance; or
(e) is hypothetical".

[5] Section 17 of the Act requires an inquisitorial inquiry into the merits of the complaint. No person bears an onus to prove or disprove a fact,[3] and the determination must be made on the information obtained under section 17(3).[4]

The Complaint

[6] The late Adv Mngomezulu represented two of the accused in the trial. The complainant alleges that, when Adv Mngomezulu disagreed with the respondent on a legal issue, the respondent made a serious threat to institute civil proceedings against him. The complainant relies on that statement as judicial misconduct.

[7] The complaint contains broader allegations concerning the respondent's conduct of the trial, including allegations of bias, racial prejudice, interruption and humiliation. Those matters were not referred for inquiry under section 17 and do not fall to be reconsidered in this ruling.

The Response and Reply

[3] Sections 17(1) and (2) of the Act provide, "[i]f—

(a) the Chairperson is satisfied that, in the event of a valid complaint being established, the appropriate remedial action will be limited to one or more of the steps envisaged in subsection (8); or

(b) a complaint is referred to the Chairperson in terms of section 15 (1) (b) or section 16 (4) (a), or section 18 (4) (a) (ii), the Chairperson or a member of the Committee designated by the Chairperson must inquire into the complaint in order to determine the merits of the complaint.

(2) Any inquiry contemplated in this section must be conducted in an inquisitorial manner and there is no onus on any person to prove or to disprove any fact during such investigation."

[4] Section 17(3) of the Act provides, "[f]or the purpose of an inquiry referred to in subsection (2), the Chairperson or member concerned—

(a) must invite the respondent to respond in writing or in any other manner specified, and within a specified period, to the allegations;

(b) may obtain, in the manner that he or she deems appropriate, any other information which may be relevant to the complaint; and

(c) must invite the complainant to comment on any information so obtained, and on the response of the respondent, within a specified period."

[8] The respondent denies threatening Adv Mngomezulu because counsel disagreed with him on a legal principle. He states that the exchange occurred during cross-examination of a police witness about two cellular phones seized from accused one in the trial, Mr Muzi Sibiya, whom Adv Mngomezulu was representing. According to the respondent, the witness produced an affidavit after counsel asked for it. When counsel declined to accept the affidavit, the respondent requested it so that he could determine whether it corroborated the witness's evidence.

[9] The respondent states that Adv Mngomezulu then accused him of entering the arena and colluding with the prosecution. He adjourned the proceedings and, upon resumption, addressed counsel on the meaning and seriousness of an allegation of collusion. He told counsel that, unless the allegation was withdrawn unreservedly, he would have the right to sue for civil damages.

[10] The respondent says that Adv Mngomezulu withdrew the allegation and apologised to him, to Adv Baloyi and to the other defence counsel. He maintains that the statement about civil proceedings was a response to an allegation of collusion, not to a difference of legal opinion. He also states that the complainant was not present when the exchange occurred.

[11] In reply, the complainant disputes the respondent's account and maintains that the respondent was wrong to threaten civil proceedings against defence counsel while counsel was cross-examining a State witness. He contends that such conduct was inconsistent with the role of a fair and impartial presiding officer. He does not directly address the respondent's statement that Adv Mngomezulu withdrew the allegation of collusion and apologised.

[12] Moreover, the complainant fails to deal with the respondent's allegation that the complainant was not present during the exchange with Adv Mngomezulu. The complainant does not state that he personally witnessed it, nor does he identify the source of his information. The remainder of his reply raises broader allegations that fall outside the limited issue referred for consideration under section 17.

Applicable Legal Framework

[13] The complaint must be assessed against the statutory threshold of wilfulness or gross negligence. Article 2(3) of the Code of Judicial Conduct (the Code),[5] read with section 14(4)(*b*) of the Act, applies that threshold to an alleged breach of the Code. Section 14(4)(*e*) similarly requires any other conduct alleged to be incompatible with or unbecoming judicial office to have been wilful or grossly negligent.[6]

[14] Article 5 requires a Judge to act honourably and in a manner befitting judicial office. Article 7(b) requires a Judge to act courteously and to respect the dignity of those concerned. Article 9 requires a Judge to maintain order and decorum in judicial

[5] Article 2(3) of the Code provides, "Any wilful or grossly negligent breach of this Code is a ground upon which a complaint against a judge may be lodged in terms of section 14 (4) (b) of the Act."

[6] Section 14(4) of the Act provides, "[t]he grounds upon which any complaint against a judge may be lodged, are any one or more of the following:

(a) Incapacity giving rise to a judge's inability to perform the functions of judicial office in accordance with prevailing standards, or gross incompetence, or gross misconduct, as envisaged in section 177 (1) (a) of the Constitution;

(b) Any wilful or grossly negligent breach of the Code of Judicial Conduct referred to in section 12, including any failure to comply with any regulation referred to in section 13 (5);

(c) Accepting, holding or performing any office of profit or receiving any fees, emoluments or remuneration or allowances in contravention of section 11;

(d) Any wilful or grossly negligent failure to comply with any remedial step, contemplated in section 17 (8), imposed in terms of this Act; and

(e) Any other wilful or grossly negligent conduct, other than conduct contemplated in paragraph (a) to (d), that is incompatible with or unbecoming the holding of judicial office, including any conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts."

proceedings, and to act with patience and courtesy towards legal practitioners and others with whom the Judge deals in an official capacity.[7]

[15] The Code recognises that a Judge may keep a firm hand on proceedings[8] and may express critical views. It also cautions against harsh language and statements actuated by spite, ill will or an ulterior motive.[9] The judicial function therefore permits firm control of proceedings, but requires the Judge's response to remain measured and consistent with the dignity of the office.

[16] In *Fischer v De Broglio Attorneys Incorporated*,[10] the Judicial Conduct Committee described wilful conduct as intentional or deliberate conduct, including conduct undertaken with knowledge that harm is likely, and gross negligence as a severe degree of negligence involving reckless disregard or blatant indifference to legal duty or the rights of others. Therefore, the statutory threshold for judicial misconduct is a high one.

Evaluation

[17] It is common cause on the information before me that the respondent referred to possible civil proceedings. The material issue is the context and character of that

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[7] Article 9(b) of the Code provides, "in conducting judicial proceedings—

(i) maintain order;
(ii) act in accordance with commonly accepted decorum; and
(iii) remain patient and courteous to legal practitioners, parties and the public, and require them to act likewise …".

[8] Note 9(i) of the Code provides, "[t]he duty to grant a party a fair hearing does not preclude a judge from keeping a firm hand on proceedings".

[9] Note 9(iv) of the Code provides, "[a] judge may have occasion to express critical views about people during the course of argument or in judgments, e.g. by using unflattering adjectives in regard to a recalcitrant or overzealous party, an uncooperative lawyer, a foot-dragging witness and the like. However, harsh language should be avoided if possible and a judge may not, under the guise of performing judicial functions, make defamatory or derogatory statements actuated by personal spite, ill will, or improper, unlawful or ulterior motive".

[10] [2025] ZAJSC 22 at paragraphs 22-24.

statement. The complainant presents it as a threat made because counsel disagreed with the respondent on a legal principle. The respondent's account is that it followed counsel's accusation that he was colluding with the prosecution.

[18] In reply, the complainant maintains that it was improper for a presiding Judge to refer to civil proceedings while counsel was cross-examining a State witness. He does not dispute that Adv Mngomezulu had accused the respondent of colluding with the prosecution, nor does he directly address the respondent's statement that the allegation was subsequently withdrawn and an apology tendered. Viewed in that context, the reference to civil proceedings cannot properly be characterised as a response merely to a difference of legal opinion. The respondent's version that the statement was made in the context of an allegation by Adv Mngomezulu against the respondent of collusion with the State, thus remains uncontroverted and must be accepted.

[19] An accusation that a presiding Judge is colluding with one side is serious and entitled the respondent to require counsel to account for or withdraw it. The reference to personal civil proceedings was unnecessary and could have been avoided. The preferable course was to deal with the accusation through the ordinary means available to maintain order and decorum in court.

[20] The inquiry into judicial misconduct is nevertheless whether the information establishes a wilful or grossly negligent breach of the Code. The information concerns a single exchange arising in open court after a serious allegation had been made against the respondent. The statement was conditional upon counsel declining to withdraw that allegation, and the respondent's uncontroverted account is that counsel withdrew it and apologised.

[21] The information does not establish that the respondent's reference to civil proceedings was actuated by personal spite, ill will or an ulterior motive. His response may properly be criticised as ill-advised. Viewed in its context, however, it does not establish the wilful or grossly negligent breach of the Code required by section 14(4)(*b*), or the wilful or grossly negligent conduct contemplated in section 14(4)(*e*) of the Act.

Conclusion

[22] The information does not establish that the respondent's statement amounted to a wilful or grossly negligent breach of the Code, or to other wilful or grossly negligent conduct incompatible with or unbecoming judicial office. The complaint must accordingly be dismissed under section 17(4)(*a*) of the Act.

Ruling

[23] The complaint against Judge Mokgoatlheng is dismissed in terms of section 17(4)(*a*) of the Judicial Service Commission Act 9 of 1994.



THE JUDICIAL CONDUCT COMMITTEE