



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/98/10/2024

In the matter between:

MR STEPHANUS NAUDE MARAIS

COMPLAINANT

and

JUDGE VAN DER WESTHUIZEN

RESPONDENT

Date: 8 July 2026

Decision: The appeal is dismissed.

RULING

**JUDICIAL CONDUCT COMMITTEE (JAFTA J, SALDULKER JA AND
MABINDLA-BOQWANA JP)**

INTRODUCTION

[1] This is an appeal against the decision of the Acting Chairperson of the Judicial Conduct Committee (Committee) in terms of which a complaint lodged by Mr S N Marais (complainant) was summarily dismissed under section 15(2)(c) of the Judicial Service Commission Act 9 of 1994 (Act)¹, on the basis that it related solely to the merits of a judgment. The complaint was lodged against Judge van der Westhuizen of the Gauteng Division of the High Court, Pretoria.

[2] Aggrieved by the dismissal of his complaint, the complainant noted an appeal and sought an order that the decision of the Acting Chairperson be set aside on various grounds. For a proper determination of the appeal, it is necessary to set out the nature of the complaint.

COMPLAINT

[3] The complainant was the defendant in the matter of *Johannes Bernardus Oosthuizen N.O. v Stephanus Naude Marais*, which came before the respondent. In those proceedings, the plaintiff, Mr Johannes Bernardus Oosthuizen N.O. acting in his capacity as executor of the Estate of the Late Muriel Marais (the deceased), who was the mother of the complainant, instituted action against the complainant.

[4] The plaintiff alleged that the complainant had unlawfully appropriated funds belonging to the deceased during her lifetime. In the alternative, it was alleged that the complainant had acted negligently in the administration of the deceased's funds while exercising powers conferred upon him under a general power of attorney granted by the deceased. Evidence was led at the trial, following which the respondent delivered judgment against the complainant, and ordered him to repay the amount claimed by the executor. The respondent found, inter alia, that

¹ Section 15(2)(c) of the Act provides: 'A complainant must be dismissed if it-(c) is solely related to the merits of a judgment or order'.

the complainant had appropriated the deceased's funds for his own personal use and benefit.

[5] In his complaint to the Committee, the complainant engaged extensively with the respondent's judgment. He contended that the judgment contained a number of factual errors, falsehoods and material omissions. Similar contentions were advanced in the present appeal.

[6] The complainant further challenged, *inter alia*, the jurisdiction of the court, the validity of the appointment of the executor, and alleged that the respondent had granted judgment in favour of the wrong estate. All of the grounds advanced in the complaint and the appeal are directed exclusively at the correctness of the respondent's factual findings and legal conclusions, and concern the merits of the judgment. It is apparent from the record that all these contentions were considered by the Acting Chairperson when he correctly dismissed the complaint on the grounds that it solely related to the merits of a judgment or order. The complainant's dissatisfaction with the findings of the respondent is a matter which must properly be pursued through the ordinary appellate processes.

[7] Consequently, the appeal is dismissed.



JUDICIAL CONDUCT COMMITTEE