



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/255/10/2025

In the matter between:

EDUARD RAS

COMPLAINANT

and

JUDGE M J DOLAMO

RESPONDENT

Date: 07 July 2026

Decision: a. The complaint against Judge Dolamo is established to the limited extent that the delay in delivering judgment constituted a grossly negligent breach of Article 10 of the Code of Judicial Conduct and conduct unbecoming of a judge in terms of section 17(4)(b) of the Judicial Service Commission Act 9 of 1994.

b. In terms of section 17(8)(a) of the Act, Judge Dolamo is directed to tender a written apology to the complainant within 30 days of receipt of this ruling.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ)

Introduction

[1] Mr Eduard Ras lodged a complaint with the Judicial Conduct Committee (the JCC) against Judge M J Dolamo of the Western Cape Division of the High Court. The complaint concerns the delay in the delivery of judgment in *LB von Wielligh Bester NO and Others v Dr J Swart*, Western Cape High Court, case number 18653/2015.

[2] The complainant contends that the respondent failed to deliver judgment for more than a year after final argument, and that the delay constituted a serious breach of Article 10(1)(a), (c) and (d) of the Code of Judicial Conduct (the Code).

[3] The complaint was considered by me and was directed to be dealt with in terms of section 17 of the Judicial Service Commission Act 9 of 1994 (the Act).¹ The respondent was invited to respond to the complaint and filed a written response dated 23 February 2026. The complainant was thereafter invited to comment on that response and filed written submissions dated 8 April 2026. I have considered the complaint, the respondent's response, the complainant's further submissions, and the documents placed before me.

¹ Section 17(1) and (2) of the Act provides, "If—

- (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."

The Complaint

[4] The complaint concerns the delay in delivering judgment. The matter was heard over several days between May 2023 and July 2024, with the final hearing date being 10 July 2024. Judgment was delivered electronically on 12 December 2025. The judgment was therefore delivered approximately 17 months after the matter was finally heard.

[5] Before lodging the complaint, the complainant sent an email dated 19 August 2025 to the secretaries of the Judge President and the respondent. He stated that the matter had been finally argued on 10 July 2024, that he understood the Code to require judgment within three months, and that no judgment had been delivered after more than a year. The office of the Judge President acknowledged receipt on 20 August 2025 and advised that the email had been placed before the Judge President.

[6] The complaint was lodged with the JCC on or about 1 October 2025. At that stage judgment had not yet been delivered. The complaint was referred for inquiry under section 17 because the delay in the delivery of judgment required consideration under the disciplinary framework of the Act and the Code.

[7] In his response, the respondent accepts that judgment was delayed and apologises for the delay. He explains that the trial was extensive; that the record consisted of approximately 4 580 pages, the transcripts of approximately 2 028 pages, and the heads of argument and authorities of approximately 1 483 pages, amounting to approximately 8 091 pages in total. The response attaches correspondence from the parties' attorneys confirming those page totals.

[8] The respondent further states that, after the hearing of oral evidence and before final argument, he was appointed as an Acting Judge of the Supreme Court of Appeal and that his acting stint was extended by another term. He states that, although he was no longer at the Supreme Court of Appeal between terms, he still had work to do for the next term. He says this resulted in a substantial backlog in his work. He also states that he had health challenges which affected his ability to perform his duties. He states that the delay was not due to neglect of duty, but to the circumstances set out in his response

[9] In his further submissions, the complainant does not purport to dispute the fact that judgment has since been delivered or the size of the record. His principal complaint is that the respondent did not provide the dates of his acting service in the Supreme Court of Appeal or the dates and duration of the medical condition referred to in the response. The complainant also refers to an email sent from the office of the Judge President on 4 December 2025, which stated that the respondent had mistakenly associated the matter with another case in which judgment had already been delivered, and that the Judge President had received an assurance that the judgment in *LB von Wielligh Bester NO and Others v Dr J Swart* would be delivered by Monday, 8 December 2025. The judgment was ultimately delivered on 12 December 2025.

Applicable Legal Framework

[10] Section 12(5) of the Act provides that the Code serves as the prevailing standard of judicial conduct which judges must adhere to. A complaint against a

judge must, however, be based on one or more of the grounds in section 14(4) of the Act² and must specify the nature of the complaint and the facts on which it is based.³

[11] For present purposes, the relevant statutory ground is a wilful or grossly negligent breach of the Code, as contemplated in section 14(4)(b) of the Act. Article 2(3) of the Code is to the same effect: a wilful or grossly negligent breach of the Code is a ground upon which a complaint against a judge may be lodged in terms of section 14(4)(b) of the Act.⁴

[12] Article 10 of the Code deals with diligence. It requires a judge, among other things, to perform all assigned judicial duties diligently,⁵ to dispose of the business of the court promptly and in an efficient and businesslike manner,⁶ and to give judgment or any ruling in a case promptly and without undue delay.⁷ Article 10(2) further provides that a judge must deliver all reserved judgments before the end of

² 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.”

³ Section 14(3) of the Act provides, “[a] complaint must be—

- (a) based on one or more of the grounds referred to in subsection (4); and
- (b) lodged by means of an affidavit or affirmed statement, specifying—
 - (i) the nature of the complaint; and
 - (ii) the facts on which the complaint is based.”

⁴ Article 2(3) of the Code provides, “[a]ny 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.”

⁵ Article 10(1)(a).

⁶ Article 10(1)(c).

⁷ Article 10(1)(d).

the term in which the hearing of a matter was completed, subject to the limited circumstances stated in that Article. Where a reserved judgment is of a complex nature, or where there is another cogent and sound reason, the Code permits delivery during the next term with the consent of the Head of Court. Note 10(ii) records that litigants are entitled to judgment as soon as reasonably possible, and Note 10(iv) provides that a judge keeps a record of all outstanding judgments and reports to the Head of Court thereon if and when requested.

[13] These provisions impose exacting standards. Delay in delivering judgment is a serious matter because it affects litigants, public confidence in the administration of justice, and the efficiency of the courts. But the disciplinary question under the Act is not whether there was delay *simpliciter*. The question is whether the material establishes a wilful or grossly negligent breach of the Code, or other wilful or grossly negligent conduct incompatible with, or unbecoming of, judicial office.

[14] This distinction is important. In *Tebeile v Phatudi JP*,⁸ Jafta J explained that a breach of the Code does not automatically translate into misconduct. The scheme of the Act and the Code is that a breach of the Code attracts disciplinary consequences only if it rises to the level of a wilful or grossly negligent breach. It follows that a judgment outstanding beyond the period contemplated by Article 10 is not, for that reason alone, disciplinary misconduct. The Act requires the additional statutory threshold of wilfulness or gross negligence before disciplinary misconduct is established.

⁸ JSC/194/06/2025.

[15] Section 17 provides for an inquisitorial inquiry. There is no onus on any person to prove or disprove any fact during such investigation. That does not mean that a finding of misconduct may be made on assertion alone. It means that the Chairperson or designated member is not confined to an adversarial burden of proof and may obtain information in the manner contemplated by section 17(3). The decision must still be made on the strength of the information obtained in terms of section 17(3). If there is no reasonable likelihood that a formal hearing will contribute to determining the merits of the complaint, the Chairperson or designated member must either dismiss the complaint, find that the complaint has been established and impose appropriate remedial steps, or recommend that the complaint be investigated by a Tribunal.⁹

Evaluation

[16] There can be no doubt that the delay in this matter was substantial and regrettable. The final hearing took place on 10 July 2024 and judgment was delivered on 12 December 2025. That was a period of approximately 17 months after final argument, and well outside the period contemplated by Article 10(2) of the Code. I accept, to that extent, that the delay was inconsistent with Article 10 and amounted to a breach of the Code's standard requiring reserved judgments to be delivered promptly and without undue delay. That finding, however, is not the end of the

⁹ Section 17(4) provides, “[i]f, pursuant to the steps referred to in subsection (3), the Chairperson or member concerned is satisfied that there is no reasonable likelihood that a formal hearing on the matter will contribute to determining the merits of the complaint, he or she must, on the strength of the information obtained by him or her in terms of subsection (3)—

- (a) dismiss the complaint;
- (b) find that the complaint has been established and that the respondent has behaved in a manner which is unbecoming of a judge, and impose any of the remedial steps referred to in subsection (8) on the respondent; or
- (c) recommend to the Committee, to recommend to the Commission that the complaint should be investigated by a Tribunal.”

section 17 inquiry. The Act does not treat every breach of the Code as disciplinary misconduct. Section 14(4)(b), read with Article 2(3) of the Code, requires a wilful or grossly negligent breach of the Code.

[17] The respondent has acknowledged the delay and has apologised for it. The respondent's apology is noted and accepted as an acknowledgement of the seriousness of the delay. It does not excuse the delay, nor does it determine the legal question under section 14(4) of the Act. It is, however, a relevant mitigating factor in assessing the nature of the delay and the appropriate remedial step.

[18] The respondent has also provided a case-specific explanation. That explanation is not a bare denial. It identifies the scale of the trial record, the length and procedural history of the trial, his acting service in the Supreme Court of Appeal, other work commitments flowing from that acting appointment, and health challenges. The size of the record is corroborated by the correspondence attached to the response. The judgment itself records the extended hearing dates and confirms the delivery date. I accept that these factors made the preparation of judgment more difficult and that they mitigate the seriousness of the breach.

[19] Those mitigating factors do not, however, answer the whole complaint. This was not a marginal or short delay. A judgment delivered approximately 17 months after final argument is a serious departure from the standard contemplated by Article 10. Where a reserved judgment cannot be delivered within the period contemplated by the Code, Article 10(2) and the accompanying notes contemplate that the delay will be actively managed, including where appropriate by reference to the Head of Court. The respondent's response does not state that, before the complainant raised the matter with the Judge President's office, the respondent

proactively reported the delay to the Judge President, sought or obtained the consent contemplated in Article 10(2), requested assistance, or otherwise took documented steps to manage and communicate the delay once it became apparent that judgment would be substantially delayed.

[20] I do not infer wilfulness from that omission. Nor do I reject the respondent's explanation that the record was voluminous, that he carried additional duties arising from his acting service in the Supreme Court of Appeal, or that he experienced health challenges. The point is narrower. Even accepting those matters, the respondent remained under a continuing duty to manage the outstanding reserved judgment in accordance with Article 10. The explanation accounts for why the judgment was difficult to prepare. It does not adequately account for why the delay was allowed to extend to approximately 17 months without any recorded proactive escalation to the Head of Court or other documented steps to mitigate the delay.

[21] The email of 4 December 2025 reinforces that conclusion. That email records that the respondent had mistakenly associated this matter with another case in which judgment had already been delivered, and that the Judge President had received an assurance from the respondent that judgment would be delivered by Monday, 8 December 2025. The judgment was then delivered on 12 December 2025. I do not treat that chronology as proof that the respondent deliberately refused to deliver judgment. It does, however, support the conclusion that the outstanding judgment was not adequately tracked or managed before the Judge President's office engaged with the matter. The mistaken association of this matter with another judgment is particularly material in light of Note 10(iv), which records that a judge keeps a record of all outstanding judgments and reports to the Head of Court thereon if and when requested.

[22] The absence of specific dates for the respondent's acting service in the Supreme Court of Appeal, and the absence of specific dates or relating to his medical condition, are also relevant. I do not treat those omissions as sufficient, by themselves, to reject the respondent's explanation. But the respondent was given an opportunity to account for a very substantial delay. In those circumstances, fuller particulars would have assisted in demonstrating that the delay, although serious, was being actively and responsibly managed. The absence of those particulars leaves the core Article 10 concern unanswered.

[23] In all the circumstances, I am satisfied that the delay was not shown to be wilful. The material does not establish that the respondent deliberately refused to deliver judgment or intentionally disregarded the Code. However, the cumulative facts establish a grossly negligent breach of Article 10: the delay was approximately 17 months after final argument; the delay exceeded not only the ordinary period contemplated by Article 10(2), but also the limited extension contemplated for complex matters in the next term; the respondent's response does not show proactive escalation to or management with the Head of Court; the record shows that judgment was delivered shortly after the Judge President's office obtained an assurance from the respondent; and the respondent's explanation, while mitigating, does not adequately explain how the delay was managed during the period in question.

[24] The complaint is accordingly established to the limited extent that the respondent's delay in delivering judgment constituted a grossly negligent breach of Article 10 of the Code and conduct unbecoming of a judge for purposes of section 17(4)(b) of the Act. The matter does not warrant a recommendation for investigation by a Tribunal. The material does not establish gross misconduct,

dishonesty, incapacity, or gross incompetence. The respondent has provided a substantial explanation, has delivered the judgment, and has tendered an apology. Those features are important mitigating factors.

[25] The appropriate remedial step is a formal written apology. That remedy recognises the seriousness of the delay and the respondent's obligation to comply with Article 10, while remaining proportionate to the mitigating circumstances.

Conclusion

[26] Judicial delay is a serious matter and Article 10 of the Code exists to protect litigants, the public, and the proper administration of justice. The delay in this matter was substantial and amounted to a grossly negligent breach of Article 10. However, the respondent's explanation, the complexity and volume of the record, his additional SCA duties, his health challenges, the eventual delivery of judgment, and his apology are all relevant to remedy. In the circumstances, the complaint is established only to the limited extent set out above, and a written apology is sufficient.

[27] The complaint must accordingly be finalised in terms of section 17(4)(b) of the Act, with the imposition of the remedial step contemplated in section 17(8)(a).¹⁰

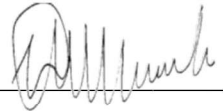
¹⁰ Section 17(8) of the Act provides, "[a]ny one or a combination of the following remedial steps may be imposed in respect of a respondent:

- (a) Apologising to the complainant, in a manner specified.
- (b) A reprimand.
- (c) A written warning.
- (d) Any form of compensation.
- (e) Subject to subsection (9), appropriate counselling.
- (f) Subject to subsection (9), attendance of a specific training course.
- (g) Subject to subsection (9), any other appropriate corrective measure."

Order

[28] The following order is made:

- a. The complaint against Judge Dolamo is established to the limited extent that the delay in delivering judgment constituted a grossly negligent breach of Article 10 of the Code of Judicial Conduct and conduct unbecoming of a judge in terms of section 17(4)(b) of the Judicial Service Commission Act 9 of 1994.
- b. In terms of section 17(8)(a) of the Act, Judge Dolamo is directed to tender a written apology to the complainant within 30 days of receipt of this ruling.



THE JUDICIAL CONDUCT COMMITTEE