



**JUDICIAL CONDUCT COMMITTEE**

**Ref No: JSC/257/10/2025**

In the matter between:

**MR SANOJ JEEWAN**

**COMPLAINANT**

and

**JUDGE KATHARINE SAVAGE**

**RESPONDENT**

**Date:**

**Decision: The complaint is dismissed in terms of section 17 (4)(a) of the Act.**

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**SECTION 17 RULING**

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**JUDICIAL CONDUCT COMMITTEE (SALDULKER JA)**

## INTRODUCTION

[1] The complainant, Mr Sanoj Jeewan, lodged a complaint with the Judicial Conduct Committee (JCC), against the respondent, Judge Katharine Savage, who served as an Acting Judge of the Constitutional Court in 2025. The complaint arises from the respondent's participation in a panel of judges that determined an application for leave to appeal in the Constitutional Court involving the complainant.

[2] The complaint was lodged in terms of section 14<sup>1</sup> of the Judicial Service Commission Act 9 of 1994 (the Act) read with the Code of Judicial Conduct for Judges of the Republic of South Africa (Code). Section 14(4)<sup>2</sup> sets out the grounds upon which a valid complaint may be lodged against a judge. Upon receipt of a complaint, the Chairperson must consider whether it should be processed under section 15, 16 or 17.

[3] After considering the complaint, the Chairperson determined that it should be dealt with under section 17 (1)<sup>3</sup> of the Act, being satisfied that if the complaint is

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<sup>1</sup> Section 14 (1) of the Act provides: '(1) Any person may lodge a complaint about a judge with the Chairperson of the Committee'.

<sup>2</sup> Section 14 (4) of the Act provides: 'The 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'.

<sup>3</sup> Section 17 of the Act provides: 'Inquiry into serious, non-impeachable complaints by Chairperson or member of Committee (1) 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

established, the appropriate remedy would fall within section 17 (8)<sup>4</sup> of the Act. Section 17 deals with serious, non-impeachable complaints. The Acting Chairperson designated me to conduct the inquiry. Both the complainant and the respondent were afforded an opportunity to make written submissions and provided sufficient information in terms of section 17 (3) of the Act. I am satisfied that there is no reasonable likelihood that a formal hearing would contribute to determining the merits of the complaint.

## THE COMPLAINT

[4] Mr Jeewan alleges that he was the applicant in Constitutional Court case number CCT 216/24, *Jeewan v Transnet*. On 2 September 2025, the Constitutional Court refused his application for leave to appeal. The order records a panel of judges, which included “Savage AJ”, the respondent. This marked an end to the litigation he had pursued since disciplinary proceedings in 2010, followed by arbitration (2012), proceedings in the High Court (2022) and the Supreme Court of Appeal (2024).

[5] The complainant further alleges that during 2010-2012, the respondent, then an attorney and director at Bowman Gilfillan, personally acted as Transnet’s

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(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.

<sup>4</sup> Section 17 (8) provides: ‘Any 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’.

attorney in his matter. The respondent represented Transnet at his 2010 disciplinary hearing and in subsequent arbitration proceedings before the Transnet Bargaining Council (2011-2012). In September 2025, she participated as “Savage AJ” on the Constitutional Court panel deciding his application for leave to appeal.

[6] The complainant contends that the respondent’s participation in the Constitutional Court proceedings, notwithstanding her prior professional involvement, constitutes misconduct or gross misconduct, violates the Code and undermines the requirement that judges be fit and proper persons.

[7] The gravamen of the complaint centres on the failure of the respondent to disclose her prior involvement and to recuse herself. The complainant relies on Articles 12(3) and 13 of the Code, alleging that her conduct was inconsistent with the standards expected of a judicial officer and amounted to wilful or grossly negligent conduct. The complaint is directed at the respondent’s conduct, rather than the merits of the decision refusing leave to appeal.

[8] Article 12(3) of the Code provides that a judge who was previously in private practice must not sit in any case in which he or she, or his or her former firm, is or was involved before judicial appointment. Article 13 of the Code requires recusal where there is a real or reasonably perceived conflict of interest or a reasonable apprehension of bias. The complainant contends that the respondent’s conduct breached both these provisions.

[9] Additionally, the complainant has referred to the history and merits of his dispute with Transnet, alleging that the respondent's prior conduct as a legal practitioner (pre-appointment) reflects adversely on her fitness for judicial office.

[10] In response to the complaint, the respondent states that Mr Jeewan's application for leave to appeal was against the judgment and order of the Supreme Court of Appeal (SCA). This followed a dismissal by the SCA of his appeal against the order of the High Court, Pretoria, which had upheld Transnet's plea of prescription in a contractual and delictual claim instituted by the complainant. The respondent accepts that she formed part of a panel of 11 judges who considered Mr Jeewan's application for leave to appeal to the Constitutional Court, which was refused with costs. However, she states that she did not have any recall of the complainant's name, nor of her involvement 'in either his 2010 disciplinary hearing, more than 15 years previously, or in his 2011/2012 arbitration proceedings, which were held 14 and 13 years prior', at the time when she considered the complainant's application for leave to appeal in the Constitutional Court. She explained *inter alia* as follows:

*'4. In his application for leave to appeal to the Constitutional Court, Mr Jeewan made no mention of my involvement in his 2010 disciplinary hearing before Advocate Nazeer Cassim SC, nor in his arbitration held in 2011/2012 under the auspices of Tokiso before Ms Esther van Kerken, as arbitrator. In addition, no document attached to such application made any reference to me, my prior involvement in the matter, or the specific details of either matter which may have alerted me to my prior involvement.*

*5. When I considered Mr Jeewan's application for leave to appeal to the Constitutional Court, I did not have any recall of Mr Jeewan's name, nor of my involvement in either his 2010 disciplinary hearing, more than 15 years previously, or in his 2011/2012 arbitration proceedings, which were held 14 and 13 years prior. In addition, as stated above, neither my name, nor any details of my involvement in the matter, nor any facts*

*which may have stood out to alert me to my involvement in the matter, were to be found anywhere in the application for leave to appeal.*

*6. On receipt of the Judicial Conduct Complaint lodged against me by Mr Jeewan, I requested that I be provided with copies of the relevant documents, which had been attached only in part, to Mr Jeewan's complaint. This was given that I had no recall of my previous involvement in Mr Jeewan's matter at any stage.*

*7. Having received a copy of the disciplinary hearing outcome and the arbitration award, I accept that it is apparent from such documents that I represented Transnet in both proceedings. I remain unable to recall either process, or the details thereof, independently. What is clear is that both of the matters related to Mr Jeewan's dismissal under the Labour Relations Act, whereas the matter brought by Mr Jeewan to the High Court was a contractual and delictual claim.*

*8. Prior to my appointment to the bench and until September 2012, I had been practising as an attorney for almost two decades and had represented numerous clients in disciplinary and arbitration proceedings. In addition, I acted as arbitrator and chairperson of more than 800 unique disciplinary hearing and arbitration processes over this time. Given as much, and the almost 15-year period that had elapsed since it has been made apparent I was first involved in Mr Jeewan's matter, I have no independent recall of his matter, or my involvement in it.*

*9. I understand that Mr Jeewan has brought an application for rescission of the order made by the Constitutional Court refusing his application for leave to appeal, which he is within his rights to do. I have had no involvement in the consideration of that application for rescission as an Acting Judge of the Constitutional Court.*

*10. I deny, given the facts set out above, that my participation as part of the panel of 11 judges which considered Mr Jeewan's application for leave to appeal was either wilful or negligent in any manner. This is so given the fact that I lack any independent recall of my involvement in his 2010 and 2011/12 matters, as set out above. Had I recalled Mr Jeewan's name, or the fact that I had previously been involved in any legal process involving him, I would most certainly have recused myself from considering his*

*application for leave to appeal. In other matters in which I have been aware, or made aware, of my prior involvement, I have recused myself and will continue to do so into the future.*

*11. I consequently deny that I have committed any judicial misconduct in relation to this matter of the manner set out section 14 of the Judicial Service Commission Act 9 of 1994, or as alleged by Mr Jeewan.'*

## **LEGAL FRAMEWORK**

[11] For a proper evaluation of the complaint, it is necessary to consider the relevant provisions of the Code. The Code serves as the prevailing standard for judicial conduct. Section 14 (4)(b) of the Act recognises as a ground of complaint any wilful or grossly negligent breach of the Code, while section 14 (4)(e) includes any other wilful or grossly negligent conduct incompatible with or unbecoming the holding of judicial office, including conduct prejudicial to the dignity, efficiency or effectiveness of the courts. Of particular relevance here are Articles 12(3) and 13 of the Code. Article 12(3) prohibits a judge from presiding in matters in which he or she or his or her former firm were involved prior to the judge's appointment. Article 13 of the Code requires recusal where there is a real or perceived conflict of interest or reasonable suspicion of bias.

[12] However, while judges are required to comply with the Code, not every breach of the Code constitutes misconduct. Only a wilful or a grossly negligent breach will give rise to misconduct. This means that a judge who violates the Code, even negligently, does not commit misconduct or gross misconduct.

## EVALUATION

[13] The central issue in this matter is whether the respondent committed a wilful or grossly negligent breach of the Code at the time she participated in the panel of judges deliberating on the complainant's application for leave to appeal.

[14] It is common cause that the respondent previously acted as an attorney for Transnet in proceedings involving the complainant during 2010-2012; that she was a member of the Constitutional Court panel that refused the complainant's application for leave to appeal in 2025; and that no disclosure or recusal occurred. The respondent was clearly disqualified from her participation on the panel of judges deciding the complainant's application for leave to appeal. However, there is no indication that she consciously and knowingly participated in the complainant's matter in light of her prior involvement. A breach of Articles 12 and 13 of the Code does not automatically constitute misconduct unless accompanied by wilful or grossly negligent conduct.

[15] The respondent's explanation that she did not have any independent recall of the complainant's name or her involvement in his 2010 and 2011/2012 matters, when she participated in the Constitutional Court proceedings, is plausible, particularly given the passage of time and the volume of matters handled by the respondent during her legal career. Significantly, the application for leave to appeal contained no information that would have triggered such a recollection or alerted her to any potential conflict. The respondent only became aware of her prior involvement after receipt of the complaint and supporting documents. Importantly, this explanation is not contradicted by the evidence. In my view, the respondent's participation in the complainant's matter and her failure to recall her prior involvement therein does not amount to wilful or grossly negligent conduct.

[16] Wilfulness requires a conscious and deliberate decision to act or a failure to act in breach of a duty, with knowledge of the relevant facts. Gross negligence entails a serious departure from the standard of conduct expected of a judicial officer. Neither is established on the evidence.

[17] A significant portion of the complaint concerns allegations relating to the respondent's conduct as an attorney prior to her judicial appointment. Section 14 (4) exhaustively sets out the grounds of complaint against a judge. The allegations relating to the respondent's pre-appointment conduct do not fall within the grounds set out in section 14 (4), and therefore do not give rise to a valid complaint of judicial misconduct against the respondent.

## **CONCLUSION**

[18] In view of all the foregoing, the available record does not establish wilful or grossly negligent breach of the Code on the part of the respondent, or any other wilful or grossly negligent conduct that is incompatible with or unbecoming the holding of judicial office, as contemplated in section 14 (4) of the Act.

[19] Accordingly, the complaint is dismissed in terms of section 17 (4)(a) of the Act.

  
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**JUDICIAL CONDUCT COMMITTEE**