



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/173/04/2025

In the matter between:

CLIFFORD BRIAN LEVIN

COMPLAINANT

and

JUDGE KUMALO

RESPONDENT

Date: 16 April 2026

Decision: It is recommended to the Judicial Conduct Committee that it recommend to the Judicial Service Commission that the complaint against Judge Kumalo be investigated by a Tribunal in terms of section 17(4)(c) of the Judicial Service Commission Act 9 of 1994.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ)

Introduction

[1] Mr Levin lodged a complaint with the Judicial Conduct Committee (“the JCC”) against Judge Kumalo in terms of section 14 of the Judicial Service Commission Act 9 of 1994 (“the Act”). The complaint arose from the respondent’s failure to deliver judgment timeously in an urgent Labour Court matter, namely *MSA Outsourcing Solutions (Pty) Ltd v Strydom and 2 Others*, case number J850/2024.

[2] The complaint was, at first instance, considered suitable for determination under section 17 of the Act. That was so because the complaint, viewed in isolation, appeared to concern a serious but non-impeachable instance of delay in the delivery of a reserved judgment, for which the remedial action contemplated in section 17(8) of the Act might have been appropriate.

[3] The position changed materially during the section 17 inquiry. Despite being afforded more than one opportunity to respond to the allegations, the respondent failed to answer any correspondence from the JCC Secretariat. In addition, it emerged that the complaint in this matter was not an isolated one, but formed part of a broader pattern of complaints relating to the respondent's failure to deliver judgments timeously. Those features rendered it necessary to reconsider whether the matter could properly remain within the limited remedial framework of section 17.

The Complaint and Procedural History

[4] The complainant stated that the Labour Court matter was heard by Judge Kumalo on 26 September 2024 as an urgent application concerning the enforcement of a restraint of trade. The matter was argued and judgment was reserved. When the complaint was lodged in April 2025, more than six months had elapsed without judgment having been delivered. The complainant recorded that the delay was especially prejudicial because the restraint period was of limited duration and the relief sought was inherently time-sensitive.

[5] The complainant further recorded that repeated efforts had been made to obtain either the judgment or a meaningful update. These included follow-ups with the court typist, correspondence to the Judge's secretary, and communications to the Registrar and Court Manager. Despite those efforts, no judgment or proper communication had been received by the time the complaint was filed.

[6] The judgment was eventually delivered on 22 May 2025. Although that overtook part of the immediate practical prejudice, it did not extinguish the complaint. The complaint concerned not merely non-delivery, but the late delivery of judgment in an urgent matter after many months had elapsed.

[7] After considering the complaint, I was satisfied that the matter should initially be dealt with in terms of section 17 of the Act. At that stage, the complaint appeared to concern a serious but non-impeachable failure to deliver a reserved judgment timeously, in circumstances where the remedial action contemplated in section 17(8) of the Act might be appropriate. Although the judgment had by then been delivered, it had plainly been delivered well outside the standard contemplated in the Code.

[8] Pursuant to section 17(3)(a) of the Act, the Secretariat addressed correspondence to the respondent on 24 November 2025, inviting written submissions by 8 December 2025. No response was received. A further letter was sent on 28 January 2026, again inviting a written response by 6 February 2026. Once more, no response was received. The respondent thus chose not to participate in the section 17 process at all.

[9] On 19 March 2026, in light of the respondent's continued silence and the fact that multiple complaints had by then been received concerning the respondent's failure to deliver judgments timeously, I recommended to the JCC to recommend to the Judicial Service Commission ("the JSC") that the complaint be investigated by a Tribunal in terms of section 17(4)(c) of the Act.

Applicable Legal Framework

[10] The Act requires every complaint against a judge to be dealt with under section 15, 16 or 17, depending on its nature. Section 17 governs serious, non-impeachable complaints. It empowers the Chairperson or a designated member to inquire into the merits of the complaint in an inquisitorial manner, to invite a response from the respondent, and to obtain any other relevant information.

[11] If, after taking the steps contemplated in section 17(3), the Chairperson or member concerned is satisfied that there is no reasonable likelihood that a formal hearing will contribute to determining the merits of the complaint, he or she must, on the strength of the information obtained, either dismiss the complaint, uphold it and impose one or more remedial steps under section 17(8), or recommend to the Committee, to recommend to the Commission, that the complaint should be investigated by a Tribunal.

[12] The Code of Judicial Conduct serves as the prevailing standard of judicial conduct. Any wilful or grossly negligent breach of the Code is a ground upon which a complaint may be lodged.

[13] Of particular relevance here are the provisions of the Code that require a judge to uphold the independence and integrity of the judiciary and the authority of the courts (Article 4); to act honourably and in a manner befitting judicial office (Article 5); to perform official duties properly and with due diligence (Article 10(1)(a)); to dispose of all judicial matters promptly and efficiently (Article 10(1)(c)); and to perform all judicial duties, including the delivery of reserved judgments, efficiently, fairly and with reasonable promptness(Article 10(1)(g)).

[14] In addition, 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.

Evaluation

[15] At the outset, the complaint could reasonably be viewed as one concerning a serious but isolated failure to comply with the standards governing the timely delivery of judgment. Had the respondent engaged with the inquiry, furnished an explanation, and demonstrated that the matter was an aberration capable of correction through the limited

remedial measures contemplated in section 17(8), the matter might conceivably have remained within section 17.

[16] That is not what occurred. The respondent was afforded a full and fair opportunity to answer the complaint. He was invited, in writing, on two separate occasions to provide submissions. He ignored both invitations. The respondent's failure to engage at all with the inquiry is not a neutral consideration. A section 17 inquiry is a statutory process designed to enable a proper assessment of the merits of a complaint. A judge who elects to disregard that process, without explanation, frustrates the very mechanism established by the Act for judicial accountability.

[17] The respondent's silence also meant that there was no explanation before me for the extended delay in delivering judgment in an urgent matter. On the objective facts, the matter was heard on 26 September 2024 and judgment was delivered only on 22 May 2025. No exceptional circumstances were advanced to justify the delay. On the information before me, the complaint therefore disclosed at least a *prima facie* breach of the Code.

[18] The matter is aggravated by the fact that this complaint does not stand alone. By 19 March 2026, the Secretariat had received three further complaints regarding the respondent's failure to deliver judgments timeously. That development materially altered the character of the matter. What may initially have appeared to be an isolated delay now had to be viewed against the background of an alleged pattern of repeated non-compliance with the standards governing the delivery of judgments.

[19] A pattern of repeated delayed judgments, especially when coupled with a complete refusal to respond to the Committee's inquiry, is capable of raising issues that exceed the limited remedial scope of section 17. It may, depending on what a full investigation reveals, implicate gross incompetence or gross misconduct, or at the very least conduct so serious and persistent as to warrant investigation by a Tribunal. Put differently, the

matter had, by this stage, moved beyond the terrain of an isolated lapse remediable by warning, reprimand or counselling.

[20] I am also satisfied that there is no reasonable likelihood that a further formal hearing under section 17 would contribute to determining the merits of the complaint within the meaning of section 17(4). The material facts relevant to this decision are objective and largely documentary. The respondent was given two opportunities to place his version before the Committee and failed to do so. The salient question is no longer whether some limited remedial response under section 17 may suffice, but whether the matter, taken together with the other complaints already received, should be investigated through the more formal machinery of a Tribunal.

[21] It bears emphasis that this ruling does not amount to a final finding that the respondent is guilty of gross misconduct, or that he is grossly incompetent. Those are matters for proper investigation in the forum contemplated by the Act. The present question is whether the information obtained during the section 17 inquiry justifies a recommendation that the complaint be escalated to that forum. In my view, it plainly does.

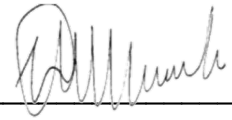
Recommendation

[22] For all these reasons, I am satisfied that this complaint can no longer appropriately be dealt with as a serious, non-impeachable complaint under section 17 of the Act.

[23] I am further satisfied, on the strength of the information obtained during the section 17 inquiry, that there is no reasonable likelihood that a formal hearing under section 17 will contribute to determining the merits of the complaint, and that the proper course is therefore the one contemplated in section 17(4)(c) of the Act.

[24] I accordingly recommend to the Judicial Conduct Committee that it recommend to the Judicial Service Commission that the complaint against Judge Kumalo be investigated by a Tribunal. In doing so, it will be open to the Committee to direct that this

complaint be considered together with the other complaints relating to the respondent's failure to deliver judgments timeously.

A handwritten signature in black ink, appearing to read "D. M. M. M.", positioned above a horizontal line.

THE JUDICIAL CONDUCT COMMITTEE