



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/268/11/2025

In the matter between:

MR TEFO COMFORT SELEPE

COMPLAINANT

and

JUDGE NOMONDE MNGQIBISA-THUSI

RESPONDENT

Date: 2 October 2026

Decision:

- 1. The complaint has been established; the respondent has behaved in a manner unbecoming of a judge.**
- 2. The following remedial steps are ordered:**
 - (a) The respondent must in writing apologise to the complainant, Mr Teffo Comfort Selepe, as contemplated in section 17(8)(a) of the Judicial Service Commission Act, 9 of 1994, as amended, within one month from the date of this ruling.**
 - (b) Proof of the apology in (a) must be transmitted to the Secretariat of the Judicial Conduct Committee within one week of it having been sent to the complainant.**
 - (c) The Judge-President of the Gauteng Division of the High Court must reprimand the respondent, as contemplated in section**

17(8)(b) of the Judicial Service Commission Act, 9 of 1994, as amended, within one month from the date of this ruling.

- (d) The respondent must hand down the judgment in the matter of *Selepe v Minister of Police* case number 39316/2017, within three months from the date of this ruling.**
- (e) Proof of the handing down in (d) must be transmitted to the Secretariat of the Judicial Conduct Committee within one week of the handing down.**

RULING

MAJIEDT J:

Introduction

[1] This is an inquiry into a complaint in terms of section 17(1)(b) of the Judicial Service Commission Act, 9 of 1994, as amended (the Act).¹ Mr Tefo Comfort Selepe (the complainant), lodged the complaint against the respondent, Judge Nomonde Mngqibisa-Thusi, of the Gauteng Division of the High Court (the respondent).

[2] The complainant is the plaintiff in a civil action against the Minister of Police in the Gauteng Division, Johannesburg. The matter was set down for hearing on 15 November 2018 before the respondent. The complainant was advised that the respondent was suspended subsequent to that hearing. At the time of her

¹ Section 17(1)(b) 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.”

suspension, the respondent had not yet issued a judgment in the complainant's matter. The judgment is still outstanding. The matter was heard before the advent of Caselines and Court Online. The complainant has since learned that the respondent's suspension has now been lifted. However, to the complainant's knowledge, the judgment is still outstanding. The complaint is based on the delay in delivering the judgment.

The complaint

[3] Part of the difficulty facing the complainant is that attempts to locate the physical file of his case have proved futile. Mr Selepe and his attorneys approached the Deputy Judge-President twice for assistance with the missing file. In that regard, the attorneys wrote letters on 15 February 2024 and again on 7 March 2025. The Deputy Judge-President referred the attorneys first to the Registrar's Office, and then to the Office of the Judge-President. The file could not be traced. On 13 October 2025, after all these futile efforts, the complainant was advised to lodge this complaint.

The response to the complaint

[4] Inexplicably, the respondent has not responded at all. This is despite the respondent having been repeatedly reminded to submit her response. On 13 April 2026, the Secretariat of the Judicial Conduct Committee (the Committee) advised the respondent of my designation in terms of section 17(1)(b) of the Act to inquire into the complaint in order to determine its merits. On the same date, the respondent was invited by the Secretariat in terms of section 17(3)(a) of the Act to respond in writing to the allegations levelled against her by Mr Selepe, by no later than 4 May 2026. The notice added: "If you require more time, please do not hesitate to contact the Secretariat".

[5] On 6 May 2026, the Secretariat reminded the respondent that her written submissions in response to the complaint were due on 4 May 2026. The respondent was granted a final extension of seven working days, until 14 May 2026, for her to file her response. The respondent was further informed that, if her submissions were not received within the extended period, the matter will be placed before the Committee for consideration, and for its decision based on the information currently available on record. To date, nothing at all has been received from the respondent.

Evaluation

[6] I am satisfied that a formal hearing on the matter is unlikely to help determine the merits of the complaint. It can be decided on the strength of the information at hand. There is a paucity of information in this matter, caused by the absence of the court file, and exacerbated by the respondent's lack of response. It is not clear when the matter was finalised in court. As stated, it was set down for hearing before the respondent on 15 November 2018. The complainant does not provide any further information, for example, how long the case ran, when it was finalised, and when judgment was reserved. The court file would self-evidently have answered these questions.

[7] Despite this lack of information, it is clear that the judgment has been outstanding for a long time. And the respondent has not co-operated at all in this inquiry. Adjudicating the complaint is therefore not straightforward.

[8] In terms of section 14(4) of the Act, 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.²
- (b) Any wilful or grossly negligent breach of the Code of Judicial Conduct (the Code), 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.
- (e) Any other wilful or grossly negligent conduct, other than conduct contemplated in paragraph (a) to (d), that is incompatible with or unbecoming of the holding of judicial office, including any conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts.

[9] The Code is the prevailing standard of judicial conduct. It is important to bear in mind that conduct amounts to judicial misconduct only if the facts establish gross incompetence, gross misconduct, wilful or gross negligence, dishonesty, bias, or conduct otherwise incompatible with judicial office. Judges must perform their judicial duties with diligence and act promptly. The Code stipulates that a judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed, but may, in respect of a matter that was heard within two weeks of the end of that term, or where a reserved judgment is of a complex nature or for any other cogent and sound reason and with the consent of the head of the court, deliver that reserved judgment during the course of the next term.³

² These are the grounds for the removal of a judge envisaged in section 177(1)(a) of the Constitution.

³ In relevant part, Article 10 of the Code, which deals with diligence required of a judge, reads:

[10] Plainly, the judgment in this complaint has been outstanding far beyond the period laid down in the Code. In fact, it must be outstanding for a number of years. A compounding difficulty facing the respondent is how she will write the outstanding judgment without the benefit of the court file if it remains missing. In a matter involving this same respondent, this Committee held that a Judge's failure to deliver reserved judgments ordinarily amounts to gross misconduct, unless there is a valid excuse.⁴

[11] In *Judge President Mlambo v Judge Mngqibisa-Thusi*, it was held:

“Without a reasonable explanation or excuse, the failure by a judge to deliver reserved judgments over a long period of time would ordinarily constitute gross misconduct. This is because such failure erodes public confidence in the judiciary and leaves the public with no option but to resort to self help. Moreover, non-delivery of judgments constitutes a breach of the primary duty of judges. Significantly, such conduct is also inconsistent with the Constitution in a number of respects. First, it impacts adversely on the affected litigant's constitutional right of access to courts. Second, it is a breach of the obligation to respect, protect, promote and fulfill the rights in the Bill of Rights.”⁵

[12] It is necessary to add something about that matter. It concerned an inquiry into whether the complaint against the respondent should be referred to a

“(1) A judge must—

(a) perform all assigned judicial duties diligently;

...

(d) give judgment or any ruling in a case promptly and without undue delay. . .

“(2) A judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed, but may:

(a) in respect of a matter that was heard within two weeks of the end of that term; or

(b) where a reserved judgment is of a complex nature or for any other cogent and sound reason and with the consent of the head of the court, deliver that reserved judgment during the course of the next term.”

⁴ *Judge President Mlambo v Judge Mngqibisa-Thusi* (JSC/279/11/2025). “Without a reasonable explanation or excuse, the failure by a judge to deliver reserved judgments over a long period of time would ordinarily constitute gross misconduct. This is because such failure erodes public confidence in the judiciary and leaves the public with no option but to resort to self help. Moreover, non-delivery of judgments constitutes a breach of the primary duty of judges. Significantly, such conduct is also inconsistent with the Constitution in a number of respects. First, it impacts adversely on the affected litigant's constitutional right of access to courts. Second, it is a breach of the obligation to respect, protect, promote and fulfill the rights in the Bill of Rights.”

⁵ Id at para 107.

Tribunal. The Judge-President lodged the complaint. It concerned three sets of judgments outstanding for longer than the period specified in the Code, between 2017 and 2020. The first set had been outstanding for more than 12 months when the complaint was lodged (16 October 2020). That set comprised 5 outstanding judgments, with delays ranging from 12 to 20 months.

[13] The second set comprised judgments that had been outstanding for at least 6 months when the complaint was lodged. There were 6 of these, delayed by between 6 and 11 months. The third set had already been handed down when the complaint was lodged, but were handed down after unreasonably long periods from the date the judgment was reserved. They comprised 10 outstanding judgments, delayed by between 7 and 27 months. The total outstanding judgments were thus 21.

[14] By majority vote, the Committee decided to recommend to the Judicial Service Commission (the Commission) to refer the complaint to a Tribunal in terms of section 16(4)(b) of the Act.⁶ The Commission accepted and endorsed the Committee's decision and, in terms of section 19 of the Act, requested the Chief Justice to appoint a Tribunal to investigate and report on the complaint.

[15] The Tribunal unanimously decided that the respondent's conduct amounted to a grossly negligent breach of Article 10(2) of the Code, and not impeachable gross misconduct. The Tribunal consequently referred the complaints for further processing under section 20 of the Act. After considering the Tribunal ruling, the Commission ordered that:

⁶ The Committee comprised four members and the votes were deadlocked in a two-all split. In terms of section 9(3) of the Act, the Chairperson of the meeting cast his deciding vote in favour of a referral of the complaint to a tribunal.

- (a) The respondent had to write letters of apology to the Judge-President and to the attorneys of the affected parties.
- (b) The Judge-President should formally reprimand the respondent.
- (c) The Commission should issue a formal written warning to the respondent.

[16] The present complaint is therefore similar to the one that had already been before the Committee, the Tribunal and the Commission. In the present instance, however, the Committee does not have the advantage (and the simple courtesy) of an explanation by the respondent. This is not only regrettable, but places the Committee at a grave disadvantage.

[17] In the previous proceedings, the respondent had given an explanation to the Committee that the serious delays in handing down the 21 judgments were due to her suffering for a number of years from anxiety and depression. This was caused by, amongst others, her son's addiction to drugs and "an age-old problem" that required the respondent to undergo "some form of African initiation". These challenges led to her having an "episode" during a criminal trial in November 2020. The Deputy Judges-President of Johannesburg and Pretoria tried to assist the respondent. The respondent explained that her problems were exacerbated when she fell in December 2020, fracturing her right wrist and elbow. As a result, she could not use her right hand for two months.

[18] The Committee met on 12 June 2021 to consider the complaint and invited the respondent to clarify the challenge she faced with what was referred to as her "African spiritual calling". At that meeting, the respondent conceded that she had not informed the Judge-President of this challenge.

[19] As I have said, the Committee referred the complaints to a Tribunal, which found that the respondent's conduct was grossly negligent, but not gross

misconduct. The matter was referred to the Commission to be processed further. Importantly, in its ruling, the Tribunal distinguished between “gross misconduct” as contemplated in section 177 of the Constitution and “gross negligence” under the Act. As a result, the Tribunal concluded that the respondent committed a grossly negligent breach of the Code.

[20] In the previous proceedings against the respondent, there were detailed explanations for the delayed judgments. Here, however, we have nothing at all. Crucially, the present delay occurred after the respondent heard the complainant's matter in court on 15 November 2018. We know from the rulings by the Committee and the Tribunal in the previous proceedings against the respondent that the respondent's challenges were between 2017 and 2018. The present complaint falls within that period.

[21] It seems to me that one must accept, even absent an explanation by the respondent for the delay, that she was afflicted with anxiety and depression, and faced the same resultant challenges in this instance. While her lack of a response and complete failure to respond to communications from the Committee's Secretariat are inexcusable, one cannot simply turn a blind eye to what has gone before. In that regard, it must be accepted that the respondent has a valid explanation for her failure to hand down the judgment timeously as laid down in the Code.

[22] On this basis, I find that the complaint has been established and that the respondent is guilty of a grossly negligent breach of the Code, in terms of section 14(4)(b) of the Code. The remaining issue is the sanction. Again, the lack of a response creates a challenge. But here, too, one must weigh as a mitigating factor the respondent's emotional and mental challenges at the time. In all the

circumstances, an apology to the complainant and a reprimand by the Judge-President will suffice.

[23] A more difficult question is the delivery of the outstanding judgment. The court file appears to be lost. All efforts to retrieve it have come to nought. The respondent will have to attempt to reconstruct the evidence with the help of the parties in the civil case and their attorneys. The complainant is entitled to a judgment; of that there can be no question at all.

[24] The following ruling is issued:

1. The complaint has been established; the respondent has behaved in a manner unbecoming of a judge.
2. The following remedial steps are ordered:
 - (a) The respondent must in writing apologise to the complainant, Mr Teffo Comfort Selepe, as contemplated in section 17(8)(a) of the Judicial Service Commission Act, 9 of 1994, as amended, within one month from the date of this ruling.
 - (b) Proof of the apology in (a) must be transmitted to the Secretariat of the Judicial Conduct Committee within one week of it having been sent to the complainant.
 - (c) The Judge-President of the Gauteng Division of the High Court must reprimand the respondent, as contemplated in section 17(8)(b) of the Judicial Service Commission Act, 9 of 1994, as amended, within one month from the date of this ruling.
 - (d) The respondent must hand down the judgment in the matter of *Selepe v Minister of Police* case number 39316/2017, within three months from the date of this ruling.

- (e) Proof of the handing down in (d) must be transmitted to the Secretariat of the Judicial Conduct Committee within one week of the handing down.

A handwritten signature in black ink, appearing to read 'Rajesh', is written above a horizontal line.

JUDICIAL CONDUCT COMMITTEE