



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/86/08/2024

In the matter between:

EMELDAH NOMHLE NDLOVU

COMPLAINANT

and

DEPUTY JUDGE PRESIDENT SEMENYA

RESPONDENT

Date: 20 April 2026

Decision: The complaint is dismissed in terms of section 17(4)(a) of the Judicial Service Commission Act 9 of 1994.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ)

Introduction

[1] This is a complaint lodged by Ms Emeldah Nomhle Ndlovu against Deputy Judge President Semenya. The complaint was directed to be dealt with in terms of section 17 of the Judicial Service Commission Act 9 of 1994 (“the Act”). Deputy

Judge President Semanya was invited to respond to the allegations in writing, and did so. The matter now falls to be finally determined on the information placed before the Committee.

[2] Under section 17, the question is whether the material placed before me establishes a serious, non-impeachable complaint warranting a finding and remedial steps, or whether the complaint should be dismissed.¹ By virtue of section 14(4)(*b*) and (*e*), read with article 2(3) of the Code of Judicial Conduct (“the Code”), the complaint must disclose a wilful or grossly negligent breach of the Code, or other wilful or grossly negligent conduct incompatible with or unbecoming the holding of judicial office. If, after the exchange of written material, there is no reasonable likelihood that a formal hearing will contribute to determining the merits of the complaint, section 17(4) obliges me to decide the matter on the information so obtained.

The Complaint

[3] The complaint arises from litigation in the Limpopo Division, Thohoyandou, in which the complainant was involved. According to the complainant, Mr Kevin Maluleke, who sought to act for parties opposed to her in that litigation, had already been struck from the roll of advocates and was therefore not entitled to appear. The

¹ Section 17(4) of the Act 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.”

complaint is that, despite this, the respondent, as Deputy Judge President, protected or assisted him to continue appearing in matters connected to that litigation. The complainant further alleges that the respondent failed to respond properly to letters addressed to her; failed to communicate Mr Maluleke's status to judges, registrars and court staff; permitted or tolerated his continued participation in proceedings; and failed to take action when he allegedly appeared on 14 May 2024 in or around the respondent's chambers dressed in full court regalia.

[4] The complaint goes further. It contends, in broad terms, that the respondent's conduct formed part of a pattern of protection afforded to Mr Maluleke within the division, and it advances serious assertions of factionalism, improper influence, corruption and institutional dysfunction. Those are serious accusations. They nevertheless remain allegations which must be tested against the facts placed before this inquiry.

The Response

[5] The respondent denies misconduct. Her explanation is that the relevant cases were being managed at the level of the Judge President, who had taken direct responsibility for the difficulties arising from Mr Maluleke's attempted appearances and for the allocation of acting judges in the matters. She says that she had previously been told by the Judge President not to involve herself in matters concerning Mr Maluleke and, for that reason, referred correspondence to him.

[6] The respondent states that her involvement was limited. She says that when acting judges were allocated to matters in which Mr Maluleke sought to appear, she informed them of existing judgments concerning his right of appearance and told

them to enquire from him and apply their own minds. She denies that she directed any judge to permit him to appear, or that she otherwise protected him.

[7] As to the events of 14 May 2024, the respondent explains that Acting Judge Mthinkulu informed her that Mr Maluleke had been disrespectful to her. She then summoned the legal representatives to her chambers, informed Mr Maluleke that he was to respect all judges of the division, and thereafter the matter was reallocated by the Judge President when Acting Judge Mthinkulu recused herself. Although the respondent does not directly address the allegation that Mr Maluleke was dressed in court regalia, she states that, had she known that he was “causing havoc” among judges, legal staff and court officials, she would never have entertained him. The respondent further states that the only time she presided over the matter was when an order was sought against the sheriff, and that Mr Maluleke did not appear in that case.

Evaluation

[8] The complaint must be decided on the record. The fact that the complainant feels aggrieved by the course of the litigation is not, without more, sufficient. The question is whether the conduct complained of is shown, on the information before me, to amount to judicial misconduct as contemplated in section 14(4)(b) or (e) of the Act.

[9] In my view, the complaint does not meet that threshold. Much of it is directed, in substance, at the conduct of Mr Maluleke, the handling of litigation within the division, the conduct of other judges or court staff, and the complainant’s dissatisfaction with what did or did not occur in her cases. Those matters do not,

merely by being linked to the respondent's office, establish misconduct on the part of the respondent.

[10] More fundamentally, the central allegation that the respondent knowingly protected or assisted Mr Maluleke is not supported by concrete facts. The complaint makes that accusation repeatedly, but does not identify objective material showing that the respondent authorised him to appear, instructed judges to allow him to appear, did not take adequate steps in response to judgments and orders concerning Mr Maluleke's right of appearance, or otherwise acted in concert with him. The respondent's explanation, by contrast, is that the Judge President was dealing directly with the problem, that she referred the matter to that level, and that she nevertheless alerted acting judges to the judgments and left them to decide the issue for themselves. That explanation is not displaced by the material before me.

[11] The same is true of the events of 14 May 2024. Even accepting the complainant's account at its highest, the material does not show that the respondent endorsed unlawful conduct by Mr Maluleke or acted in wilful or grossly negligent disregard of her duties. On the respondent's version, she intervened after a complaint of disrespect, called the legal representatives to chambers, addressed the issue of decorum, and the matter was thereafter reallocated. That does not constitute proof of misconduct.

[12] The complaint regarding unanswered correspondence also takes the matter no further. The respondent's explanation is that the matter was being handled at the level of the Judge President and that she responded through that channel. On this record, the fact that the complainant regarded the response as inadequate, or was

dissatisfied with the absence of a more direct intervention, does not establish a wilful or grossly negligent breach of the Code.

[13] As for the wider allegations of factionalism, improper influence and corruption within the Division, they are unsupported by primary facts. Serious though they are, they remain speculative on the material before me and cannot found an adverse finding against the respondent.

[14] I am accordingly not persuaded that the respondent committed any wilful or grossly negligent breach of the Code, or any other wilful or grossly negligent conduct incompatible with or unbecoming the holding of judicial office.

Order

[15] The complaint is dismissed in terms of section 17(4)(a) of the Judicial Service Commission Act 9 of 1994.

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

THE JUDICIAL CONDUCT COMMITTEE