

REPUBLIC OF SOUTH AFRICA


**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION**
CASE NO: 40623/2014

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED: YES

DATE
SIGNATURE

In the matter between:

DOWDLE, KEVIN

APPLICANT

AND

ADVOCATE DM POOL

RESPONDENT

J U D G M E N T

WEINER J:

- 1) When this matter came before me, an application for my recusal

was made based upon the fact that I have a vested interest in protecting the status of presiding officers, to the detriment of the applicant. I do not believe that this lays out any basis for my recusal and the recusal application is refused.

- 2) The applicant has brought an application as a matter of urgency, in terms of which he cites advocate DM Poole, who was formerly a magistrate, as the Respondent. The Applicant requests that the criminal prosecution which has been set down for the 14th of November 2014, be stayed until such time as his leave to appeal against the refusal of the magistrate (the first respondent) to recuse himself, has been determined. There is a dispute in regard to what the reason is that the appeal has not yet been heard.
- 3) Be that as it may, this is an application in which the relevant authorities, which would include the Director of Public Prosecutions ("DPP"), and others, such as the complainant in the criminal prosecution, who may have an interest in this matter, should be cited. In addition, the respondent has been cited in his personal capacity and not in his capacity as magistrate in this matter.
- 4) For this reason, I offered the applicant the opportunity to serve on the DPP and other interested parties so that their interests and views could be placed before the court. I would then have dealt with the matter on that basis. The Applicant refused the invitation.

He stated that he could not do so in a short period of time.

5) Unfortunately the fact that there is only a short period of time is the applicant's fault, because he should have cited them in the first place. Accordingly, although I was prepared to help the applicant to a certain extent, it is impossible for me to make an order against this respondent which would compel the DPP to stay the prosecution which is set down for the 14th of November 2014.

6) The application is accordingly dismissed with costs.

WEINER J

APPEARANCES:

For Appellant:	Appeared In Person
For Respondent:	Rudi Pottas
Instructed By:	Rudi Pottas Attorneys
Date Of Hearing:	13 November 2014
Date Of Judgment:	13 November 2014