

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

CASE NUMBER: 49039/2021

DATE OF HEARING: 30 September 2022

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: no
(2)	OF INTEREST TO OTHER JUDGES: no
(3)	REVISED.
2022/09/30 DATE	 SIGNATURE

In the matters between:

MAXWELL MAVUDZI

First Applicant

JEREMIAH NYASHA MUSIWACHO DUBE

Second Applicant

and

SKHUMBUZO MAJOLA

Respondent

This judgment was delivered orally on 30 September 2022 in court and was thereafter revised and uploaded to caselines, and further and communicated to the parties by email.


APPLICATION FOR LEAVE TO APPEAL JUDGMENT

Sutherland DJP

Introduction

- [1] We have read the notice for application for leave to appeal which was extensive in its detail and we have heard argument from Mr Mavudzi and from counsel on behalf of the Legal Practice Council and on behalf of the National Prosecuting Authority and for Mr Majola, whose conduct is the subject matter of the case.
- [2] The application for leave to appeal, in our view, must be dismissed. The premise of the application for leave to appeal is that a Court of Appeal is likely to overturn the decision of this court which was to refuse an application to strike off Advocate Majola name from the Roll of legal practitioners in circumstances where there had been no investigation of the allegations of misconduct.
- [3] The argument that was presented by Mr Mavudzi today, essentially, was premised on the proposition succeeding that the Court of Appeal would be satisfied to make a finding of fact that there was misconduct on the part of Advocate Majola and that, in turn, an application to strike him off would be appropriate. That is the threshold that needs to be cleared in order for the application to succeed.

- [4] It is plain, in our view, that there is no merit in that contention and the prospects of another court finding otherwise and overturning the order are non-existent.
- [5] There was a related argument in relation to costs and whether or not it was proper for the State Attorney to afford its assistance at public expense on to Advocate Majola. The argument ran that he should have borne his own legal expenses. *Ergo*, the order made in the main application that Mr Mavudzi pay the costs of the application was inappropriate. In our view the premise of that argument is ill-founded as it is plain that Advocate Majola's misconduct was committed in the course of his official capacity.
- [6] It seems, in our view, given the considerations I have referred to that the costs of this application should also be borne by Mr Mavudzi.
- [7] Accordingly, the following order is made:
- (1) The application for leave to appeal is dismissed.
 - (2) The first and second applicants shall bear the costs of this application



Sutherland DJP (with whom Molahlehi J concurs)

Heard: 30 September 2022

Judgment: 30 September 2022

The Applicants were represented by the first Applicant, in person.

The First and Third respondents (Adv S Majola and the National Prosecuting Authority):

Adv C Georgiades SC

Instructed by the State Attorney.

The Second respondent (The Legal Practice Council):

Adv T C Tshavhungwa,

Instructed by Damons Margardie Richardson Attorneys.