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**In the High Court of South Africa  
(Western Cape Division, Cape Town)**

**Case No: 20487/2021**

In the Ex Parte application of:

**SHELTON MUDZAMIRI**

**APPLICANT**

Heard: 07 October 2022

Delivered: 02 November 2022. This judgment was handed down electronically by circulation to the applicant's representatives via email and released to SAFLII. The date and time for hand-down is deemed to be 02 November 2022 at 10h00

**JUDGMENT**

**LEKHULENI J,**

[1] This is an application for admission and enrolment as a sworn translator of this court in the English and Shona languages. The applicant is an adult male residing at Mountainwood Farm, Banhoek Stellenbosch, born on 16 March 1981, with a Zimbabwean Passport Number [...]. The applicant resides and works in South Africa using a Zimbabwean Exemption Permit. He received his primary, secondary and tertiary education, the language medium of tuition being English and Shona. The applicant avers that he received further training and qualification in South Africa, the language medium being English.

[2] The applicant states that he made inquiries with the Zimbabwean Consulate regarding existing Shona / English translators who could examine and

certify him as proficient for the purposes of this application. The response he received was that there was no one on record competent to be appointed as an examiner for the purposes of testing the applicant's proficiency as a translator from English to Shona and vice versa. The applicant further avers that he was then referred to the registrar of this court for assistance. Upon inquiry with the registrar, he was informed that they could not assist him regarding the identity and the availability of sworn translators. The registrar referred him back to the Zimbabwean Consulate.

[3] In the circumstances, he could not find an existing duly admitted sworn translator to examine and certify his proficiency. As envisioned in Rule 59(2) of the Uniform Rules, the applicant found a linguistic specialist in, among others, English and Shona, to whom he submitted himself for a thorough examination, both in oral and written format. He passed the said examination to the satisfaction of the examiner. The applicant avers that he underwent a comprehensive oral and written examination by the linguist who has satisfied himself with the applicant's proficiency in Shona and English languages. Pursuant thereto, the applicant now seeks an order that this court admit and enrol him as a translator of this court in the English and Shona languages.

[4] Before I consider this application on the merits, it is apposite to set out the relevant provisions of Rule 59 of the Uniform Rules, which deals with the admission and enrolment of translators. Rule 59 provides as follows:

"(1) Any person may be admitted and enrolled by any division of the Supreme Court as a sworn translator between any two or more specified official languages of the Republic of South Africa or between any specified official language of the Republic of South Africa and any specified foreign language, upon satisfying the court of his or her competency.

(2) No person shall be admitted and enrolled as a sworn translator unless his or her competency in the languages from and into which he or she intends to translate has been duly certified in writing, after examination, held not more than six months before the date of his

application by an appropriately qualified sworn translator, or unless his or her competency is otherwise proved to the satisfaction of the court.

(3) Every sworn translator duly admitted and enrolled shall, to the extent of such admission and enrolment, be deemed to be a sworn translator for all divisions of the Supreme Court, and the registrar of the division in which he is admitted shall notify the registrars of all other divisions of such admission and enrolment and furnish his address."

[5] At the hearing of this application, Mr Schliemann, who appeared on behalf of the applicant argued that the applicant satisfied the requirements of this rule. Furthermore, Mr Schliemann submitted that the applicant received his tuition in English and referred the court to the applicant's school examination results, in which the applicant passed English and Shona with flying colours.

[6] It must be emphasised that the provisions of Rule 59 have been expressed in peremptory terms nevertheless, this rule in my view, sets out two requirements before a person may be admitted and enrolled as a sworn translator. *First*, a person may only be admitted and enlisted as a sworn translator if his competency in the languages from and into which he intends to translate has been duly certified in writing, after examination, held by an appropriately sworn translator. In other words, a candidate translator must be examined by a sworn translator between the official languages of the Republic and any specified foreign language. *Secondly*, a person may be enrolled and admitted as a translator if his or her competency in the Republic's official language and the specified foreign language is otherwise proved to the court's satisfaction. In other words, an applicant can produce expert evidence in court to prove that he is proficient in both languages.

[7] In terms of Rule 59(4), a person so admitted and enrolled must, before commencing to perform the functions of his office, take an oath or make an affirmation in the prescribed form, which he must subscribe in a specified form before the judge of the division who does the admission and the enrolling. A person duly admitted and enrolled shall, to the extent of such admission and enrolment, be deemed to be a sworn translator for all divisions of the Supreme Court, and the registrar of the division in which he is admitted shall notify the

registrars of all other divisions of such admission and enrolment and furnish his address.

[8] In this matter, it is not in dispute that an appropriately qualified sworn translator did not examine the applicant. The linguist who allegedly examined the applicant is not a sworn translator as envisaged in Rule 59(2) of the court rules. He may be highly qualified in his discipline; however, he needs to pass the threshold set out in the rules. More so, the fact that he is a linguist does not automatically qualify him as a translator envisaged in Rule 59. Significantly, the fact that the linguist knows and understands Shona and English does not *per se* translate him to be knowledgeable in translating documents. Translation in my view, is more than a language expert. That is why candidates are certified as translators in some Countries after completing a translation degree in four or five years of study. They are also expected to pass a board examination to be certified translators.

[9] As explained above, this rule is couched in peremptory language, and this court has no discretion to dispense with the examination by a person envisaged in Rule 59. Mr Schliemann argued that even if this court were to disregard the assessment of the linguist, the qualification that the applicant submitted to this court should be sufficient to satisfy the court that the applicant is competent in both languages. In my view, this argument misses the point. I appreciate the excellent secondary school results of the applicant; however that does not make him proficient or competent in translation English to Shona or vice versa. In my view, being a translator is a special skill that enables a person with proficient knowledge of two or more languages to translate the meaning of words from one language to the other without altering the message of the main text or adding new content. Furthermore, I do not understand the provisions of Rule 59(2) to require the court to judge the applicant's fitness. That is the duty of an expert in that field. This court may admit expert evidence to prove the applicant's competency, but it cannot substitute its own knowledge in lieu of such evidence. See *Ex Parte Paraskevopoulos* 1947(1) SA 229 (0) at 231.

[10] This application cannot succeed. However, the applicant is not without

relief. There are several translators in South Africa who can examine the applicant. Some of them have been admitted and enrolled by this court. The applicant has only confined himself to the Western Cape Province in search of sworn translators.

## **ORDER**

[11] In the result, the applicant's application is hereby struck from the roll. The applicant is granted leave to renew his application on the same papers properly supplemented once he has fully satisfied the requirements of Rule 59.

**LEKHULENI JD**  
**JUDGE OF THE HIGH COURT**

## **APPEARANCES:**

Applicant: Schliemann Incorporated