IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

Case number: 12612/2019

In the matter between:

GRAHAM WEBBER	Applicant
and	
MINISTER OF POLICE	Respondent

Coram: Acting Justice A Montzinger

Heard: 19 September 2024

Delivered electronically: 25 September 2024

JUDGEMENT

Montzinger AJ

Summary Introduction

1. This is an application for condonation of the applicant's failure to comply with ss 3(2)(a) of the Institution of Legal Proceedings Against Certain

Organs of State Act 40 of 2002 ("the Act"). The subsection requires that a party intending to institute legal proceedings against an organ of state must serve notice of the intended action within six months from the date the debt becomes due.

2. The applicant's cause of action against the respondent (the "Minister") arises from a claim for delictual damages due to alleged negligence by members of the South African Police Service (the “police”) on or about 30 September 2016. On this date, the applicant was shot in the back, by the police, while fleeing, resulting in a serious injury that left him a functional paraplegic.

3. The six-month period provided under ss 3(2)(a) of the Act for the applicant to notify the Minister of the intention to institute action expired at midnight on 29 March 2017. However, nearly eight years after the events of 29 September 2016 that led to his paraplegia, this court is only now asked to consider an application for condonation of the late notice required by the Act.

4. I will begin by outlining a chronology of the key events, followed by a brief exposition of the legal principles guiding this decision, a summary of the parties' respective positions, and my evaluation in light of the applicable legal principles and facts.

Chronology of essential events

5. The following chronology details the events from the time of the incident that gave rise to the claim until the eventual filing of the application for condonation.

6. In September 2016, the applicant met a Mr. Ferlin Arries in Cape Town. Mr. Arries, a resident of Clanwilliam in the Western Cape, offered the applicant R30,000 to kill Mr. Will-Carl Booysen ("Booysen"). A week later, the applicant travelled to Clanwilliam armed with a 9mm Pietro Beretta firearm and ammunition. Mr. Arries provided the applicant with lodging, and on the evening of 29 September 2016, after Booysen was pointed out to him, the applicant shot Booysen multiple times before fleeing the scene. Booysen died on the spot.

7. The following day, on 30 September 2016, the applicant intended to return to Cape Town. While en route on the Algeria Road near the N7, the police, having received a tip-off that the applicant was the shooter, had set up a roadblock. Although there was an initial intention not to stop at the roadblock, the vehicle eventually came to a halt. The applicant then jumped out of the car and attempted to flee, with the police in pursuit.

8. During the pursuit, shots were fired at the applicant, and one of the bullets struck him, ending the chase. The applicant was arrested, but the gunshot caused a spinal cord injury, resulting in his paralysis. He spent approximately two months and one week in hospital, during which the

bullet was removed on 14 October 2016. He was discharged on 3 December 2016 but had not yet been charged with Booysen's murder.

9. Nearly 20 months later, on 20 August 2018, the applicant was re-arrested. He remained in custody until 14 February 2019, when he was released on bail pending trial. It was only on 11 June 2019 that the applicant's attorney sent a notice in terms of ss 3(2)(a) and (b) of the Act to the Minister. This notice was followed by an action for delictual damages amounting to R3,600,000 in July 2019. In both the notice and the particulars of claim, the applicant alleged that the police officer(s) who shot him were negligent, as alternative methods of arrest could have been used to apprehend him.

10. On 30 September 2019, a few months after the summons was issued, the applicant entered into a plea agreement with the State. He pleaded guilty to Booysen's murder and other charges, and on 19 October 2019, he was sentenced to 18 years in prison.

11. On 15 November 2019, the Minister filed a plea in response to the action, raising a special plea that the applicant's notice did not comply with the Act's provisions as it was not sent within six months of the date the debt became due. After the Minister's plea highlighted the non-compliance, another 23 months passed before, on 29 October 2021, the applicant filed an application (the "first application") seeking condonation for the failure to comply with ss 3(2)(a) of the Act. The Minister delivered a detailed answering affidavit on 21 January 2022, and the application was set down for hearing on 4 February 2022. One of the points raised in

opposition was that the applicant's founding affidavit supporting the first application was defective, as it was not properly commissioned, and that the applicant had not signed it in the presence of a peace officer.

12. The first application was not heard on 4 February 2022. The parties agreed to a further hearing date of 10 October 2022. However, in September 2022, the applicant withdrew the first application and tendered the Minister's costs. Following this, the applicant did nothing for another 18 months. On 22 April 2024, a new application (the "second application") for condonation of the failure to comply with ss 3(2)(a) was filed. It was set down for hearing on 5 June 2024. After another postponement, it was finally heard on 20 September 2024.

13. From the incident on 30 September 2016 to the hearing of the condonation application, nearly eight years have passed. Although the prescribed notice was required to be sent within six months of 30 September 2016, this court is now being asked, over seven years later, to condone the applicant's failure to comply with the Act's provisions.

The legal principles – condonation of a late notice

14. There is little dispute about the prevailing legal principles a court must take cognisance of when deciding an application for condonation in this instance. The applicable provision of the Act is ss 3(4)(a) and (b) that provides as follows:

(4) (a) If an organ of State relies on a creditor's failure to serve a notice in terms of subsection (2) (a), the creditor may apply to a court having jurisdiction for condonation of such failure.

(b) The court may grant an application referred to in paragraph (a) if it is satisfied that-

(i) the debt has not been extinguished by prescription.

(ii) good cause exists for the failure by the creditor and

(iii) the organ of State was not unreasonably prejudiced by the failure.

15. Subsection 3(4)(b) sets out the three interconnected requirements[1] that the applicant must establish when seeking condonation for non-compliance with the notice provisions of the Act. The court's powers when considering such an application is limited by these requirements. A court must be satisfied that: (i) the debt has not been extinguished by prescription; (ii) good cause exists for the failure to serve the notice in accordance with ss 3(2)(a) or to serve a notice that complies with ss 3(2)(b); and (iii) the organ of state has not been unreasonably prejudiced by the failure.

16. Case law has added further legal context to various elements for consideration within each requirement. The phrase *"if [the court] is satisfied*" in ss 3(4)(b) has been interpreted to mean that the standard of

[1] *Madinda v Minister of Safety and Security, Republic of South Africa* [2008] 3 All SA 143 (SCA); 2008 (4) SA 312 (SCA) *("Madinda")* - par 15 referring to *United Plant Hire (Pty) Ltd v Hills* 1976 (1) SA 717 (A) at 720E-G.

proof is not on a balance of probabilities, but rather the overall impression the facts make on a court that approaches the matter with fairness[2].

17. The first requirement pertains to whether the applicant's claim has prescribed. This is generally straightforward, as the claimant must institute action within three years from the date the debt becomes due[3]. In this case, prescription is not in issue, as the action was initiated before the claim became prescribed.

18. The second requirement involves establishing "good cause." Over time, the courts have developed a flexible approach, considering all factors that affect the fairness of granting relief to the applicant and the proper administration of justice. Our courts have adopted a holistic view, examining factors such as the applicant's prospects of success, reasons for the delay, the adequacy of the explanation provided, the applicant's *bona fides*, and whether others contributed to the delay[4]. Also, a court exercises a wide discretion[5], as the assessment of good cause depends heavily on the facts of each case[6]. The strength of the applicant's claim also plays a key role[7], as strong merits may mitigate procedural failures, while weak merits may negate them.

19. However, on consideration of the various judgements, I was referred to, it seems that in general under the requirement of '*good cause',* the courts

[2] *Madinda* – par 8
[3] Subsection 13(1) of Prescription Act 68 of 1969
[4] *Madinda* par 10
[5] *Madinda* para 8; *Premier, Western Cape v Lakay* 2012 (2) SA 1 (SCA) ("*Lakay")* para 14.
[6] *Madinda* para 10; *Minister of Agriculture and Land Affairs v C J Rance (Pty) Ltd* 2010 (4) SA 109 (SCA) ("*Rance")* para 36.
[7] *Rance* para 37

have always focussed the inquiry on the explanation for the delay in sending the notice and whether the applicant's claim has reasonable prospects of succeeding.

20. In *Madinda*, the court referred to Schreiner JA's judgment in *Silber v Ozen Wholesalers*[8], that emphasised the approach that the applicant must provide a detailed explanation of the default, allowing the court to understand how the non-compliance occurred. This would enable a court to assess the applicant's conduct and motives. A key issue would be whether the applicant has offered a valid reason to nullify or significantly reduce any culpability for the delay.

21. The court must also avoid an unbalanced approach that overemphasises procedural compliance at the expense of the merits. If an applicant demonstrates strong prospects of success, it would be unjust to deny a hearing solely due to procedural failures, particularly where the delay has not caused undue prejudice to the organ of state. Therefore, the court must weigh the explanation for the delay in conjunction with the merits of the case to ensure justice is served both procedurally and substantively[9].

22. During oral arguments, I asked Mr. Steyn, counsel for the applicant, whether the delay in filing the condonation application should also be considered part of the "good cause" requirement. Mr. Steyn, citing *Mathobela*[10] and *Madinda*[11], argued that the delay in filing the condonation application should not be part of the "good cause"

[8] *Silber v Ozen Wholesalers (Pty) Ltd 1954 (2) SA 345 (A) (at 352H-353A)*
[9] *Madinda* par 12
[10] *Mathobela v Minister of Police and Another* (417/2022) [2023] ZAMPMHC 38 (20 October 2023) (*"Mathobela"*)
[11] paras 14; 20 & 28

evaluation. Instead, he contended, the delay should be assessed as part of the court's overall "fair mind" approach when considering whether to grant condonation under ss 3(4)(a) and (b). Mr. Salie SC, counsel for the Minister, referred to *Rance*[12], which suggests that the delay in filing the condonation application should indeed be factored into the assessment of whether the "good cause" requirement has been met.

23. Upon reviewing *Mathobela* and *Madinda*, it is clear that the court can consider the delay in filing the condonation application. Whether the court evaluates it under the good cause requirement or as part of its broader "fair mind" approach is not decisive. What matters is that the delay is a relevant factor that the court may consider in its overall assessment of the matter. In this regard the court said in *Madinda:*

> *"Applications for condonation should in general be brought as soon after the default as possible. Thereby possible further prejudice to the other party and misconception as to the intentions and bona fides of the applicant can be lessened. A delay in making the application should be fully explained. The failure to do so may adversely affect condonation or it may merely be a reason to censure the applicant or his or her legal advisers without lessening the force of the application. I think that the latter is the correct attitude to take in the present matter in relation to the evaluation of whether condonation should be granted."*[13]

[12] par 49
[13] par 28

24. Mr. Steyn's argument is more nuanced upon closer examination. When reading *Mathobela*[14] and *Madinda*[15] together, it appears that once the applicant has instituted action, the State should be aware of the applicant's intent to proceed, reducing the necessity for a condonation application. This seems to suggest that the timing of when a condonation application is eventually launched and the delay in launching it, is less significant. However, the delay in launching the condonation application remains a factor the court must consider. An applicant cannot claim to have always intended to pursue the action while taking months or years to regularise a defective notice, especially after attorneys have come on record. Any delay must be explained[16], and the court may consider this as part of the overall assessment of whether to grant condonation.

25. The third requirement relates to prejudice. In cases like *Mohlomi*[17] and *Mdeyide*[18], the courts have found that prejudice is inherent in any case involving an unreasonable delay.

26. With these principles in mind, I now turn to the question of whether the applicant has established a case for condonation. First, I will address whether the notice itself complied with the provisions of the subsection.

The letter of the demand

27. It was argued on behalf of the Minister that the notice in terms of ss 3(1)(a) did not comply with the requirements of ss 3(2)(b)(i)-(ii) of the Act.

[14] paras 35 - 36
[15] para 28
[16] *Mathobela* par 36
[17] *Mohlomi v Minister of Defence* [1996] ZACC 20; 1997 (1) SA 124 (CC) para 9.
[18] *Road Accident Fund and Another v Mdeyide* 2011 (2) SA 26 (CC) (2011 (1) BCLR 1; [2010] ZACC 18)

While there was some disagreement between counsel on whether the Minister properly raised this issue in the papers, it is sufficient to note that there are certain aspects of the notice that appear to be lacking. It is indeed very terse. However, given my finding, it is unnecessary to address whether the notice comply with the requirements of the subsection. For the purposes of my analysis, I will assume, without deciding, that the notice meets the minimum requirements of the Act.

Evaluation – did the applicant establish Good Cause

28. In evaluating whether good cause has been established, I will address both the delay in sending the required notice and the delay in launching the condonation application. However, for the purposes of the good cause requirement, I will focus solely on the delay in sending the notice. The delay in filing the condonation application will be considered separately, as part of my discretion of applying a 'fair mind' to all relevant factors.

The period of delay in sending the notice

29. The delay in sending the required notice was 2 years and 9 months, from the date of the incident of 29 September 2016 until the notice was sent in June 2019. The explanation provided for this delay is riddled with unexplained gaps[19]. The applicant has not offered a sufficient explanation that covers the entire period.

[19] *Madinda* par 28

30. The following periods remain unexplained or has an inadequate explanation:

30.1 The period from the incident until the applicant's discharge from hospital on 3 December 2016. While it may be assumed that the applicant was too incapacitated to communicate or comprehend his circumstances due to his injury, this is mere speculation. There are no allegations regarding his mental or physical state during this time, nor whether he was aware of his potential claim. If his condition was so severe, further leniency might have been warranted. I cannot imagine that the six-month period can run if the applicant was cognitively impaired or incapacitated, but this was not addressed or explained, and thus, the failure to explain this period weighs against him.

30.2 The second period, from 3 December 2016 to the end of March 2017, spans four months—the time between his discharge from hospital and the expiration of the six-month notice period on 29 March 2017. The applicant was not charged with any crime upon discharge, but no explanation is provided for this period, other than a vague claim of lacking the financial means to pursue the matter. The court is left without any details of how financial constraints hindered the applicant's ability to pursue his claim during this time.

30.3 The third period, from April 2017 to 20 August 2018, amounts to another 16 months during which the applicant was not

incarcerated. Again, aside from general statements about financial difficulties, there is no comprehensive explanation for this significant delay.

30.4 The next period, from the applicant's re-arrest on 20 August 2018 to his release on bail on 14 February 2019, is also unexplained. His incarceration does not automatically excuse his inaction, as he could have consulted an attorney during this time. The applicant provides no details on any attempts to do so, which should have been explained. The court in *Mathobela* confirmed that mere incarceration does not automatically oust a person ability to act[20].

30.5 Finally, the period from his release on 14 February 2019 to May 2019, except for the inference that the applicant went to go see his attorney, is another unexplained period.

31. The lack of explanation for these gaps in the timeline undermines the applicant's case. He merely claims that he approached his attorney in May 2019 through his stepfather, but he does not explain why he did not seek legal advice earlier, especially after his initial release from prison. Also, there is no explanation after he was first released when he understood or learned that he had a claim against the Minister.

32. While the applicant may not have been aware of the provisions of the Act, this factor is only marginally in his favour. Its weight is diminished by the fact that the applicant failed to disclose when he first learned of his potential claim against the Minister. If he received legal advice, he would

[20] *Mathobela* par 25

likely have been informed of the statutory notice requirement. Additionally, the applicant states that his stepfather facilitated the claim process during his second incarceration, but details regarding his interactions with the stepfather, including whether they discussed the notice period, are absent. The confirmatory affidavit from his attorney is also not helpful.

33. The applicant's claim that he lacked the financial means between 2017 and 2018 is insufficient as it lacks detail. He provides no explanation of what steps, if any, he took to inquire about his possible claim or why his stepfather only referred him to an attorney in 2019.

34. Again, as foreshadowed, the applicant's failure to disclose when he first reasonably became aware of his claim against the Minister raises concerns. Given his repeated assertions of financial hardship, it was crucial to inform the court when he learned about his potential claim. The applicant's silence on this issue appears to be an intentional omission, given the likely consequences of such an admission.

35. Given the applicant's failure to provide a comprehensive and satisfactory explanation for the delay in sending the notice, and considering the relevant legal principles, I am compelled to conclude that this aspect seriously impeaches the applicant's attempt to demonstrate good cause.

Merits of the applicant's claim

36. Mr Steyn, for the applicant, placed considerable emphasis on the fact that the applicant was shot in the back, as if to suggest that, because this

fact is undisputed, the applicant would likely succeed with his claim at trial.

37. While the fact that the applicant was shot in the back may, at first glance, support a claim that the police acted negligently, this alone does not mean the applicant's case has reasonable prospects of success with his claim. The context of the shooting is important. The applicant was fleeing the scene after committing a serious crime, and the police were acting on information that he was armed and dangerous. In such circumstances, the actions of the police must be assessed in light of their duty to apprehend a suspect who posed a significant threat to public safety. Therefore, the fact that the applicant was shot in the back does not automatically establish negligence on the part of the police, and also does not promote the merits of the applicant's claim.

38. At paragraph 5 of the particulars claim the applicant pleaded that the police knew or should reasonably have known, that the applicant was running away from the police and that the applicant was no threat to its members. I disagree, the applicant will have a hard time at trial to portray himself as an unarmed and innocent victim fleeing the police having regard to his own version of events recorded in the plea agreement.

39. At paragraph 6 of the particulars of claim the applicant pleaded that the members of the police should reasonably have foreseen that if shots were fired while he was running away, that bullets could injure the applicant in the back. Again, the reasonable foreseeability is directly

linked to the justification defence the police can invoke in terms of ss 49(1) and (2) [21] of the Criminal Procedure Act. In light of the facts and circumstances of this matter and having regard to authorities like *Govender*[22] read with ss 49(1) and (2), the chances are remote that the applicant could succeed to establish the elements of negligence and causation, where reasonable foreseeability may resort[23], as requirements of a delictual claim.

40. At paragraph 7 of the particulars of claim the allegations are also made that reasonable police officers would have taken reasonable steps to prevent such an incident from taking place by pursuing him without lethal force. This basis for delictual liability is also problematic for the reasons foreshadowed in the previous paragraph. However, it is also compromised since the applicant had to allege more. There are no allegations what other reasonable steps the police could have taken in the circumstances. If the applicant could not identify the 'other reasonable steps' the police could have taken in the particulars of claim,

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[21] ***49. Use of force in effecting arrest.***—*(1) For the purposes of this section—*
*(a)**"arrestor"** means any person authorised under this Act to arrest or to assist in arresting a suspect;*
*(b)**"suspect"** means any person in respect of whom an arrestor has a reasonable suspicion that such person is committing or has committed an offence; and*
*(c)**"deadly force"** means force that is likely to cause serious bodily harm or death and includes, but is not limited to, shooting at a suspect with a firearm.*
(2) If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing, but, in addition to the requirement that the force must be reasonably necessary and proportional in the circumstances, the arrestor may use deadly force only if—
(a) the suspect poses a threat of serious violence to the arrestor or any other person; or
(b) the suspect is suspected on reasonable grounds of having committed a crime involving the infliction or threatened infliction of serious bodily harm and there are no other reasonable means of effecting the arrest, whether at that time or later.
[22] *Govender v Minister of Safety and Security* (342/99) [2001] ZASCA 80 (1 June 2001)
[23] *MTO Forestry (Pty) Ltd v Swart NO* 2017 (5) SA 76 (SCA)

they certainly will not magically appear during a trail and without them a claim will be hard to sustain.

41. Also, as foreshadowed, the applicant has not been generous with the facts and / or the allegations in support of his claim in either the particulars of claim and the affidavits in support of the first and second condonation application. This is a matter where the paucity of detail provided by the applicant exacerbate his case[24]. The plea agreement, which is undisputed, strongly supports the Minister's case and would weigh heavily against the applicant at a trial. The applicants should have dealt with the contents of the plea agreement head on and the failure to address it all, bringing an open and fair mind to this issue, cast serious doubt over the applicant's version of events.

42. In conclusion on good cause. I find in these circumstances I am not persuaded that the applicant has established good cause to warrant the interference of the court and condone the non-compliance with the statutory notice requirement. Given the delay in sending the notice and the lack of a satisfactory explanation for the entire period of the delay coupled with the fact that there are weak prospects of success for the applicant to succeed with a delictual claim, the applicant has not established "good cause".

Prejudice to the Minister

[24] *Minister of Agriculture and Land Affairs v C J Rance (Pty) Ltd* (293/09) [2010] ZASCA 27 (25 March 2010) 4 SA 109 (SCA) at para [11]

43. It was argued on behalf of the applicant that the Minister had not demonstrated any specific prejudice if the late notice were condoned.

44. However, suffice to find that the prejudice referred to in ss 3(4)(b)(iii) is explained by the courts in *Mohlomi*[25] and *Mdeyide*[26]. According to these authorities prejudice is inherent in every case where there has been an unreasonable delay. In this case the delay stretches over 2 years and 9 months and is not sufficiently explained.

45. Furthermore, the lack of a reasonable explanation for the delay and the limited chance of success overshadows the absence of explicit prejudice, making it unnecessary to rely solely on that aspect to dismiss the application. There is no justification for dragging the Minister through litigation where the applicant has failed to act diligently, especially when the claim itself appears to have little to no prospects of success.

The delay in launching the condonation application.

46. The delay in launching the condonation application was nearly four years.

47. There is no adequate explanation for why the applicant waited months to file the first condonation application and then delayed again in filing the second application. The applicant's attorney who sent the notice in June 2019 must have known it did not meet the six-month requirement. After the Minister raised the issue of non-compliance in November 2019,

[25] *Mohlomi v Minister of Defence* [1996] ZACC 20; 1997 (1) SA 124 (CC) para 9.
[26] *Road Accident Fund and Another v Mdeyide* 2011 (2) SA 26 (CC) (2011 (1) BCLR 1; [2010] ZACC 18)

another 23 months passed before the applicant filed the first condonation application in October/November 2021, with no explanation for this lengthy period of inaction.

48. The period from when the first application was scheduled to be heard on 4 February 2022 until its withdrawal in September 2022 is similarly unexplained. By that time, the applicant was aware of the defective founding affidavit, yet no action was taken between November 2021 and the eventual withdrawal of the first application. The lack of diligence by the applicant and his attorney during this period remains unaddressed.

49. After the first application was withdrawn in September 2022, there was another 18-month period of inactivity before the second condonation application was finally filed on 22 April 2024. The applicant provides no explanation for this delay from October 2022 to April 2024, merely addressing the defective affidavit of the first application, which was insufficient. A proper explanation for the prolonged delay in pursuing condonation was required, particularly from the attorney now handling the litigation on behalf of the applicant.

50. The gaps in the timeline reflect a failure to proactively pursue condonation. This is not in line with the well-established principle that condonation application must be pursued as soon as possible, which did not happen here.

51. The lack of explanation for the delay in launching the condonation application is a serious failure. When viewed holistically, it demonstrates

that the applicant is the creator of his own misfortune in this case. He must unfortunately bear the consequences of this inaction. The delay in the explanation of the second condonation application further weakens the argument for good cause and exacerbates the prejudice to the Minister.

52. In exercising my discretionary function, and in line with the relevant authorities, I must have regard to the significant delay in launching the condonation application. This delay contributes to the broader assessment of fairness and reinforces the overall impression I form of the applicant's conduct. The delay in pursuing the condonation application mirrors the general pattern of the applicant's failure to act with diligence and proactivity in advancing his claim. It further underscores the applicant’s lack of urgency in addressing the procedural non-compliance.

Conclusion

53. In light of the foregoing, I find that the applicant has failed to establish good cause for the court to grant condonation for sending the statutory notice outside of the prescribed six-month period. The delay in sending the notice was not adequately explained, and to the extent that an explanation was provided, it was insufficient. Additionally, the applicant’s claim has little to no prospects of success. The delay in launching the condonation application reflects a continued pattern of inaction and lack of diligence, which was also a factor that weighed heavily against the applicant. Although the Minister could have been more explicit regarding

the prejudice it would suffer, the prejudice is evident given the unreasonable delay in the sending of the notice, and in launching the condonation application and the weak merits of the applicant's claim.

54. In respect of costs, there is no reason why the applicant should not be burdened with the costs of the application. Mr Salie SC, informed me that while the Minister is entitled for counsel's fees to be taxed on scale C, the Minister would not insist on the higher scale and would be contend with an order on scale B.

55. In the circumstances I make the following order:

The application for condonation for the late service of the notice in terms of section 3(4)(2)(b) of Act 40 of 2002 is dismissed with costs on a party and party scale including advocate fees, on scale B from 12 April 2024 onwards.

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A MONTZINGER

Acting Judge of the High Court

Appearances:

Applicant's counsel:	Mr. R Steyn
Applicant's attorney:	Swemmer & Levin Attorneys
Respondent's counsel:	Mr. M Salie SC
Respondent's attorney:	State Attorney