

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 67117/2019

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
19/01/2021	pp Oh
DATE	SIGNATURE

In the matter between :-

SHERIFF PRETORIA CENTRAL

Applicant

and

MINISTER OF POLICE

Respondent

IN RE:

MINISTER OF POLICE

Applicant

And

SHERIFF: PRETORIA Central

1st Respondent

William

2nd Respondent

Bongani

3rd Respondent

Lawrain

4th Respondent

JUDGMENT

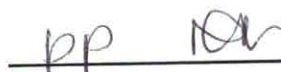
Kollapen J

- [1] This is judgment that relates to the matter of the costs that were reserved in this matter on the 4 November 2019 and 2 March 2020. The Applicant seeks an order that such costs be unreserved and that the Respondent be ordered to pay such costs.
- [2] The background to the matter is that following the granting of urgent relief by this court on the 8 October 2019, a rule nisi was issued which was returnable on the 4 November 2019. The order of the 8 October 2019 also provided that the Respondent would cause the substantive application contemplated in the order to be issued within 3 days of the order. That application was only issued in early December 2019.
- [3] The Applicant's attorneys sought clarity from the Respondent's attorneys as to what would happen on the return day. Clearly nothing of substance could have happened given that the main application had not been issued. Despite various requests made to it, attorneys for the Applicant did not respond and the Applicant's attorneys were forced to brief counsel to appear on the 4 November 2019 when the Court then extended the rule to the 2 March 2020 and reserved costs.
- [4] By the 2 March 2020 the application contemplated in the order of the 8 October 2019 had been issued and was enrolled for hearing on the opposed roll for the 9 March 2020. It appears however that the matter was also on the urgent court roll for the 2 March 2020 (the date to which the rule had been extended to). What occurred on the 2 March 2020 was that the Court extended the rule to the 9 March 2020 and reserved the costs. The Applicant appointed counsel to attend court for this purpose.

- [5] It is in respect of these reserved costs that the Applicant seeks relief and it does appear that the Respondent does not in any serious manner dispute the Applicant's entitlement to such costs.
- [6] My view is that those costs were largely incurred as a result of the failure on the part of the Respondent's attorney to respond adequately and timeously to the Applicant's attorneys regarding the status of the matter. On both occasions the rule should have simply been extended by agreement and there would have been no need for the Applicant to have to brief counsel to attend Court.
- [7] In the result a proper case has been advanced for the relief sought. In this regard however my view is that the scale of costs in respect of the appearance of Counsel on the 4 November 2019 and 2 March 2020 should be on an unopposed scale basis as it could hardly have been contemplated that the appearance on those days would have been in anticipation of an opposed hearing.
- [8] I also do not intend to award costs on a punitive scale as requested by the Applicant. While the Respondent's attorneys were tardy in not resolving what was a resolvable issue regarding the matters being on the roll for the 4 November 2019 and the 2 March 2020, such conduct should not attract a punitive costs order.
- [9] The Applicant also seeks the costs of this application which I intend to grant on an unopposed basis. The only basis on which the Respondent opposed the relief sought was on the matter of the scale of the costs and was indeed successful on that score.

I make the following order

1. That the reserved costs of the 4 November 2019 and 2 March 2020 be unreserved and awarded in favour of the Applicant (the 1st Respondent in the main application) on an unopposed basis and on the scale as between party and party.



NJ. KOLLAPEN
JUDGE OF THE HIGH COURT,
PRETORIA

COUNSEL FOR THE APPLICANTS : **Adv GJ SCHEEPERS SC**
Adv WR DU PREEZ

Instructed by : **SAVAGE JOOSTE & ADAMS**
ATTORNEYS

COUNSEL FOR THE RESPONDENT : **Adv Z MATEBESE SC**

Instructed by : **STATE ATTORNEY,**
PRETORIA

DATE OF HEARING : **23 November 2020**

DATE OF JUDGMENT : **19 January 2021**