



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

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: YES
(3) REVISED.

SIGNATURE

DATE: 26 May 2025

Case no: 2025-030684

In the matter between:

**MANKOPANE STEPHEN LANGA
AND 19 OTHERS**

First to
Twentieth Applicants

and

MINISTER OF CORRECTIONAL SERVICES

First Respondent

CHAIRPERSON, PAROLE BOARD, LEEUWKOP

Second Respondent

NATIONAL COUNCIL FOR CORRECTIONAL SERVICES

Third Respondent

Summary

Save in exceptional circumstances, it is not appropriate to remove a lay litigant's application from the urgent roll. Every effort must be made to ascertain the nature of the complaint. If the complaint is urgent, it must be dealt with fairly on its merits. If it is not urgent, it must be struck from the roll. If, in truly exceptional circumstances, a removal is appropriate, reasons for that order should be given, whether in the order itself, or in a short judgment.

JUDGMENT

WILSON J:

- 1 The applicants are twenty individuals serving life sentences at the Leeuwkop Prison. They brought an application before me in my urgent court on 20 May 2025. The application papers are not easy to decipher, but the essence of the applicants' complaint, which was related to me by the first applicant, Mr. Langa, became clear enough after a few minutes of close questioning through an interpreter. The complaint is that the applicants have completed the non-parole period of their sentences, but are being denied the opportunity to apply for parole.
- 2 Mr. Langa's appearance before me was apparently his third in six weeks. The application has twice been removed from the urgent roll. I do not know what led to these removals, but it seems to me that a court should be slow to remove from the urgent roll an application brought in person without a full appreciation of the nature of the complaint advanced.
- 3 The proper course, in all but exceptional cases, is to ascertain the nature of the complaint, take a view as to its urgency, and then deal with it on the merits or strike it off the roll, so that it can be dealt with in the ordinary course. A simple removal generally achieves nothing. It is no more than an encouragement to a lay litigant to re-enrol the matter in the next urgent court, making their case part of the next urgent Judge's burden. Where a matter is removed rather than struck from the roll for good reason, the Judge removing the matter should generally record their reasons in their order, or in a short judgment given, if necessary, *ex tempore*.

- 4 Where the litigant in person is incarcerated, this general approach must admit of very few exceptions, because the complaint will almost inevitably concern a claim for release or a claim about the conditions of the applicant's incarceration. Whether or not the complaint turns out to have any merit, claims of this nature generally require the most serious and anxious consideration, because the person advancing them, being incarcerated, is inherently vulnerable, and the nature of the complaint relates either to an asserted right to liberation, or to the conditions of the applicant's detention. This court has wide powers, both under the common law and under the Constitution, 1996 to inquire into the basis on which, and circumstances in which, any person within its jurisdiction is detained, and to grant just and equitable relief to remedy any breach of rights that becomes evident from that inquiry (see, for example, *Principal Immigration Officer v Narayansamy*, 1916 TPD 274 at 276; *Ganyile v Minister of Police* 1962 (1) SA 647 (E) at 654 and *Arse v Minister of Home Affairs* 2012 (4) SA 544 (SCA) at paragraphs 5 and 10, read together with sections 12, 38 and 172 of the Constitution).
- 5 Once the nature of the complaint has been established, it is necessary to hear from the authorities responsible for the applicant's detention. In this case, that was impossible, because there was no appearance for the first respondent, the Minister of Correctional Services. Without input from the Minister, it is impossible to determine whether Mr. Langa has correctly identified the applicants' complaint and whether that complaint has any merit.
- 6 To the extent that the state of the applicants' papers might have led the State Attorney to believe that the application was not worth defending, that was a

mistake. Where an incarcerated individual complains about the lawfulness of their detention, or the conditions in which they are being kept, it is incumbent upon the Minister and his legal representatives to take the complaint seriously, even if, in their view, it has no merit. The State Attorney is furthermore obliged to make representation available to the Minister, so that the Minister's interests are properly protected and the court is informed of the Minister's views.

7 In this case, none of that happened, which was unfortunate.

8 A further problem was the Department of Correctional Services' failure or refusal to ensure that all the applicants capable of doing so could attend court to advance their case. The Department could have been in no doubt about who the applicants are. They are listed at 46-2 of the Caselines entry for this matter, together with their inmate numbers. The fifth applicant, a Mr. Mngomezulu, has died since the matter was instituted, which obviously explains his non-appearance. But I have no idea why the rest of the applicants were not brought to court. That requires an explanation.

9 I would not normally regard a case of this nature as urgent, but it would not be appropriate to strike it from the roll. The practice in this court is generally to case manage matters brought by incarcerated individuals, the claims made by Mr. Langa require further investigation, and the way the case has been shunted from one urgent court to another over the past month is inherently unsatisfactory. These facts call for a bespoke approach. I will accordingly make an order placing this matter under my supervision, and directing inquiries to the relevant departments, with the aim of resolving the applicants' complaints expeditiously.

10 For all these reasons –

10.1 The application is postponed *sine die*.

10.2 The first respondent is directed, by no later than noon on Friday 6 June 2025, to file a report, made under oath by an official with personal knowledge of the relevant facts, setting out the following –

10.2.1 The offences of which each of the applicants was convicted;

10.2.2 The date on which each of the applicants was sentenced, and the sentence imposed;

10.2.3 The date on which it is contended that each of the applicants qualifies to be considered for parole under the applicable law;

10.2.4 If any of the applicants currently qualifies to be considered for parole, the steps that have been taken and will in future be taken to assess their suitability for parole, and the dates on which future steps, if necessary, will be taken; and

10.2.5 An explanation for the Minister's failure to produce the applicants before Wilson J on Tuesday 20 May 2025.

10.3 The registrar of this court is directed forthwith to draw a copy of this judgment and order to the attention of the head of the State Attorney's Johannesburg and Pretoria offices.

10.4 The application will thereafter be case managed by Wilson J, and may be re-enrolled with the presiding Judge's consent, for such further relief as may then be appropriate.

10.5 The question of costs is reserved.



S D J WILSON
Judge of the High Court

This judgment is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 26 May 2025.

HEARD ON: 20 May 2025

DECIDED ON: 26 May 2025

For the First Applicant: In person