

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 042122/2023

DATE: 15-04-2025

(1) REPORTABLE: YES / NO.

(2) OF INTEREST TO OTHER JUDGES: YES / NO.

(3) REVISED.

DATE 15/4/2025

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SIGNATURE

In the matter between

T[...] N[...]

Applicant

and

T[...] N[...]

Respondent

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J U D G M E N T

VAN DE VENTER, AJ: In this matter of T[...] N[...] and T[...] N[...], matter number 3 on my opposed roll, I give this judgment *ex tempore*.

This application of contempt has its origin on 19 June 2024 where a Rule 43 order was made that the respondent has to pay an amount of R22 061.20 per month for maintenance.

30 This application is dated 20 August 2024, a mere two months after the court order. Because of the time lapses and rolls of this division, the matter was only heard

today, 10 months after the first order given.

The respondent answered on 21 November 2024 and will, and until today his contentions are that his earnings were erroneously presented to the erstwhile court. This court accepted this and having regard to the facts that all the papers were filed and the applicant and the respondent has answered and the applicant replied to the counterclaim, the court allowed arguments to the effect from both parties.

10 Let us deal with the contempt first. The applicant has the right to bring the contempt order, the reasons are clear and the respondent did not comply with the order. The court however on the facts accepted that there was an error in his earnings which the net salary at the time of the Rule 43 was not 48 500, but an amount of R34 719. This amount being 30 percent less.

 In the absence of full compliance on the Rule 43(6) of the court application and for the sake of finality, both parties made submissions on affordability and the financial
20 positions of the parties. That was allowed by the court.

 It is clear that the respondent from day one could not afford the maintenance and the court is inclined to accept that the applicant also knew this fact, because why bring this application of contempt a merely two months after the order?

 Therefore, this court finds that the respondent is not in contempt. The respondent is in arrears for 10 months, only being able to pay R3 000 maintenance during this time. According to the calculation of the court, this
30 amount is R217 612. The R3 000 is deducted from the amount, it is 10 months, and this amount is payable to the applicant in the amount of R700 per month.

 The respondent has also shown that his income is less at the time of the Rule 43, than at the time of the Rule

43 order. It is a calculation of 30 percent less than the amount used by the Rule 43 court.

This court believes a variation is necessary. This court then orders that the maintenance amount be reduced to R15 442.84 per month pending the finalisation of the divorce from 1 May 2025 and the costs for this application and the counter-application to be costs in the cause.

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10 **VAN DE VENTER, AJ**
JUDGE OF THE HIGH COURT
DATE: