

**REPUBLIC OF SOUTH AFRICA**



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

Case Number: 2025-165824

|                         |                                                                                     |
|-------------------------|-------------------------------------------------------------------------------------|
| (1)                     | REPORTABLE: <del>YES</del> / NO                                                     |
| (2)                     | OF INTEREST TO OTHER JUDGES: <del>YES</del> /NO                                     |
| (3)                     | REVISED: NO                                                                         |
| <b>9 September 2025</b> |  |
| DATE                    | SIGNATURE                                                                           |

In the matter between:

**GAVIN LERANA**

Applicant

and

**THE NATIONAL HORSERACING AUTHORITY OF  
SOUTHERN AFRICA**

**ADV MAFEYISI MOLEA**

**FARAI RAZANO**

**DAYA MOODLEY**

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

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## JUDGMENT

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NOKO J.

### *Introduction*

[1] The applicant instituted an application to stay the implementation of the appeal board's finding and sanction imposed by the Board of Enquiry and confirmed by the Board of Appeal pending the review of the decision of the board. Second to fourth respondents are not opposing the application, and reference to the respondent in this judgment would mean the first respondent. The respondent is challenging the urgency, failure to satisfy the requirements of an interim interdict, and disputing the prospects of success of the review application.

### *Background*

[2] The applicant is a professional jockey and a member of the respondent, National Horseracing Authority of Southern Africa ("*NHA*"). NHA is an entity "... that promotes and regulates the sport of thoroughbred horse racing in South Africa. Its duties include, *inter alia*, the licensing of participants, including jockeys, horse trainers, racecourse operators, racecourse owners, horse breeders, grooms, and farriers.

[3] NHA is regulated by the Constitution and Rules to which members are required and have agreed to comply. In instances of failure to comply or breaches of the rules, NHA will conduct an investigation, inquiries, and arraign such a member to a disciplinary inquiry. Members are entitled to lodge an appeal in the event they are aggrieved by the findings of the inquiry.

[4] On 26 January 2025 at Turffontein Racecourse, an incident occurred where the applicant and Mr Jason Gates ("*Mr Gates*") got involved in a confrontation during the racing.

The applicant, who was riding Gimme A Storm, alleged that Mr Gates, who was riding Blurred Vision, struck his horse across its chest with his riding crop and also struck the applicant on his arm. The applicant, in return, struck Mr Gates twice on his body protector with his crop and missed him on the third attempt. The applicant averred in his affidavit that the two then continued to ride until the end of the race. The first respondent, on the other hand, averred that the applicant stopped the riding and failed to finish the race.

[5] NHA arraigned both the applicant and Mr Gates before an inquiry for breaching the rules. The Board of Enquiry returned a verdict of not guilty in respect of some breaches and guilty in respect of the following rules<sup>1</sup>: Rule 62.2.2<sup>2</sup> read with Rule 62.2.3<sup>3</sup>; Rule 72.1.25<sup>4</sup> and Rule 72.1.26<sup>5</sup>. The sanction imposed in respect of the applicant was a fine of R 200 000.00 of which R 100 000.00 was suspended for a period of two years provided he is not found guilty of contravention of the above rules and suspension from riding in races for a period of 90 days, of which 60 days were suspended on condition that the applicant is not found guilty of contravening the above rule for a period of years.

[6] Mr Gates was found guilty of contravening Rule 62.2.4, and a sanction imposed was for a fine of R 10,000.00, of which R 5000.00 was suspended for two years, provided that he is not found guilty of contravening Rule 62.2.4.

[7] The applicant lodged an appeal, which confirmed the findings of the board of inquiry and dismissed the appeal on 8 September 2025. In the premises, the applicant started serving his 30-day suspension on 12 September 2025.

[8] The applicant was aggrieved by the outcome and launched an urgent application on 15 September 2025 with the relief set out in two parts. First, an order for an interim interdict suspending the implementation of the order of the Appeal Board dated 8 September 2025 pending the adjudication of Part B, for the review and setting aside of the decision of the

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<sup>1</sup> In light of the outcome described below, detailed reference to the provisions of the rules is unnecessary, and they are summarized in paragraph 76 and following of the respondent's heads of argument at CL054-56.

<sup>2</sup> Relates to the overarching duty to ride in a competent and professional manner.

<sup>3</sup> Targets the specific requirements of riding. That rider must ride his horse out to the end of the race.

<sup>4</sup> Release to general conduct on the race course property.

<sup>5</sup> Which concerns the safeguarding of horse racing as a whole.

Appeal Board. The applicant reserved the right to supplement or amend once the record of the proceedings is delivered to him.

### *Urgency*

[9] The applicant avers that the suspension would gravely prejudice his ability to earn income he would have generated if he were not on suspension. He will miss the opportunity to participate in both local and lucrative/prestigious international horse racing. Additionally, his family would suffer since riding is the only source of income.<sup>6</sup>

[10] The gripe that the claim is for a commercial purpose is unsustainable, as the court has decided in *Luna Meubel Vervaardigers EDMS Bpk v Makin and Another* 1977 (4) SA 135 (w) that even a claim of a commercially oriented nature may warrant the intervention of the urgent court. His livelihood, ability to conduct his trade, reputation, and financial harm are on the horizon.

[11] The respondent's gripe is the failure of the applicant to account for seven days during which he could have launched these proceedings. He failed to explain why he would not obtain redress in due course. The contention that he could not consult with counsel as he was out of the province cannot be a justification. He also claimed to have consulted with counsel on 12 September 2025, but issuing papers only on 15 September 2025 shows a lack of urgency on his part. This is despite the applicant's attorneys having notified the respondent on 8 September 2025 that urgent proceedings would be launched. In premises, the applicant created their own urgency as set out in *Chung-Fung Pty Ltd and Another v Mayfair Residents Association and Others*,<sup>7</sup> where the court emphasised that a litigant cannot take a supine posture and wait for the last minute to approach the court.

[12] The *dies* afforded to the respondent was very short, being required to file an answering affidavit within 24 hours. In any event, the horse has bolted as the applicant has already served 19 days of the suspension, the respondent argued.

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<sup>6</sup> Para 73.5 at 001-36.

<sup>7</sup> (2023/080436) [2023] ZAGPJHC 1162 (13 October 2023). See also *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* (11/33767) [2011] ZAGPJHC 196 (23 September 2011).

[13] The respondent further argued that the applicant contends that the basis for urgently seeking the relief is that he would lose money. He has, however, failed to provide any supporting documents to take the court into his confidence, including his failure to disclose that he is receiving an additional sum of R 20,000.00 elsewhere. According to the respondent, the records indicate an income of R 80 000.00 over a period of 7 months, and the monthly liability to the tune of R 275 000.00 is therefore unsustainable.

[14] In addition, the respondents submit that the applicant fails to address the prejudice to be suffered if the interim interdict is not granted, prejudice to the respondents if it is granted, and the prejudice to other parties who had to queue for the normal roll. The requirements for urgency were not dealt with by setting out clearly the circumstances why the application is urgent, and also the basis why the applicant believes that he would not obtain substantial redress in the long run. The attempt by the applicant to add further facts in the reply cannot be sanctioned by the court, and the applicant is required to reply in his founding papers.

*Legal principle and analysis*

[15] The test for urgent applications is now trite in our law. Rule 6(12)(b) of the Uniform rules stipulates: “In every affidavit filed in support of any application under paragraph (a) of this subrule, the applicant shall set forth explicitly the circumstances which it is averred render the matter urgent and the reasons why the applicant claims that applicant could not be afforded substantial redress at a hearing in due course.”

[16] In addition, the Constitutional Court in the *New Nation Movement NPC*<sup>8</sup> affirmed that: ‘In assessing whether an application is urgent, this Court has in the past considered various factors, including, among others: (a) the consequence of the relief not being granted; (b) whether the relief would become irrelevant if it is not immediately granted; (c) whether the urgency was self-created.’ (Footnotes omitted).

[17] In respect of delays, the *locus classicus* in urgent matters is *East Rock Trading*,<sup>9</sup> where it was stated that if there was a delay, then the applicant must :

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<sup>8</sup> *New Nation Movement NPC & Others v President of the Republic of South Africa & others* (CCT110/19) [2020] ZACC 11;2020 (8) BCLR 950 (CC); 2020 (6) SA 257 (CC) (11 June 2020).

<sup>9</sup> *Id*, note 7 at para 9.

“... explain the reasons for the delay and why, despite the delay, he claims that he cannot be afforded substantial redress at a hearing in due course. I must also mention that the fact that the Applicant wants to have the matter resolved urgently does not render the matter urgent. The correct and crucial test is whether, if the matter were to follow its normal course as laid down by the rules, an Applicant will be afforded substantial redress. If he cannot be afforded substantial redress at a hearing in due course, then the matter qualifies to be enrolled and heard as an urgent application. If, however, despite the anxiety of an Applicant, he can be afforded a substantial redress in an application in due course, the application does not qualify to be enrolled and heard as an urgent application.”

### *Analysis*

[18] The applicant attempts to account for the period between 8 and 15 September 2025 is very thin and lends credence to what the respondent identifies as self-created urgency. There is no indication as to why the applicant had to engage an advocate who was not available to attend to his matter for the requisite haste. That notwithstanding, it does not appear *ex facie* the papers as to why the applicant found it imperative to wait for the specific advocate to attend to his matter; the application does not appear to require a legal practitioner with any specialised expertise.

[19] It is noted that previously, attorneys were not able to pursue matters in the high court, and this is no longer the position. The applicant’s attorney notified the respondent of his instruction on 8 September 2025 to launch urgent review proceedings. It would be safe to assume that the attorney assessed the instruction and concluded that the applicant’s case has merit. The applicant fails to advance reasons why the attorney was disabled from executing the instruction. Noting that the applicant would have been able to supplement or amend his founding papers after receiving the records, there would have been an opportunity for the identified advocate to review and add to the papers, subject to proper motivation.

[20] On the basis of the foregoing, I am not persuaded that the delay is excusable.

[21] The second leg for urgency motivation is for the court to consider reasons advanced to justify that the applicant would not be afforded a substantial redress at the hearing in due

course. The reasons advanced are commercial in nature, and the applicant has correctly argued that the respondent's stance that it is archaic to argue that a claim which is commercial in nature cannot be the basis to approach an urgent court. In this regard, the applicant contended that his livelihood, his ability to participate in trade of his choice as envisaged in section 22 of the Constitution, his reputation, and financial harm are on the horizon.

[22] Regrettably, his wherewithal to demonstrate the financial harm was thwarted by his failure to take the court into his confidence or to provide a detailed and comprehensive presentation of his finances and how they would be impacted. The applicant testified before the inquiry that his monthly expenses were R 110 000.00, and before this court, he stated that it is R 257 000.00. Both versions cannot be correct, and the replying affidavit failed to provide proper clarity in this regard.

[23] The respondent provided a record of the estimated earnings of the applicant, to be in the region of R 80,000.00 over a period of 7 months. This works out to almost R 10 000.00 per month. If the applicant's monthly expenses are R 110 000.00 or R 257 000.00 per month, then it follows that with an estimate of R 10 000.00 per month, the applicant does not have horse racing as his primary source of income. There is a hiatus in the replying affidavit to properly dispel this inference. The motivation for any negative impact on his finances is therefore found wanting. The intermittent participation in the racing also lends credence to the contention that horse racing is not his primary source of income.

### *Conclusion*

[24] The applicant has failed to marshal a persuasive case to warrant an order to condone non-compliance with the rules and directives of the court, and his application is bound to fail.

### *Costs*

[25] The general principle that the costs follow the result brooks no interrogation.

### *Order*

[26] In the premises, I make the following order.

*The application is struck off the roll for lack of urgency, with costs including the costs of counsel on Scale B.*

  
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**M V NOKO**  
Judge of the High Court

DISCLAIMER: This judgment was prepared and authored by Judge Noko and is handed down electronically by circulation to the Parties /their legal representatives by email and by uploading it to the electronic file of this matter on Case Lines. The date for hand-down is deemed to be 9 **October 2025**.

*Dates*

Hearing: 25 September 2025

Judgment: 9 October 2025.

*Appearances*

For the Applicant: Savvas B. J, instructed by Witz Inc Attorneys.

For the Respondent: G Nel C, SC, instructed by Norton Rose  
Fullbright.