

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 054285/2024

DATE: 2025-10-29

DELETE WHICHEVER IS NOT APPLICABLE  
(1) REPORTABLE: NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED



SIGNATURE

DATE: 29 October 2025

In the matter between

KRUGERSDORP SPIRITUAL CHURCH

Applicant

and

STEWART MCNAB

Respondent

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**J U D G M E N T *EX TEMPORE***

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**WILSON J:** This is an application for an extraordinary range of relief which can be categorised as follows. First, there is the relief in paragraph 1 of the notice of motion in which the respondent, Mr McNab, is directed to return various documents and other material said to have come into his possession when he was an officer of the applicant, the Krugersdorp Spiritualist Church.

Paragraph 2 is, with the exception of paragraph 2.6, an order that directs Mr McNab to curtail his expressive or associational conduct. Paragraph 2.6 is an order

restraining Mr. McNab from threatening, harassing or intimidating the applicant.

The problem with the relief claimed in paragraph 1 is that there is not one shred of evidence on the founding papers that Mr McNab is in possession of any of the documents I am asked to direct that he returns. Nor is there any factual or legal basis laid for the proposition that he is under an obligation to do so. He may have the documents. He may be under an obligation to return them. The problem is that the deponent to the founding affidavit does not say so. For that reason, I cannot grant any of the relief in paragraph 1.

Paragraph 2, insofar as it seeks to restrain Mr McNab's associational or expressive conduct, is not competent at law. A case must be made out that a prior restraint on expressive or associational conduct is necessary on the facts before me, and that a damages claim brought in due course will not be sufficient to vindicate the applicant's rights. No such case is made out in the founding affidavit, and so a prior restraint cannot be granted.

Paragraph 2.6 cannot be granted because the underlying conduct said to constitute threatening, intimidating, harassing, or victimising behaviour is not specified in the founding affidavit.

In the circumstances, the application must be dismissed. It is, of course, open to the applicant to bring a fresh application alleging specific conduct which it would be lawful to restrain Mr McNab from carrying out. But this is not that application.

I make the following order:

- [1] The application is dismissed.
- [2] Each party will pay their own costs.

A handwritten signature in black ink, appearing to read 'Wilson J', is written over a solid black rectangular redaction box.

**WILSON J**  
**JUDGE OF THE HIGH COURT**  
**29 October 2025**