



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case number no: CC21/2016

In the matter between:

ALAN ROBERT RAVES

Applicant

and

IRSHAD LAHER

First Respondent

THE STATE

Second Respondent

Heard : 16 February 2026

Delivered : 17 February 2026

Summary: Recusal -There is a high threshold for displacing the presumption of judicial impartiality. Mere irritation or impatience with counsel's or an accused conduct is generally insufficient to justify recusal. - Court is tasked with the management of the proceedings before it. It is therefore the court's inherent duty to oversee the proper conduct and orderly administration of the trial proceedings. - At times that may entail robust judicial management.

ORDER

The application for the recusal is dismissed.

JUDGMENT

Nziweni, J

Introduction

[1] This Court is currently seized with an opposed interlocutory application for the recusal of this Court. Importantly, however, the matter was set down for the commencement of the trial. The application is brought by or on behalf of Mr Raves [accused 2].

[2] Messrs Arshad Laher and Alan Raves ("the applicants") stand indicted on various charges. For the purposes of determining this application, I consider it superfluous to recite the specific charges preferred by the second respondent against the applicant and Mr Laher.

[3] The comprehensive procedural history of this matter is sufficiently detailed in the chronology provided by Mr Hodes SC, representing Mr Laher. As such, I am not going to fully recount it [the procedural history of this matter]. Save, to mention but a few highlights of the postponements.

[4] On 04 November 2016, the matter appeared for the first time in the High Court.

[5] The matter was then on the pre-trial roll from 10 February 2017 to 20 August 2022. On 20 August 2022, the matter was declared trial ready and postponed for trial to 03 October 2022. On 03 October 2022, the trial could not proceed and was postponed to 24 July 2023. On 24 July 2023, the trial was postponed to 7 October 2024. On 7 October 2024, the trial was postponed for pre-trial conference to 5 November 2024. On 05 November 2024, the matter was postponed for the commencement of the trial before this Court, with the proceedings scheduled to resume on 13 October 2025.

[6] On 13 October 2025, Mr Barclay – Beuthin appeared on behalf of the applicant to move for an adjournment of the trial. The Court was advised that the applicant's attorney was unable to confirm Ms Kilian SC's brief or mandate, resulting in the applicant being without legal representation to proceed. Furthermore, it was submitted that the applicant's counsel was indisposed due to medical reasons; however, the details regarding the further availability of the applicant's erstwhile counsel remained patently ambiguous.

[7] In a similar vein, the communication regarding the applicant's erstwhile counsel lacked the requisite clarity necessary to establish whether she was still on record and when she would be able to attend Court. Mr Barclay – Beuthin made it abundantly clear that his mandate was strictly limited to moving an application for postponement, and that he held no further instructions in the matter.

[8] While the State and Mr Laher [Accused 1] formally placed on record their readiness to proceed, it became clear that a postponement was unavoidable. This was the case despite the patent deficiencies in the merits of the applicant's application for a remand. Consequently, I directed that the matter be postponed to the current term, rather than the third term as proposed by Mr Holdes SC. I further advised the applicant, Mr Barclay – Beuthin and Mr Laher, that, should their preferred counsel be unavailable for this term, an alternative counsel must be instructed, failing which they would be required to conduct their own defence.

[9] The applicant's representative for the day, provided an undertaking that the applicant would manage his affairs accordingly. The matter was subsequently adjourned until 16 February 2026 for the commencement of the trial. As previously mentioned, the applicant has since launched an application seeking the recusal of this Court.

[10] On 16 February 2026, Mr Morland, representing the applicant, placed on record his instructions to move both a recusal application and a postponement of the trial. While the applicant's founding affidavit clearly indicates a desire for the matter to be remanded, he submitted that it is incompetent to expect him to argue the postponement before a Court whose impartiality he has formally challenged.

Grounds for recusal

[11] In his founding affidavit, the applicant avers that the present application is brought bona fide and in the interests of justice, having particular regard to his fundamental right to a fair trial.

[12] According to the applicant, this is the case because:

1. The manner in which the last appearance was dealt with by this Court;
and
2. The further correspondence subsequently sent by this Court.

[13] The applicant further contends that, where a legal representative is in default, an accused person is entitled to a postponement as of right. He expresses concern regarding my observation that this matter is delayed and currently the oldest on the Division's roll, asserting that he has no knowledge as to the source of this information. Consequently, the applicant submits that it is irresistible to conclude that this Court's primary objective is the expeditious commencement and finalisation of the trial for the purpose of clearing the roll, rather than ensuring his constitutional right to a fair trial.

[14] The applicant further submits that the Court was obligated to conduct an enquiry into any unreasonable delay in the proceedings, as mandated by Section 342A of the Criminal Procedure Act, Act 51 of 1977 ("CPA"). The argument proceeds that, had such an enquiry been undertaken, it would have become apparent that the "protracted nature" of this matter was not attributable to the applicant's conduct, but rather the State.

[15] The applicant further states that, he is of the view that this Court did not act with abundant caution and that it appeared to him to be hostile, disinterested to understand the history of the matter and it was not inclined to provide him with meaningful opportunity to defend himself. According to him, this Court's ruling was problematic, as it is not consistent with precedent.

[16] The applicant further asserts that, the most prejudicial ruling was that if he does not procure counsel for these proceedings he would be forced to proceed without

representation. It is the applicant's view that the necessary corollary of this, is that this Court has already predetermined that he would not be granted a postponement. And this was confirmed by follow up correspondence from the chambers of this Court.

Evaluation

Did my conduct manifest a deep-seated antagonism of such a nature as to render impartial adjudication impossible?

[17] The legal framework governing recusal is underpinned by well-established principles consistently articulated by our Courts. Consequently, the jurisprudence on this subject is settled and provides clear guidance for the determination of such applications.

[18] If I correctly apprehend the applicant's contentions, he suggests a reasonable apprehension that this Court would not adjudicate his intended application for a postponement fairly. If then that is the case, it follows then that this Court's impartiality has been called into question. The pertinent issue for determination, therefore, is whether the applicant has established a factual and legal basis for this Court's recusal, or whether there exists a genuine doubt regarding this Court's objectivity.

[19] Primarily, it is of paramount importance to record that this Court did not refuse the applicant's request to postpone the commencement of the trial that was scheduled for 13 October 2025. As previously mentioned, it is evident that the motion for recusal is predicated upon the rulings issued during the preceding proceedings [13 October 2025] and the correspondence directed by the Court to the parties.

[20] At times, the judicial management of a matter necessitates a firm hand to ensure the orderly and expeditious conduct of the trial. Such firmness, exercised in the interest of the administration of justice, does not in itself manifest or justify a reasonable apprehension of bias.

[21] It is also significant not to forget that this Court is tasked with the management of the proceedings before it. It is therefore this Court's inherent duty to oversee the

proper conduct and orderly administration of the trial proceedings. At times that may entail robust judicial management. It is not uncommon for a presiding officer, in the exercise of their inherent power to regulate the Court's process, to reprimand or warn counsel and or the accused person or a witness; as may be necessary for the orderly conduct of the matter.

[22] Surely, if the Court had a closed mind attitude, I would not have granted the postponement in the first place.

[23] There is a high threshold for displacing the presumption of judicial impartiality. Mere irritation or impatience with counsel's or an accused conduct, is generally insufficient to justify recusal.

[24] Surely, no adverse inference can be drawn from my observation that this matter remains the oldest on the Division's roll; this is a neutral, objective administrative fact. This is especially true given that the requested postponement was ultimately granted notwithstanding the fact that there were no sufficient details given for the absence of the applicant's erstwhile counsel.

[25] The imperative to finalise a matter expeditiously is not determined solely by the attribution of blame for historical delays, but by the procedural lifespan and age of the litigation. The age of this matter calls for its expeditious finalisation. As such, it is the duty of the Court to prevent further delays.

[26] Furthermore, it is entirely appropriate for this Court to mandate that substantive issues be ventilated in open Court rather than through informal or private correspondence. Such a directive is particularly necessary where the Court seeks to ensure the expeditious finalisation of the matter and to prevent the delays inherent in 'litigation by correspondence'.

[27] In *S v Basson* 2007 (1) SACR 566 (CC) the Constitutional Court stated:

"a judge may at times make remarks that are inappropriate or display irritation towards counsel. At times such interventions may arise from attempts at humour. In considering the question of

whether such remarks give rise to a reasonable apprehension of bias, a Court should not hold a judge to an ideal standard which would be difficult to achieve. Moreover, a Court considering a claim of bias must take into account the presumption of impartiality, mentioned by this Court in SARFU. To establish bias, therefore, a complainant would have to show that the remarks were of such a number or quality as to go beyond any suggestion of mere irritation by the judge caused by a long trial, and establish a pattern of conduct sufficient to dislodge the presumption of impartiality and replace it with a reasonable apprehension of bias."

[28] In the case of *Take & Save Trading CC and Others v The Standard Bank of SA Ltd* (21/2003) [2004] ZASCA 1; 2004 (4) SA 1 (SCA); [2004] 1 All SA 597 (SCA) (27 February 2004), the following was stated:

"The circumstances of the litigant complaining of the conduct of the Judge during the trial itself, differ materially from those of one who relies on outside factors which he cannot judge on the strength of personal observation – factors.

And this is not surprising, since the ordinary way of meeting any apparent bias shown by the Court in its conduct of the proceedings would be by challenging his eventual decision in an appeal or review. Bias, as it is used in this connection, is something quite different from a state of inclination towards one side in the litigation caused by the evidence and the argument, and it is difficult to suppose that any lawyer could believe that recusal might be based upon a mere indication, before the pronouncement of judgment, that the Court thinks that at that stage one or the other party has the better prospects of success."

[29] While the duty to investigate is peremptory in terms of Section 342A of CPA, the law does not always require a formal hearing or a formal finding to simply grant a postponement. If a presiding officer simply enquires into the reasons for the delay and determines that a postponement is necessary to avoid an injustice, that typically should suffice.

Conclusion

[30] At most, my conduct may be characterised as robust judicial management or a firm hand in the administration of the trial; however, such actions fall far short of the threshold required to establish a reasonable apprehension of bias.

[31] Consequently, I am not satisfied that the applicant has made out a case for this Court's recusal. As a result, I make the following order:

31.1 The application for the recusal is dismissed.

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C. N NZIWENI, J

JUDGE OF THE HIGH COURT

Appearances:

Counsel for the Applicant	:	Advocate L Morland
Instructed by	:	BDB Attorneys Ms B de Beer
Counsel for the First Respondent	:	Advocate L Hodes SC Advocate R Mckerman
Instructed by	:	Hendricks Harmse Attorneys Mr B Hendricks
Counsel for the Second Respondent	:	Advocate N Breyl Advocate SH Rubin