



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: 3678/2025

In the matter between

ERNEST CHAMBISSO

APPLICANT

and

ADV AMANDA BESTER

FIRST RESPONDENT

LYNDA STYNE

SECOND RESPONDENT

DAWIE REYNEKE

THIRD RESPONDENT

SOUTH AFRICAN POLICE SERVICE

FOURTH RESPONDENT

Neutral citation: *Chambisso v Bester and Others* (3678/2025) [2026] ZAFSHC 58
(18 February 2026)

Coram: MHLAMBI J

Heard: 16 OCTOBER 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 9h30 on 18 February 2026.

Summary: Legal practice – professional misconduct – finality of decisions by the Legal Practice Counsel – a party dissatisfied with an LPC finding should bring a review against the LPC rather than re-litigating the same misconduct complaint against the practitioner in court.

ORDER

The application is dismissed with costs

JUDGMENT

Mhlambi J

[1] In this application, the applicant sought an order in the following terms:

- '1. Declaration of Prosecutorial, Investigative, Legal, and Law Enforcement Misconduct. Recognition of procedural irregularities, constitutional violations, and improper conduct committed by the Respondents.
2. Access to Legal Documents o Compelling the National Prosecuting Authority (NPA) and SAPS to disclose full records, including Police Docket No.: 346/11/18, arrest records, trial proceedings, prosecution files, forensic evidence, and investigation records.
3. Award of Legal Costs. Ordering the Respondents to bear the costs of this application.
4. Further and Alternative Relief. Granting any further relief, the Honourable Court deems just and equitable.'

[2] According to the notice of motion, the application is based on s 32 of the Constitution of the Republic of South Africa, the Promotion of Access to Information Act 2 of 2000 (PAIA), the Criminal Procedure Act 51 of 1977 (CPA) and the Prevention and Combating of Corrupt Activities Act 12 of 2000.

[3] The founding affidavit shows that the first respondent is a prosecutor linked to the National Prosecuting Authority. The second respondent is an investigator assigned to the Directorate for Priority Crime Investigation (Hawks), stationed in Bloemfontein. The third respondent is a legal practitioner with Legal Aid South Africa, with offices at 113 St Andrew Street, Bloemfontein. The fourth respondent is the South African Police Service (SAPS) with offices located at 83 Jan Hofmeyer Rd., Welkom, Free State. The allegations against the first through third respondents are, in brief, non-compliance with applicable legislation governing their respective professions and the fourth respondent's failure to provide certain documents.

[4] The first, third, and fourth respondents opposed the application. The first respondent stated in her answering affidavit that she was employed by the National Prosecuting Authority as a senior state advocate in the Office of the Director of Public Prosecutions, Free State Division. She prosecuted the applicant and two others in the matter; the applicant was the second accused and was represented by Mr. D. Reyneke, the third respondent, an experienced lawyer with Legal Aid South Africa.

[5] The third respondent was provided with copies of the police docket while the defense was not entitled to Part C of the docket and, at no stage was there a request for access to Part C. The applicant and his co-accused were convicted on 8 February 2021 of robbery with aggravating circumstances, in accordance with the provisions of s 1 of the CPA and s 52 of the Criminal Law Amendment Act 105 of 1997 (CLAA), and murder in accordance with the provisions of s 51(1) of the CLAA. They were sentenced to 15 years' imprisonment and life imprisonment.

[6] On 22 September 2022, Legal Aid South Africa filed an application for leave to appeal on the applicant's behalf with the Supreme Court of Appeal, which was dismissed on 17 November 2022. Subsequently, the Constitutional Court was approached and on 3 November 2023, it considered the applicant's application for condonation and leave to appeal. It found the explanation for the delay adequate, granted condonation, but refused leave to appeal for lack of reasonable prospects of success.

[7] On 22 October 2024, the Constitutional Court again granted the applicant condonation for the late filing of the application to rescind the judgment. However, the rescission was refused because no case had been made out. For its part, the first respondent submitted that the application should be dismissed because the Director of Public Prosecutions is not the custodian of the police docket or the trial court's records. The third respondent, in turn, stated in his answering affidavit that the applicant sought the following relief against him: a declaration of prosecutorial, investigative, legal, and law enforcement misconduct, and recognition of procedural irregularities, constitutional violations, and improper conduct committed by the respondents. He was of the view, having considered the allegations contained in the founding affidavit, that the complaint against him was about misconduct.

[8] The applicant had laid misconduct complaints against him with the Legal Practice Council (LPC), based on the same allegations as in the present matter. Its Investigative Committee dismissed the complaint after a meeting held on 10 October 2023. On 27 August 2024, the LPC informed the applicant that his appeal against the Investigative Committee's finding had been dismissed. According to the third respondent, the applicant was unlawfully and irregularly attempting to appeal and overturn the LPC's dismissal of his misconduct complaint, and as such, the relief sought by him was legally incompetent.

[9] The third respondent maintained that the application constituted an abuse of court process and was liable to be dismissed with punitive costs. It also constituted emotional abuse and harassment against him. He was constantly required to defend himself against the same allegations, which had been proven to be untrue by the relevant competent authority, the LPC. The application should be dismissed with costs on an attorney-and-client scale, and the applicant should be barred from instituting legal proceedings against him on similar allegations until he has paid the aforesaid cost order.

[10] In brief, the fourth respondent's grounds for opposition are that the applicant is not entitled to the requested records under PAIA because this application was brought, or that he failed to meet the requirements for, requesting access to the records under s 18(1) of PAIA. His legal representatives were provided with the requested documentation of the docket during the criminal trial, except for Part C, with reference to the docket contents on which the prosecution relied. The fourth respondent was not the custodian of the trial proceeding records or the prosecution files. Such being the case, it is the contention of the fourth respondent that the applicant failed to make a case for any of the relief sought, as his founding affidavit did not contain sufficient averments or substantiating evidence.

[11] The applicant, on the other hand, contended that his heads of argument supported his application for judicial review and constitutional redress. The conviction and sentence in case number 01/2020 were obtained through unlawful conduct, procedural irregularities and systemic violations of rights enshrined in the Constitution, which came into effect in 1996. As such, the first respondent's conduct was not merely irregular and unconstitutional. Rather, the court was urged to declare the actions

unlawful and to refer the matter to the National Prosecuting Authority for disciplinary review. It was the applicant's view that the third respondent's conduct warranted a disciplinary review by the LPC and a court declaration of professional misconduct. SAPS, through its officers and institutional failures, enabled a miscarriage of justice. The court was requested to order full disclosure, refer the matter to IPID, and issue a declaratory order affirming SAPS' constitutional breach.

[12] All the respondents agree that the application is vague and unsubstantiated, lacks merit, and is an abuse of the court process. The first respondent contended that, on the evidence available in this application, the applicant had a fair trial in his criminal proceedings. He has pursued every avenue imaginable to have his case reconsidered, without success, and blames everyone else for the failure.

[13] In particular, the third respondent contends that the applicant fails to set out any facts and evidence in support of his course of action and the prayers he seeks, and, as such, the prayers were incompetent and cannot be granted. He pointed out that every application shall be brought on notice of motion, supported by an affidavit as to the facts upon which the applicant relies for relief. The necessary allegations upon which the applicant relies do not appear in the founding affidavit. In addition, the applicant should not be permitted to supplement his founding affidavit by raising new grounds in the replying affidavit, as he tried to do.

[14] In addition, the third respondent contended that, according to case law, a proper interpretation of s 44(2) of the Legal Practice Act 28 of 2014 is that only the LPC and professional bodies may bring misconduct complaints against legal practitioners directly to the courts, not individuals such as the applicant. Where an applicant has lodged a complaint with the LPC and is dissatisfied with the outcome or the manner in which the LPC handled the complaint, that complainant may bring a review or any other application against the LPC, rather than lodging the same complaint in court against the legal practitioner that was considered and dismissed by the LPC.

[15] The fourth respondent criticized the new information and documentation in the applicant's replying affidavit, as well as the incompetent relief sought in the non-meritorious application. In addition, the founding affidavit was unsupported by any evidence and lacked the necessary elements to entitle the applicant to the relief sought.

It was difficult to plead to the founding affidavit because it was confusing. Furthermore, the applicant failed to comply with the provisions of PAIA when he sought access to an array of records under that Act.

[16] Having considered the above, it is evident that this application is wholly inappropriate, lacks substance, and should be dismissed. The applicant has failed, dismally so, to satisfy the requirements for the relief sought in the notice of motion. The applicant is not permitted to bring the same misconduct complained of before this Court against the third respondent under s 44 of the Legal Practice Act, which was initially brought and dismissed by the LPC.

[17] The applicant contended in his heads of argument that he appeared before the court not as a victim but as a citizen invoking the highest law of the land. He was arrested without a warrant, prosecuted without disclosure, defended without counsel, and sentenced without due process. Each respondent, whether prosecutor, investigator, legal practitioner, or institution, played a role in dismantling the procedural safeguards that protect every South African. Having considered the long journey this case has traversed, it is evident that there is no substance to the allegations.

[18] The first respondent has not sought costs. The third respondent seeks costs on an attorney-client scale while the fourth respondent acknowledges that the applicant is a layperson and an inmate but maintains that the applicant appears disingenuous and that his conduct warrants a cost order.

Order

[18] In the circumstances, I make the following order:

1 The application is dismissed with costs on a party-and-party scale.

2 The applicant shall not lodge the same misconduct complained of with this court against the third respondent under section 44 of the Legal Practice Act of 2014, which was initially launched and dismissed by the Legal Practice Council until the costs awarded against him in this matter has been settled.

J J MHLAMBI
JUDGE OF THE HIGH COURT

Heads prepared by

For the applicant: In person

For the first respondent: CE Cawood

Instructed by: Office of the Director of Public Prosecutions
Bloemfontein

For the third respondent: A Nobetsu

Instructed by: Legal Aid South Africa

For the fourth respondent: F Bester

Instructed by: State Attorney