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IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO DIVISION, POLOKWANE

CASE NO: 9187/2022

- (1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED: YES/NO

16/04/2026
Date

Signature

In the matter between:

B[...] **S[...]**

APPLICANT

AND

I[...] **S[...]**

RESPONDENT

DELIVERED:

16 APRIL 2026

This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand down of the judgment is deemed to be 16 April 2026 at 10:00 A.M.

Date heard: 14 APRIL 2026

Coram: NGOBENI J

JUDGMENT

NGOBENI J

[1] This matter came before court as an urgent unopposed application on 14 April 2026. The applicant alleges that the respondent violated the court order granted on 18 July 2023. The summary of the prayers by the applicant, on Part A of the application, is that the respondent must be committed to prison for a period of twelve months, or such period as the court would deem just. The alternative prayer is that the twelve months suggested must be suspended for a period of one year upon compliance with the said court order.

[2] There is no notice of intention to oppose this application, but Advocate Botes appeared in court on behalf of the respondent, and at that time it was brought to the attention of the court that the respondent has filed heads of argument. The submission by Mr. Grobler, representing the

applicant (applicant), was that the matter remained unopposed because there are no papers filed to show that the application is opposed.

[3] The submission by the legal representative of the respondent (respondent) was that the notice of motion was not served on the respondent, and no return of service could be produced by the applicant because the notice of motion was delivered to the offices of the attorneys representing the respondent. The response by the applicant is that the notice of motion was served on the attorneys of record of the respondent, who are representing the respondent in the divorce matter.

[4] Rule 4(1)(aA) of the Uniform Rules of Court (Rule/s) states that where the person to be served with any document initiating application proceedings is already represented by an attorney of record, such document may be served upon such attorney by the party initiating such proceedings. The fact that the respondent was represented in court and her heads of argument were uploaded or filed is an indication that the notice of motion was brought to her attention. The submission by her legal representative, for failure to file opposing papers is that she is sick.

[5] Rule 27(3) empowers the court to condone any non-compliance on good cause shown. The nature of the application that is before court if granted, may result in the incarceration of the respondent. It is for that reason

that the court will exercise its discretion and grant the respondent an opportunity to file her opposing papers on terms.

[6] In the result the following order is made:

- (i) the application is removed from the roll,
- (ii) the respondent is granted leave to file its opposing papers on or before 20 April 2026,
- (iii) costs are reserved.

J.T. NGOBENI
JUDGE OF THE HIGH COURT

Appearances

For the Applicant	: Mr. J.T. Grobler
Instructed by	: Thomas Grobler Attorneys
E-mail	: info@tgprok.co.za
For the Respondent	: Adv. F.W. Botes SC
Instructed by	: Kampherbeek Twine & Pogrand Attorneys
E-mail	: ktp16@ktpsa.co.za
Date of the hearing	: 14 April 2026
Date of judgment	: 16 April 2026