THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Reportable

Case no: 082/2025

In the matter between:

LEBOHANG MICHAEL SONDHLANE **APPLICANT**

and

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL **RESPONDENT**

Neutral citation: *Sondhlane v The South African Legal Practice Council* (082/2025) [2025] ZASCA 78 (25 May 2026)

Coram: SCHIPPERS, KATHREE-SETILOANE and UNTERHALTER JJA, KUBUSHI and CLOETE AJJA

Heard: 24 November 2025

Delivered: 25 May 2026

Summary: Superior Courts Act 10 of 2013 – appeal against order in terms of s 18(3) – order striking attorney from roll of practitioners – not suspended pending appeal – application to adduce evidence on appeal – attorney continuing practice

despite being struck from roll – evidence material – exceptional circumstances shown for admission – inordinate delay in filing notice of appeal – long periods of delay unexplained – no prospect of success – not in interests of justice to grant condonation.

ORDER

On appeal from: Free State Division of the High Court, Bloemfontein (Chesiwe and Opperman JJ sitting as court of first instance):

1 Condonation is refused. The applicant shall pay the respondent's costs incurred on an attorney-and-client scale, with effect from 20 February 2025.

2 The applicant's attorneys shall pay the costs of the preparation of the record filed in this Court, *de bonis propriis*.

JUDGMENT

Kathree-Setiloane JA (Schippers and Unterhalter JJA, Kubushi and Cloete AJJA concurring):

[1] Mr Lebohang Michael Sondhlane (the applicant) practised as an attorney under the name and style of LM Mokhele Attorneys Incorporated until 23 November 2022, when he was suspended from practice. On 7 September 2023, the South African Legal Practice Council (the LPC), a regulatory body established in terms of s 4 of the Legal Practice Act 28 of 2014 (the Act), applied to the Free State Division of the High Court, Bloemfontein (the high court), to strike the applicant's name from the roll of legal practitioners. On 8 January 2024, the high court (Van Zyl J and Vele AJ) granted this order, and directed him to immediately surrender his certificate of admission and enrolment as an attorney to the Registrar of that court (the striking-off order).

[2] As stated, the applicant practised under the name of LM Mokhele Attorneys. We were informed from the bar that after the striking-off order, he changed his surname to 'Sondhlane' and his practice name to LM Sondhlane Attorneys, trading as Sondhlane Attorneys. The inescapable inference to be drawn from the applicant's name change and that of his practice, is that he did this to continue practising as an attorney, despite the striking-off order.

Background

The Yawa Complaint

[3] Among the factors leading up to the striking-off application were, notably, two complaints filed against the applicant: the first by Mr Xolile Yawa (the Yawa complaint), and the other by Mrs Mathabo Emily Tau (the Tau complaint). On 30 August 2021, Mr Yawa lodged a complaint with the LPC against the applicant. Mr Yawa had instructed the applicant in December 2020 to represent him in a matter concerning a customary marriage and a deceased estate. The application was dismissed by the high court, as was the application for leave to appeal. The applicant, on instructions from Mr Yawa, undertook to file a petition for leave to appeal, either to this Court or to a full court of the high court. On 22 February 2021, he invoiced Mr Yawa in the amount of R165 000 ostensibly for petitioning this Court. The invoice was attached to an email from the applicant to Mr Yawa, which, inter alia, stated: 'we have also been advised that upon receipt of payment herein, a date [for hearing] will then be allocated accordingly…'.

[4] Mr Yawa found the fee charged to be exorbitant and negotiated a reduction with the applicant to R45 000. He paid this amount into the applicant's trust account on 26 February 2021. The applicant did not carry out Mr Yawa's instructions. On inquiring about the progress of the application for leave to appeal, the applicant

informed Mr Yawa that he was awaiting a hearing date from the court. In the belief that this Court had granted leave to appeal to a full court, Mr Yawa approached the registrar of the high court on 6 August 2021, to ascertain the reason for the delay in allocating a date for the hearing of the appeal. On being advised that no appeal on his behalf was pending in the high court, Mr Yawa then approached the registrar of this Court, who informed him that no petition for leave to appeal had been filed on his behalf in this Court.

[5] Mr Yawa lodged a complaint with the LPC, which it sent to the applicant for his response. The applicant failed to respond. The complaint was then placed before the LPC's Investigation Committee (the Investigation Committee) for investigation. It uncovered that after Mr Yawa had paid the amount of R45 000 into the applicant's trust account that reflected a balance of R86 038.11. However, on 27 February 2021, an amount of R69 500 was transferred from the trust account into the applicant's business account. The applicant's version was that he had paid the R45 000 over to a handwriting expert. This turned out to be a fabrication, as he failed to produce proof of the invoice that was issued to him by that expert, as well as proof of payment of the amount of R45 000 to him.

[6] The Investigation Committee found that there was prima facie evidence of misconduct against the applicant, including misappropriation of Mr Yawa's funds without carrying out his instructions. It recommended that the LPC initiate urgent legal proceedings in the high court to suspend the applicant from practice and that disciplinary proceedings be initiated against him.

[7] The LPC adopted these recommendations and launched an urgent application in the high court to suspend the applicant from practice, pending disciplinary

proceedings to be instituted against him (the first suspension application). The high court (Mathebula J and Mthimunye AJ) dismissed this application on the basis that the disciplinary proceedings against the applicant, in respect of the Yawa complaint and two others, had not been finalised. Despite dismissing the application, the high court made the following remarks concerning the applicant's conduct:

'[The LPC] has intimated misappropriation of funds on the basis that [the applicant] would make transfers from the trust to the business account without issuing a statement of account. [The applicant] when called upon to proffer an explanation shies away from the issues. He is less than candid with the [LPC] and this court. The irresistible conclusion is that there was such a trust shortfall.'[1]

[8] The high court also remarked that the applicant's attitude in dealing with the LPC was unacceptable. It observed:

'…Undoubtedly, the [LPC] is agitated by the flippant approach adopted by [the applicant] in their dealings with each other. It raises eyebrows and [the applicant] must be reined in to act in accordance with the prescripts of this noble profession. These matters must be brought to finality.'[2]

The high court accordingly ordered the LPC to finalise the disciplinary proceedings against the applicant.

[9] Dissatisfied with the outcome of the first suspension application, the LPC petitioned this Court for leave to appeal which was granted. In the interim, the applicant was suspended from practice as a precautionary measure in respect of the Tau complaint. This Court, therefore, struck the appeal from the roll for mootness. It observed as follows in relation to the conduct of the applicant and that of his legal representative:

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[1] *Legal Practice Council v Mokhele,* (3312/2022) [2022] ZAFSHC 241 (14 September 2022) para 19.
[2] Ibid para 26.

'Unfortunately, mention must be made of [the applicant's] conduct and that of his legal representative. [The applicant] did not file any heads of argument prior to the hearing of the matter in terms of the Rules of this Court. At the commencement of the hearing before this Court, counsel for the LPC informed the Court that heads of argument, together with an application for condonation, were served on behalf of [the applicant] the day before. [The applicant], however, did not make an appearance. About 30 minutes after the proceedings before this Court had started, a legal practitioner purporting to act for [the applicant] arrived at Court. He had no explanation for his lateness and the failure to file heads of argument, and clearly had no appreciation of the issues in the matter. He sought to make incomprehensible submissions and to make matters worse, proceeded to request that a costs order be granted against the LPC because the appeal was an abuse of the process of the court. Another serious allegation against [the applicant] was that the high court, in its judgment, referred to death threats that the complainants had received from [the applicant]. It also noted that he had been less than candid with the court. This conduct ill befits an officer of court and must be strongly deprecated.'[3]

[10] The LPC's Disciplinary Committee (the Disciplinary Committee) eventually completed the disciplinary hearing against the applicant in respect of the Yawa complaint. It found him guilty of misconduct and recommended that a striking-off application be launched by the LPC.

The Tau Complaint

[11] On 21 June 2022, Mrs Tau lodged a complaint with the LPC against the applicant. It related to his handling of matters pertaining to the deceased estate of her husband, the late Mr Lehlohonolo Winston Tau (the deceased). Mrs Tau alleged, inter alia, that: (a) the applicant had failed to furnish her with the estate's bank account statements on request; and (b) a payout of R1 000 000 from the deceased's life insurance policy that was paid into the estate account, was not reflected in the

[3] *South African Legal Practice Council v Mokhele* (1138/2022) [2023] ZASCA 177 (14 December 2023) para 10.

Liquidation and Distribution accounts which the applicant had lodged with the Master of the high court (the Master).

[12] The LPC sent the complaint to the applicant for his response. Again, he failed to respond. It then referred the complaint to the Investigation Committee, which concluded that the applicant had misappropriated trust monies. Between 13 September 2021 and 31 January 2022, he had made various transfers in excess of R1 million from the estate account – unrelated to the estate – without the Master's consent. The LPC recommended, inter alia, that urgent court proceedings be instituted to suspend him, and that the matter be referred to the Disciplinary Committee for disciplinary proceedings to be instituted against him.

[13] On 4 November 2022, the LPC launched an application against the applicant in the high court in which it sought an order suspending him from practice as an interim measure, pending the finalisation of disciplinary proceedings or, alternatively, pending an application to have him struck from the roll of legal practitioners (the second suspension application). On 23 November 2022, the high court (Reinders J and Boonzaaier AJ) granted a suspension order, in the form of a rule *nisi*, suspending the applicant from practice, pending an application to have his name struck from the roll of legal practitioners (the interim suspension order).[4]

[14] On 2 December 2022, the applicant lodged an application for leave to appeal the interim suspension order (in the form of a rule *nisi*) suspending him from practice. On 5 December 2022, the applicant's attorneys notified the LPC in writing that, by virtue of the application for leave to appeal, the operation of the interim

[4] *The South African Legal Practice Council v Mokhele*, Case No. 5511/2022, 23 November 2022, Free State Division of the High Court, Bloemfontein.

suspension order was suspended; that his office would start operating normally with immediate effect; and that the applicant would be carrying on with his normal duties and appearances in various courts.

[15] The LPC responded on 6 December 2022, inter alia, warning the applicant that his conduct would not be countenanced and that an order for contempt of the interim suspension order would be sought against him should he continue to contravene that order. The applicant responded in writing, on the same day, reiterating that he would continue practising as normal, because the application for leave to appeal had suspended the operation of the interim suspension order. Consonant with this stance, the applicant continued to practice and made various court appearances in the high court.

The contempt application

[16] Consequently, the LPC launched an urgent application to have the applicant declared to be in contempt of court (the contempt application). The contempt application came before the high court (Daffue J) on 6 March 2023. On 17 March 2023, the high court handed down judgment in which it found that the applicant '[had] no respect for the professional body to which he belong[ed]', and that he wilfully disobeyed a court order suspending him from practice.[5] It accordingly made an order declaring the applicant guilty of contempt of court, and imposed a sanction of a committal to imprisonment for a period of one month, which was suspended on condition that he immediately comply with the order.

[5] *South African Legal Practice Council v Mokhele* (5511/2022) [2023] ZAFSHC 80 (17 March 2023) paras 10-11.

Leave to appeal the interim suspension order and confirmation of the rule nisi

[17] The high court heard the application for leave to appeal the interim suspension order after the contempt order was granted. At the hearing of that application, on 24 March 2023, the applicant conceded that he could not fault the high court for granting that order. He also admitted the transfers which he had made out of the Tau estate account. Despite this, he argued that there were new circumstances that warranted the granting of leave to appeal. The new circumstances, according to the applicant, were that he had paid back the monies he had transferred out of the estate's banking account and that the prejudice to, or impoverishment of, Mrs Tau had been extinguished. On 27 March 2023, the high court ((Reinders J and Boonzaaier AJ) rejected this new version and refused the application for leave to appeal the interim suspension order. The rule nisi remained in place returnable on 20 April 2023.

[18] On the return day, the applicant advanced yet another version, arguing that the funds were erroneously transferred from the estate's account by one of his staff members into his business account. The high court (Mhlambi J and Berry AJ) found this version to be untruthful and dismissed it as a ploy to circumvent the effect of the interim suspension order. It, accordingly, confirmed the rule *nisi*.

The striking-off order

[19] The events referenced above constituted part of the uncontested evidence in the striking-off order and the sanction imposed. The high court observed in relation to the Yawa complaint that:

'[The applicant] handled the trust account the same way that a street-hawker deals with his customers, no paper trail. All we know is the funds were transferred into his business account, as early as the day after it was deposited into his trust account, with no work done, hence the full refunds. Another interesting point is how Mr Yawa was actually pressurized to pay the said amount.

He was informed that the funds were needed for the filing of his application at the Supreme Court of Appeal. It started as an invoice of R160 000.00 as a global figure, with no itemized billing, which ended in an amount of R45 000.00, which is just a quarter thereof, still without providing the itemized account.'[6]

In relation to the Tau complaint, the high court observed:

'[The applicant's] conduct was more than brazen, as he first attempted to conceal a deposit of R1000 000.00 by not reflecting it in the Liquidation and Distribution account. Surely, he intended embezzling the said funds to the detriment of the orphaned children and their mother, who had no means to take care of them. He started by transferring small amounts, as the time progressed the withdrawals increased to several hundreds of thousands of rands. All this was happening before the Liquidation and Distribution account was placed before the Master for authorization and without the consent of Mrs Tau, whose pleas for the funds to be released to maintain her children, were falling on deaf ears.'[7]

[20] The high court accordingly held that the applicant lacked accountability, honesty and integrity and that 'members of the public are to be protected from attorneys of his ilk. The fact that the complainants have been reimbursed, cannot in the circumstances of this matter serve as a mitigating factor'.[8] Consequently, the high court held that the only appropriate sanction was that the applicant should be struck from the roll of legal practitioners. On 2 February 2024, the applicant filed an application for leave to appeal the striking-off order. This application was filed out of time. It should have been filed by 29 January 2024.

The execution order

[21] On 9 February 2024, the LPC filed an application in terms of s 18(3) of the Superior Courts Act 10 of 2013 (the Superior Courts Act),[9] seeking an order that the

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[6] *South African Legal Practice Council v Mokhele* [2024] ZAFSHC 8; [2024] 2 All SA 272 (FB) para 35.
[7] Ibid para 37.
[8] Ibid para 59.
[9] Section 18 of the Superior Courts Act provides:

striking-off order should be put into effect, pending the applicant's application for leave to appeal that order. On 7 March 2024, the high court (Chesiwe and Opperman JJ), granted that order pending all the applicant's applications for leave to appeal and appeals (the execution order).

[22] The high court found that the LPC had shown exceptional circumstances, which warranted the grant of the execution order, as the applicant had demonstrated that he intended to resume practice. The court stated that he was a risk to members of the public, who would suffer irreparable harm unless the execution order was granted.[10] It held that the harm to the applicant did not outweigh the interests of the public, as he had shown that he had no intention of complying with previous court orders.

[23] Pursuant to his automatic right to appeal to this Court, in terms of s 18(4)*(a)*(ii) of the Superior Courts Act, the applicant filed a notice of appeal against the

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'18 Suspension of decision pending appeal

(1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.

(2) Subject to subsection (3), unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision that is an interlocutory order not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is not suspended pending the decision of the application or appeal.

(3) A court may only order otherwise as contemplated in subsection (1) or (2), if the party who applied to the court to order otherwise, in addition proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.

(4)(*a*) If a court orders otherwise, as contemplated in subsection (1)-

(i) the court must immediately record its reasons for doing so;

(ii) the aggrieved party has an automatic right of appeal to the next highest court;

(iii) the court hearing such an appeal must deal with it as a matter of extreme urgency; and

(iv) such order will be automatically suspended, pending the outcome of such appeal.

(*b*) **'Next highest court'**, for purposes of paragraph (*a*)(ii), means-

(i) a full court of that Division, if the appeal is against a decision of a single judge of the Division; or

(ii) the Supreme Court of Appeal, if the appeal is against a decision of two judges or the full court of the Division.

(5) For the purposes of subsections (1) and (2), a decision becomes the subject of an application for leave to appeal or of an appeal, as soon as an application for leave to appeal or a notice of appeal is lodge with the registrar in terms of the rules.'

[10] *The South African Legal Practice Council v Mokhele*, Case No. 2433/2023, 7 March 2023, Free State Division of the High Court, Bloemfontein.

execution order. It was filed approximately 11 months after the order was granted by the high court. The applicant has brought an application for condonation of the late filing of the notice of appeal.

Issues

[24] This appeal raises the following issues:

(a) Whether the LPC's application to adduce evidence on appeal concerning the appellant's continuation in practice and appearance in the high court despite the striking-off order, should be granted.

(b) Whether condonation should be granted for the late filing of the notice of appeal against the execution order, which was filed 11 months out of time.

(c) Whether the appeal is academic because the applicant's application for leave to appeal the striking-off order was filed out of time and that he has not sought condonation for the late filing of that application.

The application to adduce further evidence on appeal

[25] The LPC seeks an order that evidence concerning the applicant's disregard of the execution order by continuing to practise as an attorney, be adduced on appeal. After filing the notice of appeal against the execution order 11 months late, the applicant resumed practising as an attorney, and was (on his own admission), declared to be in contempt of court by the high court (Benade AJ) on 8 May 2025. The correspondence exchanged between the parties prior to the institution of the contempt application portrays the applicant's contemptuous conduct.

[26] On 6 February 2025, Ponoane Attorneys, the applicant's attorneys, filed a notice of appeal against the execution order on his behalf. On 19 February 2025, they informed the LPC in writing, inter alia, that: (a) due to the filing of the notice

of appeal in this Court, the execution order as well as the striking-off order were automatically suspended pending the finalisation of the appeal; (b) the applicant's status as a practising attorney was 'automatically reinstated by operation of law'; and (c) the applicant (previously Mr Mokhele) would be practising under the name and style of LM Sondhlane Attorneys trading as Sondhlane Attorneys.

[27] In the LPC's response, dated 20 February 2025, its attorneys pointed out that as a result of the applicant's omission to file a condonation application, the execution order remained in operation, and the applicant was not entitled to resume practice. The LPC's attorneys requested confirmation that the applicant would not engage in legal practice. The applicant's attorneys failed to respond. The LPC's attorneys then wrote another letter to the applicant's attorneys on 24 February 2025, in which they again sought confirmation that the applicant would desist from engaging in legal practice.

[28] In the interim, the LPC's attorneys received an e-mail from an attorney, Ms Miranda Tsuinyane of Tsuinyane Law Incorporated, dated 28 February 2025, drawing their attention to an e-mail of the same date that she had received from the applicant. In that e-mail, the applicant informed her that Sondhlane Attorneys had received instructions to act on behalf of her client, Mr John Matlakala, an accused in a criminal trial *(S v Mokhesi and 17 Others*) pending before the high court. The applicant requested Ms Tsuinyane to furnish him with the listed documents including the docket to enable him to prepare for trial. This was followed by an e-mail, dated 1 March 2025, in which the applicant confirmed that he held instructions to represent Mr Matlaka in *S v Mokhesi and Others,* and requested the same information from Ms Tsuinyane.

[29] On 3 March 2025, the applicant's attorneys responded to the LPC's letters of 20 and 24 February 2025, contending that the applicant was not in violation of the execution order as the notice of appeal had been filed. On 4 March 2025, the LPC's attorneys responded that the applicant's contention that he remained entitled to practise was unsustainable, and that the LPC would not issue him with a fidelity fund certificate.

[30] On 5 March 2025, the registrar to the Judge President of the high court sent an e-mail to the applicant, requesting him to confirm that he would be attending the pre-trial conference in the Matlakala case on 24 March 2025, which he did. The presiding judge, Mbhele AJP, refused to permit the applicant to represent Mr Matlakala at the pre-trial conference and directed him to produce written proof of his authority to practise law. The pre-trial conference was adjourned to the following day to enable the applicant to do so. Upon attending the reconvened pre-trial conference, the applicant was arrested by the South African Police Service on various charges, including fraud, contempt of court, and practising without a fidelity fund certificate in contravention of the Act. The applicant made his first appearance before the Bloemfontein Magistrate's Court in relation to these charges on 26 March 2025. It was remanded until 2 June 2025 for investigation.

[31] On 19 March 2025, prior to the applicant's attendance at the pre-trial conference, the LPC had launched an application in the high court for an order declaring him to be in contempt of the execution order. The applicant opposed the contempt application and filed a counter-application seeking to compel the LPC to issue him with a fidelity fund certificate. The contempt application was heard by the high court (Benade AJ) on 8 May 2025. The applicant conceded that he was in contempt of the execution order and agreed to an order declaring him to be in

contempt of court. Consequently, the high court granted an order, inter alia, declaring him to be in contempt of the striking-off and execution orders, and committing him to imprisonment for a period of six months, which sanction was suspended on condition that he was not found guilty of contempt of court during the period of suspension.

[32] Section 19(*b*) of the Superior Courts Act affords this Court the power to receive new evidence on appeal. As held by this Court, it is in the interests of finality of litigation that this power should be exercised sparingly and only in exceptional circumstances.[11] Other relevant considerations are that the evidence must be credible; incontrovertible or subject to easy verification; materially relevant to the determination of the issues on appeal; and that there is a reasonable and sufficient explanation for its late filing.[12]

[33] The explanation for the late filing of the new evidence is reasonable. It relates to events which occurred after the execution order was issued. The applicant ignored the striking-off order as well as the execution order. He knew that he was not allowed to practice following the grant of the execution order. Despite this, he accepted instructions to represent Mr Matlakala in a criminal trial, regardless of the potential prejudice to his client and the administration of justice – a conviction and sentence in a case where the attorney is not permitted to appear are liable to be set aside on review.

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[11] *Pepkor Holdings Ltd and Others v AJVH Holdings (Pty) Ltd and Others; Steinhoff International Holdings NV and Another v AJVH Holdings (Pty) Ltd and Others* [2020] ZASCA 134; [2021] 1 All SA 42 (SCA); 2021 (5) SA 115 (SCA) para 49.

[12] *Rail Commuters Action Group v Transnet Limited t/a Metrorail Commuters* 2005 (2) SA 359 (CC) 2005 (4) BCLR 301 (CC) para 41; *O'Shea N.O. v Van Zyl and Others* [2011] ZASCA 156; 2012 (1) SA 90 (SCA); [2012] 1 All SA 303 (SCA) para 9.

[34] It follows that the further evidence – which is incontrovertible – is highly relevant to the outcome of this appeal. The LPC has, therefore, succeeded in demonstrating the existence of exceptional circumstances which would warrant the receipt of further evidence on appeal. However, in the light of the decision refusing condonation for the late filing of the notice of appeal against the execution order set out later in the judgment, we make no order in respect of this application, including the costs thereof.

The late filing of the notice of appeal against the execution order

[35] The applicant noted the appeal 11 months after the execution order was granted. This delay is extensive, having regard to the scheme of s 18(4) of the Superior Courts Act. That section requires that a court immediately record its reasons for granting an execution order;[13] that the aggrieved party has an automatic right to appeal to the next highest court;[14] that the appellate court must deal with the appeal as a matter of extreme urgency;[15] and that the execution order is automatically suspended pending the outcome of the appeal.[16]

[36] The late noting of the appeal, according to the applicant, was 'caused by a series of unfortunate and unforeseen events which paralysed the serving and filing of the said appeal'. The nub of his explanation is that his attorneys filed the notice of appeal late as a result of the delay by the high court (Chesiwe and Opperman JJ) in furnishing the reasons for the judgment and signing off the transcribed record.

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[13] Section 18(4)*(a)*(i) of the Superior Courts Act.
[14] Section 18(4)*(a)*(ii).
[15] Section 18(4)*(a)*(iii).
[16] Section 18(4)*(a)*(iv).

[37] The standard for considering an application for condonation is the interests of justice. In *Van Wyk v Unitas Hospital and Another (Open Democratic Advice Centre as Amicus Curiae)*,[17] the Constitutional Court said:

'Whether it is in the interests of justice to grant condonation depends on the facts and circumstances of each case. Factors that are relevant to this enquiry include but are not limited to the nature of the relief sought, the extent and cause of the delay, the effect of the delay on the administration of justice and other litigants, the reasonableness of the explanation for the delay, the importance of the issue to be raised in the intended appeal and the prospects of success.'

The Court went on to say:

'An applicant for condonation must give a full explanation for the delay. In addition, the explanation must cover the entire period of delay. And, what is more, the explanation given must be reasonable.'

[38] The applicant has not provided a reasonable explanation for the extensive delay of 11 months in filing his notice of appeal. He was present at the virtual hearing when the high court delivered its *ex tempore* judgment with full reasons. This is consistent with its obligation to do so in terms of s 18(4) of the Superior Court's Act. Given the comprehensive nature of the reasons provided by the court in its *ex tempore* judgment, there was no need to request further reasons. The applicant, however, requested the court to provide him with reasons on 24 April 2024. On 16 July 2024, the secretary to Chesiwe J responded as follows:

'1. Parties were privy to the *ex tempore* judgment that was delivered in court.

2. The court therefore deems it not necessary to give further reasons as the ex *tempore judgment* was comprehensive.

3. Moreover based on this matter having been dealt with comprehensively, there is nothing more to add to "clarify" any uncertainty the [applicant] may have.

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[17] *Van Wyk v Unitas Hospital and Another (Open Democratic Advice Centre as Amicus Curiae)* [2007] ZACC 24; 2008 (2) SA 472 (CC) paras 20 and 22.

4. Further to that, the [applicant] is entitled to request a transcribed record of the proceedings.'

[39] At the time of receipt of this letter on 16 July 2024, the applicant was already in possession of the transcribed record of the proceedings. He was also represented by counsel at that stage. In the circumstances, there was no reason why a notice of appeal could not be drafted by the applicant's legal representative expeditiously. On the applicant's version, his attorney had received the signed transcript from the court on 27 November 2024. Yet, the applicant waited a further two months before filing the notice of appeal, which was filed on 5 February 2025. He has provided no explanation for this delay.

[40] The delay in noting the appeal – 11 months – is inordinate, and the applicant's explanation for it is inadequate and unacceptable. Apart from this, and as the evidence makes clear, the applicant has no prospect of success in the appeal against the execution order.

[41] Fundamentally, given the applicant's egregious contempt for court orders – by an officer of the court – it can never be in the interests of justice to grant him condonation for the late filing of his notice of appeal. The effect of the delay on the administration of justice, the LPC and the public interest is self-evident, for the reasons stated above. Within a short space of some 12 months, the applicant wilfully and mala fide disobeyed numerous court orders. He continued to practice law despite the interim suspension order. He was found guilty of contempt of that order and sentenced to one month's imprisonment which was wholly suspended. Worse, the applicant openly disregarded both the striking-off order and the execution order. After the grant of each of these orders, the applicant – by the sleight of filing a notice of application for leave to appeal – sought to continue in practice. And as the various

courts have found, the applicant has displayed a contemptuous attitude towards the judicial system and is a danger to the public.

[42] Consequently, condonation for the late filing of the notice of appeal must be refused. It is a general rule that legal practitioners should be ordered to pay the costs of the LPC on an attorney-and-client scale in matters concerning their discipline.[18]

An appeal against the execution order is academic

[43] The LPC contends that the application for leave to appeal the striking-off order was filed out of time and that the applicant has not sought condonation for the late filing of that application.[19] When this appeal was heard – almost a year later – the applicant had still not filed an application for condonation. Consequently, his right to apply for leave to appeal the striking-off order has lapsed and can only be revived if an application for condonation is granted.[20]

[44] The applicant's failure to file an application to condone the late filing of the application for leave to appeal the striking-off order presents a decisive barrier to achieving any success in an appeal against the execution order. Any such appeal would be futile, because the striking-off order would remain operative. Consequently, the decision sought by the applicant – effectively that he be allowed to continue practising law – will have no practical legal effect or result as envisaged in s 16 of the Superior Courts Act.[21] Even if this Court could reach a conclusion

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[18] *Law Society of the Northern Provinces v Dube* [2012] ZASCA 137; [2012] 4 All SA 251 (SCA) para 33.

[19] Rule 49(1)(b) of the Uniform Rules of Court provides that when leave to appeal is required and it has not been requested at the time of the judgment and order, application for such leave must be made within 15 days after the date of the order appealed against; and that the court may extend this period upon good cause shown.

[20] *Panayiotou v Shoprite Checkers (Pty) Ltd and Others* [2015] ZAGPJHC 292; 2016 (3) SA 110 (GJ) paras 13-15, referred to in *Sheriff, High Court, Giyani v Makhubele* [2025] ZASCA 104; [2025] 4 All SA 72 (SCA); 2025 (6) SA 212 (SCA) para 68.

[21] Section 16(2)*(a)*(i) of the Superior Courts Act provides:

different from the court a quo, the striking-off order is an insuperable barrier to the applicant's entitlement to practice.

[45] Consequently, and but for the fact that condonation must be refused with costs, I would have made an order: (a) that the appeal be dismissed with costs in terms of in terms of s 16(2)*(a)*(i) of the Superior Courts Act; and directed the applicant to pay the respondent's costs incurred on an attorney-and-client scale, with effect from 20 February 2025.

Costs of preparation of the record

[46] I consider it fitting that the applicant's attorneys be directed to pay the costs incurred in preparing the record *de bonis propriis* (from their own funds). The record is disorganized and shoddy. Cross-references are inserted by hand in the affidavits. The pagination is sloppy and, in instances, illegible. Pages are affixed to other pages, and paper labels, bearing document names and titles, are pasted on several pages of the record. The record also contains unnecessary documents, such as filing sheets, practice notes and heads of argument. At least 100 pages of volume 2 of the record comprise heads of argument that were filed in the s 18(3) application in the high court. The record also contains other irrelevant documents, including the transcript of the argument in an application for the recusal of Van Zyl J, as well as the transcript of the argument in the s 18(3) application.

[47] The manner in which the record was prepared by the applicant's attorneys fails to adhere to the rules of this Court and deviates materially from the standard

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'When at the hearing of an appeal the issues are of such a nature that the decision sought will have no practical effect or result, the appeal may be dismissed on this ground alone.'

expected of attorneys. It therefore justifies a *de bonis propriis* costs order against the applicant's attorneys in respect of the preparation of the record.

Order

[48] In the result, the following order is made:

1 Condonation is refused. The applicant shall pay the respondent's costs incurred on an attorney-and-client scale, with effect from 20 February 2025.

2 The applicant's attorneys shall pay the costs of the preparation of the record filed in this Court, *de bonis propriis*.

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F KATHREE-SETILOANE

JUDGE OF APPEAL

Appearances

For the applicant:	T M Mhlanga
Instructed by	Ponoane Attorneys, Bloemfontein.
For the respondent:	M S Mazibuko
Instructed by:	Amade and Company Inc, Bloemfontein.