



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

- (1) REPORTABLE: No
- (2) OF INTEREST TO OTHER JUDGES: No
- (3) REVISED.

SIGNATURE

DATE: 12 May 2026

Case No. 2026-071953

In the matter between:

GG

Applicant

and

EYC

Respondent

JUDGMENT

WILSON J:

- 1 This application concerns the future of a five-year old girl, S, who is presently in the care of the applicant, GG. S was born in prison in November 2020. Her mother, EYC, was incarcerated at the time of S's birth. The papers do not disclose whether EYC was a sentenced prisoner or a prisoner on remand. Nor is the offence of which EYC was convicted, if any, or the length of her sentence specified. Notwithstanding that lack of particularity, it is alleged in GG's founding affidavit that EYC's "criminal record renders her wholly unfit and incapable of providing a safe, stable, and nurturing environment for [S]".

- 2 Shortly after S was born, she was placed in the care of EYC's sister, KC. At the time, KC was in a relationship with GG's nephew, SV. The couple cared for S together, but later separated. KC did not believe that she was financially able to care for S, so SV agreed to take S into his care. SV had a child of his own. The papers suggest that SV, that child and S thereafter all lived together in a one-room apartment. A short while later, GG invited SV and the two children to come and live with GG and his family at their home in a residential suburb in the southern part of Johannesburg.
- 3 That arrangement endured for six months, after which SV was offered a job in Jeffreys Bay. For reasons that are not explained on the papers, SV decided that he would only take his own child to Jeffreys Bay when he relocated there to take up his new job. He left S behind in GG's care. By that time KC was apparently back on the scene, and, for a very short period, S lived with KC in Pretoria. KC again decided that she could no longer care for S. She was, I am told, living with her partner at a motel at the time, and felt that this was not a suitable environment for S, who was then two years old. KC placed S back in GG's care, apparently with a cluster of black plastic bags containing S's clothes and other possessions.
- 4 Since that time – which was what seems like the better part of 3 years ago – GG has cared for S with his wife, JLP, and his two children, aged 19 and 12. GG has enrolled S at school. S appears to have been told that GG and JLP are her parents, but has had what the papers call “brief interactions” with EYC, during which EYC has been introduced to S as one of GG's friends. I do not

know where and how these interactions took place. I have no information about EYC's current status or fitness to take on a role in S's life.

5 Notwithstanding that, GG now applies to me under section 28 of the Children's Act to terminate EYC's parental rights and responsibilities, and to vest those rights and responsibilities in GG himself. He relies on his role as S's *de facto* guardian, and on an affidavit to which EYC deposed in February 2024, in which EYC purports to vest what she calls "primary guardianship" in GG and his wife. The address given in that affidavit suggests that EYC was not incarcerated at the time she made it, but this application was served personally on her at a Pretoria prison. I infer from this that, if EYC was released from prison at any point after she gave birth to S, she is now incarcerated again. I have no information about why or for how long that incarceration will continue.

6 I have no reason to doubt GG's motives or his suitability as a parent. However, I plainly lack the information necessary to make an informed decision on whether he should assume full parental rights and responsibilities for S. I have no idea what EYC's true attitude to the application is. As she is presently incarcerated, she faces obvious barriers of access to legal representation, especially in a civil case. The only material I have on record from her is that she wishes to vest "guardianship" in GG and JLP. That is a far cry from an informed decision to relinquish her parental rights.

7 Moreover, I have no independent source of information about S's well-being and progress, or about GG's suitability as a parent. I emphasise that, on the face of things, GG has acted with the utmost integrity and compassion. But I

would be failing in my duty if, in a case like this, I were to make an order with such far-reaching consequences for S merely on GG's say-so.

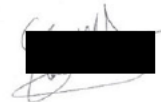
8 Accordingly, an independent assessment of the situation is required. Mr. Bornman, who appeared for GG, resisted a referral of this case to the Office of the Family Advocate, given what he submitted was the Family Advocate's incapacity to deal with the matter anytime soon. While there is no particular urgency alleged in this case, I agree that the Family Advocate is seldom, at least in my experience, able to provide matters of this complexity with prompt attention.

9 It seems to me that the only other realistic alternative is the appointment of a *curator ad litem*, to make submissions on behalf of S herself about where her best interests lie. The curator will have to interview both GG and EYC. They may also have to source an independent expert assessment of S's well-being and current living arrangements. Having made enquiries, I have secured the consent of Irene de Vos and Khanya Dambuza, of the Johannesburg Bar, to act as the curatrices in this case. They will investigate and compile a report on S's best interests, delivering it to the parties and the court by 28 August 2026.

10 In the meantime, S should obviously remain where she is, under GG's care. I will make orders directing that S should not be removed from GG's care without my leave, and permitting GG to apply to me, on notice to EYC and to the curatrices, to provide parental consent in relation to any matter involving S that would ordinarily require it.

11 For all these reasons –

- 11.1 The application is postponed *sine die*.
- 11.2 Irene de Vos and Khanya Dambuza, of the Johannesburg Bar, are appointed as *curatrices ad litem* to S, and are directed to report to Wilson J by no later than 28 August 2026 on S's best interests in relation to the relief sought in this application.
- 11.3 No person is to remove S from GG's care without the leave of Wilson J.
- 11.4 The matter will remain with Wilson J, who may be approached in chambers on notice to EYC and to the curatrices, to give parental consent in relation to any matter that might require it pending the final determination of this application.
- 11.5 Each party will pay their own costs to date.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson, with whom Judge Wentzel agrees. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 12 May 2026.

HEARD ON: 5 May 2026

DECIDED ON: 12 May 2026

For the Appellant: JC Bornman
Instructed by SKV Attorneys Incorporated

For the Respondent: No appearance