IN THE REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

(1)	REPORTABLE: NO / YES	
(2)	OF INTEREST TO OTHER JUDGES: NO/YES	
(3)	REVISED.	
(4)	SIGNATURE	DATE
Electronically delivered		05 June 2026

CASE NO: 093093-2026

JERMAINE PRIM **APPLICANT**

And

THE MINISTER OF CORRECTIONAL SERVICES **1ST RESPONDENT**

THE NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES **2ND RESPONDENT**

THE HEAD OF C-MAX KGOSI MAMPURU II CORRECTIONAL CENTRE **3RD RESPONDENT**

THE REGIONAL COMMISSIONER OF GAUTENG REGION **4TH RESPONDENT**

THE HEAD OF JOHANNESBURG CORRECTIONAL CENTRE **5TH RESPONDENT**

'This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time of hand-down is deemed to be 05 June 2026.

JUDGMENT (URGENCY)

N V KHUMALO J

[1] The Applicant, an inmate at the Kgosi Mampuru, brought an urgent review Application in terms of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") in accordance with Rule 6 (12) of the Uniform Rules of Court, seeking as a matter of urgency an order:

> [1.1] Exempting him to an extent necessary from the obligation to exhaust internal remedies, if any are found to exist.
>
> [1.2] That the decision of the 1st, 2nd 4th and 5th Respondents to transfer him from the Johannesburg Correctional Center Medium C to Kgosi Mampuru Correctional Centre C Max prison be reviewed and set aside;
>
> [1.3] That the decision by the Respondents to detain the Applicant in C Max in segregation for a period exceeding 7 days be reviewed and set aside,
>
> [1.4] That the decision by the Respondents to continuously detain the Applicant in C-max in segregation or solitary confinement be reviewed and set aside
>
> [1.5] That the decision of the Respondents to find the Applicant guilty of the Disciplinary charges and to impose a sanction of 42 days restriction of amenities be reviewed and set aside.

[1,6] The 1st, 2nd, 3rd, and 4th are ordered to transfer the Applicant back to Johannesburg Correctional Centre Medium C within 24 hours of date of service of this order;

[1.7] That the Respondent pay the costs of the Application including the costs of Counsel on High Court Scale B

[2] The test for urgency was eloquently stated in the dictum of the judgment in *East Rock Trading Counsel on High Court Scale Bag 7 (PTY) Ltd and Another vs Eagle Valley Granite and Another's*[1] that:

> *[5] The issue of whether a matter should be enrolled and heard as an urgent application is governed by the provisions of 6(12) of the Uniform Rules. The aforesaid sub rule allows the court or a Judge in urgent applications to dispense with the forms and service provided for in the rules and dispose of the matter at such time and place in such manner and in accordance with such procedure as to it seems meet. It further provides that in the affidavit in support of an urgent application the applicant "… shall set forth explicitly the circumstances which he avers render the matter urgent and the reasons why he claims that he could not be afforded substantial redress at a hearing in due course.*"
>
> *[6] The import thereof is that the procedure set out in rule 6(12) is not there for taking. An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the Applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of absence of substantial redress in an application in due course. The rules allow the court to come to the assistance of a litigant because if the latter were*

[1] (11/33767) [2011] ZAGPJHC 196 (23 September 2011)

to wait for the normal course laid down by the rules it will not obtain substantial redress.

[9] It means that if there is some delay in instituting the proceedings an Applicant has to explain the reasons for the delay and why despite the delay he claims that he cannot be afforded substantial redress at a hearing in due course. I must also mention that the fact the Applicant wants to have the matter resolved urgently does not render the matter urgent. The correct and the crucial test is whether, if the matter were to follow its normal course as laid down by the rules, an Applicant will be afforded substantial redress. If he cannot be afforded substantial redress at a hearing in due course then the matter qualifies to be enrolled and heard as an urgent application. If however despite the anxiety of an Applicant he can be afforded a substantial redress in an application in due course the application does not qualify to be enrolled and heard as an urgent application. (my emphasis)

[3] The court distinguished between self-created urgency, where a litigant delays and then invokes urgency to fast-track relief and real urgency (such as imminent harm).[2] The reason for the urgency is not to be subjective, self-created therefore a subjectively orientated urgency.[3] In cases where the urgency relied upon was subjective, clearly self-created, the courts have consistently refused the urgent applications, unless the Applicant can show that it within reasonable conditions and time constraints, attempted to settle to avoid having to approach the court inconveniently on an urgent basis.

[4] The Application was set down for hearing on 12 May 2026. It was served on the 2nd and 5th Respondent on 24 April 2026 and on the 1st, 2nd and 4th Respondents between 13h16 and 14h29 on 29 April 2026. The Respondents were required to furnish the Applicant with the record and such reasons as it would be required by law to be dispatched on the same day some of the Respondents received the Application, that is, on or before 29 April 2026. The Respondents were called upon to file their

[2] *Luna Meubel Vervaardigers v Makin and Another* 1977 (4) SA 135 (W)
[3] *DLC 56 Group (Pty) Ltd & Another v Mohlawe Technology (Pty) Ltd and Others* (005443-2025) 2025 ZAGPPHC 290 (14 March 2025) (5) /2025/260 [2]

Notice to Oppose within 1 day after receipt of the Application, that is by 25 and 30 April 2026. In the meanwhile, the Applicant was to file its Supplementary Affidavit on or before 29 April 2026. The Respondents were required to file their Answering Affidavit on or before 5 May 2026.

[5] The truncated time frames within which the Respondents were required to respond were laborious and the whole notice confusing since service on some of the Respondents was 5 days after issuing of the Application, and given the nature of the application and the relief sought by the Applicant. It is common cause that the Applicant is in such an instance required not only to make a case why he alleges that he will not get substantial redress if the matter is to be heard in due course but also to explain his urgency that justifies bypassing the internal remedies that are expediently available and applying the truncated timeframes.

[6] He must set forth the life-threatening circumstances that renders the matter so urgent to justify not only the truncated time periods but also the stringent demands, that has resulted in parties filing post the official set out time for all the affidavits to be before court. According to the Respondent the reason for putting everybody under such extremely truncated time frames is primarily because he will not get substantial redress in due course if the normal court processes, procedures and timeframes prescribed by the rules under urgent applications were to be observed.

[7] The Applicant is a convicted detainee, seeking on an urgent basis to invoke the Rule 53 review application, to set aside, inter alia, a decision instigated by the 5th Respondent, that is the head of the Johannesburg Correctional Centre, to transfer him from a Johannesburg Medium Prison to a Maximum C Section at Kgosi Mampuru Correctional Centre, a high security facility in Pretoria. The transfer occurred on 28 March 2026 following a transgression the Applicant committed, alleged to have breached the security at the Medium Prison hence he was moved to the Maximum C prison.

[8] The Minister and the National Commissioner of Correctional Services, the Head of C Max Kgosi Mampuru Correctional Centre and the Regional Commissioner, Gauteng are cited respectively in their official capacities as the 1st , 2nd 3rd and the 4th Respondents.

[9] On 27 March 2026, the Applicant conducted an interview with the press through the prison landline that is alleged to have been without permission from the prison authorities and under the disguise that he was phoning a friend. According to the Applicant he disclosed to one Mr Kwinda who escorted him to the phones, that he was going to do the interview and had also noted that in the Register. He alleges that the prison officials were aware. The allegation is denied by the Respondents and contradicted by the register he signed. It is therefore clear that there is a dispute of facts. Furthermore, the Applicant disputes that the offence is within the ambit of s 23[4] of the Correctional Services Act 111 of 1998 (CSA).

[10] The Applicant's further allegations are that at C Max he has been illegally subjected to prolonged solitary incarceration under inhumane conditions that far exceeds the 7 day statutory maximum for segregation prescribed by s 30 (4)[5] of the (CSA). As a result his constitutional rights are being violated as the incarceration also constitutes prolonged solitary confinement within the meaning of Rule 44 of the UN Standard Minimum Rules for Treatment of Prisoners, causing him severe deprivation and irreparable psychological and physical harm.

---

[5] Section 30 (4) reads:

> (4) Segregation in terms of subsection (1)(c) to (f) may only be enforced for the minimum period that is necessary and this period may not, subject to the provisions of subsection (5), exceed seven days.

[11] He furthermore alleges that he is confined into a small cell, that is 2 meters by 2,5 meters for 23 hrs, without a watch or calendar and allowed only 1 hour of exercise and 2 minutes shower in a cage. He is only taken outside to exercise and shower. Food is given to him through a small latch in the cell door. He is allowed 2 phone calls per month and 3 visits that extend to 30 minutes each. He submits that his incarceration is a clear abuse of power by the officials, severely infringing his constitutional rights and as a result urgent and immediate intervention has become more critical.

[12] On 29 March 2026, a day after he was transferred to Kgosi Mampuru, he was furnished with a Notice for a Disciplinary hearing that was to take place on 9 April 2026. According to the Applicant he informed his attorneys who consulted with him on 2 April 2026. They advised him to await the outcome of the Disciplinary Hearing and his sentencing on 13 April 2026. The Applicant was prepared to wait and endure another 11 days of the alleged inhumane circumstances of his incarceration, which he alleged were causing him severe depression, irreparable mental and physical harm, that necessitates an immediate release in strenuously truncated proceedings. This was also despite having earlier sent a complaint and demand to the Commissioner for an immediate release on 31 March 2026, threatening to proceed with an urgent application by 2nd April 2026.

[13] The Applicant, in the Commissioner's letter which was sent in terms of s 21 of CSA was also alleged to be held in solitary confinement, severely assaulted and as a result to have sustained serious injuries. He claimed not to have been afforded any medical treatment or fed since his transfer, hence the threat to approach the court on an urgent basis by 2 April 2026. Despite the alleged dire situation, conspicuously not repeated on affidavit, the Applicant and his attorneys were prepared to wait, only approaching the court, short of a month after his transfer and 24 days after the letter.

[14] Furthermore, the Disciplinary Hearing was heard and finalised on 9 April 2026. The Applicant was found guilty and a sanction of 43 days restriction of amenities imposed, which might include further segregated incarceration. He even after that outcome that exposes him to further segregated incarceration and alleged inhumane and perilous conditions was prepared to delay until 13 April 2026.

[15] He alleges that after he was not sentenced on 13 April 2026, he was unable to consult with his attorneys until 23 April 202. He was, a result only able to launch his application thereafter. Contrary to his allegations, his attorneys were in constant contact and consultation with him advising him, from the time he was transferred to Kgosi Mampuru C Max prison, issued with a Notice for the Disciplinary Hearing, representing him at the Disciplinary Hearing until 13 April 2026. The excuse that he was delayed due to the attorneys not being able to consult with him therefore cannot hold.

[16] He, even though he was already duly represented, and alleging the conditions of his incarceration to be dire, also overlooked the internal or institutional remedies that were immediately and readily available to him after the Disciplinary Hearing outcome. This is without a doubt self- created urgency. There is no reason why the court has to urgently deal with a final relief where clearly there are serious dispute of facts and the Applicant did not deem the situation to be so dire to invoke the urgency proceedings at the opportune time.

[17] He furthermore states that if he had set the matter down in the normal roll, it was going to be delayed as the Respondents will oppose it. Approaching the court on truncated times, in order to avoid or stifle your opponents' opposition or constructive participation is unfair and absurd. It not only disregards the sacrosanctity of the

principle of the *audi alteram partem* rule in the South African legal system,[6] but also lacks the mandatory professional courtesy and responsibility expected of a legal practitioner who conforms to such an intention.

---

[6] Section 30 reads: Segregation

(1) Segregation of an inmate for a period of time, which may be for part of or the whole day and which may include detention in a single cell, other than normal accommodation in a single cell as contemplated in section 7(2)(e), is permissible

(a) …

(b) to give effect to the penalty of the restriction of amenities imposed in terms of section 24(3)(c), 5(c) or 5(d) to the extent necessary to achieve this objective;

(c), (d), (e) …

(f) if at the request of the South African Police Service, the Head of the Correctional Centre considers that it is in the interests of the administration of justice

[S 30(1)(f) amended by s 16 of Act 32 of 2001.]

3) A request for segregation in terms of subsection (1)(a) may be withdrawn at any time.

(4) Segregation in terms of subsection (1)(c) to (f) may only be enforced for the minimum period that is necessary and this period may not, subject to the provisions of subsection (5), exceed seven days.

(5) If the Head of the Correctional Centre believes that it is necessary to extend the period of segregation in terms of subsection (1)(c) to (f) and if the correctional medical practitioner or psychologist certifies that such an extension would not be harmful to the health of the inmate, he or she may, with the permission of the National Commissioner, extend the period of segregation for a period not exceeding 30 days.

(6) All instances of segregation and extended segregation must be reported immediately by the Head of the Correctional Centre to the National Commissioner and to the Inspecting Judge

(7) (a) An inmate who is subjected to segregation must be informed of the right to appeal and may refer the matter to the Inspecting Judge who must decide thereon within 72 hours after receipt thereof.

(b) The Head of the Correctional Centre or the Head of the Remand Detention Facility must, upon request, provide all relevant information relating to the matter contemplated in paragraph (a) to the Inspecting Judge within 24 hours of receiving the request.

[S 30(7) substituted by s 24 of Act 25 of 2008; s 2 of Act 14 of 2023 with effect from 1 December 2024.]

[18] He alleges to have exhausted all internal remedies available to him, since his attorneys sent the s 21 letter to the Head of Prison on 31 March 2026 and to the Inspecting Judge on 6 April 2026, which he agrees are not a remedy contemplated under PAJA. He complains that remedies available are ineffective and incapable of affording him timely relief and requests to be exempted from the obligation to exhaust such remedies. However, those remedies under s 24 (5) to (7) (b)[7] were devised to facilitate and accelerate a proper and speedy resolution of administrative disputes.

---

(8) Segregation must be for the minimum period, and place the minimum restrictions on the inmate, compatible with the purpose for which the inmate is being segregated.

(9) Except in so far as it may be necessary in terms of subsection (1)(b) segregation may never be ordered as a form of punishment or disciplinary measure.

[7] Section 24 (5) to (9) reads:

(5) Where the hearing takes place before a disciplinary official, the following penalties may be imposed severally or in the alternative:

(a) a reprimand;

(b) a loss of gratuity for a period not exceeding two months;

(c)

(d) restriction of amenities not exceeding 42 days; in the case of serious or repeated infringements, segregation in order to undergo specific programmes aimed at correcting his or her behaviour, with a loss of gratuity and restriction of amenities as contemplated in paragraphs (b) and (c).

[Para. (d) substituted by s. 18 (c) of Act No. 25 of 2008.] Wording of Sections

(6) The penalties referred to in subsections (3) and (5) may be suspended for such period and on such conditions as the presiding official deems fit.

(7) (a) At the request of the inmate proceedings resulting in any penalty other than a penalty contemplated in subsection 5 (d) must be referred for review to the National Commissioner.

(b) The National Commissioner may confirm or set aside the penalty and substitute an appropriate order for it. [Sub-s. (7) substituted by s. 18 (d) of Act No. 25 of 2008.]

[19] The Applicant is applying for a review, that constitutes a final order which cannot be decided upon on an urgent basis, as it is generally incompatible with urgent proceedings as it was confirmed in *Tshwaedi v Greater Louise Trichard Transitional*[8]. It is equally trite that an applicant is not entitled to rely on urgency that is self- created when seeking a deviation from the rules.'

[19] Furthermore he claims to have exhausted all the remedies under s 30 (7) of the CSA. However there was no evidence of such a request for a referral to the National Commissioner for a review of the proceedings nor of an appeal.

[20] The Applicant has failed to make a case for urgency except for the self -created urgency.

[21] Under the circumstances, I accordingly make the following order:

1. The Applicant's urgent application be and is hereby struck from the roll for lack of urgency.

2. The Applicant to pay the costs on a party and party scale B

N V KHUMALO J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

[8] (2000) 21 ILJ 1119 (LC)

On behalf of Applicant:	**R A BIRTZ**
Instructed by:	**Brandon, Swanepoel Attorneys**
	Email Natasha@brandonswanepoel.com

On behalf of Respondents:	**Z Mokatsane**
Instructed by:	**State Attorney**
	Email: TNetshitungulu@justice.gov.za
	Ref: 4306/2023/Z90