



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:2025/076286

- (1) Reportable: ~~Yes~~/No
(2) Of Interest to other Judges: ~~Yes~~/No
(3) Revised: ~~Yes~~/No

19 June 2026

.....
Date

.....
Signature

In the matter between:-

TREVOR MTHOKOZI KA-MTHOKOZISI

Applicant

and

UNIVERSITY OF SOUTH AFRICA

1st Respondent

CHANCELLOR OF THE UNIVERSITY OF SOUTH AFRICA

2nd Respondent

REGISTRAR OF THE UNIVERSITY OF SOUTH AFRICA

3rd Respondent

JUDGMENT

INTRODUCTION

- [1] The applicant seeks an order declaring that the respondents' refusal to reissue to him an updated Bachelor of Laws (LLB) degree certificate reflecting his new surname, Ka-Mthokozisi, in substitution for Sibanda, is inconsistent with sections 9, 10 and 33 of the Constitution and unlawful. Further, the applicant seeks an order declaring that the respondents' public policy statement, which reads: "duplicate certificates will not be issued under any circumstances", does not authorise the respondents to refuse, in all circumstances, to reissue a certificate where there is full and verifiable proof of a lawful name change. The applicant further seeks an order directing the respondents to reissue the certificate reflecting his surname, accompanied by an auditable record and capable of independent verification by third parties. The application is opposed.

PARTIES

- [2] The applicant is Trevor Mthokozisi Ka-Mthokozisi, previously known as Trevor Mthokozisi Sibanda, a holder of an LLB from the first respondent, having enrolled with the first respondent between 2011 and 2017 and having had the degree conferred in 2018.
- [3] The first respondent is the University of South Africa ('Unisa'), a juristic person and a public higher education institution established and regulated in terms of the Higher Education Act 101 of 1997, with its principal place of business at Mucklenuek Ridge, Groenkloof, Pretoria. The second respondent is the chancellor of Unisa ('the Chancellor'), cited in their official capacity. The third respondent is the registrar of Unisa ('the registrar'), also cited in their official capacity.

BACKGROUND

- [4] The following were the common causes between the parties. Following a successful change of the applicant's surname from Sibanda to KaMthokozisi

with the Department of Home Affairs in December 2023, other institutions, namely Umalusi and SAQA, acceded to his request to update their databases to reflect his new surname on his matric certificate and LLB qualification, respectively. However, despite his request and demand that Unisa also change its records and reissue his LLB degree certificate reflecting his new surname, Unisa refused to do so; instead, it offered only a 'statement in lieu' of a certificate, attaching the transcript and the academic record. The applicant declined the offer.

- [5] The applicant instituted the proceedings and filed them in July 2024. After the respondents filed their condonation application in October 2025 regarding their delayed answering affidavit, the applicant filed his amended notice of motion and his opposing affidavit to that application on 3 November, including a reply to the respondents' answer. The matter was removed from the roll on 5 November, as it had become opposed.
- [6] On 8 November, the applicant withdrew his amended notice of motion and served a notice of intention to amend it, adding three further paragraphs. No opposition was raised to the amendments taking effect. The amended notice of motion was delivered on 27 November 2025.
- [7] The respondents' answering affidavit was filed on 15 January 2026. The applicant served a supplementary affidavit, dated 5 February, on 6 February. The respondents filed a reply to the applicant's supplementary affidavit dated 28 February.
- [8] On 4 March, the respondents sought leave to withdraw the admissions made in paragraphs 10, 11 and 13 of the pre-hearing minutes:

'10. Do parties agree that the South African Qualification Authority (SAQA) has definitely clarified their policy position on name changes after issue of the decree?

Applicant's answer: Agreed.

Respondents' answer. Yes, but SAQA policy decision does not have a bearing on the respondents and the Council for Higher Education Policy and Norms.

11. *Do the parties agree that SAQA has in fact updated the applicant's name on the National Learners Records database, issued a verification letter confirming same and has not alleged or raised any concerns about the integrity of the academic records as a result of this update.*

Applicant's answer: Agreed.

Respondents' answer: Agreed.

13. *Do the parties agree that similar entities, namely, the University of Pretoria, University of Witwatersrand, University of Johannesburg, University of Cape Town and University of North West, have adopted formal policies allowing the reissuance of degree certificates upon proof of a legal name change, subject to fees and procedures?*

Applicant's answer: Agreed.

Respondents' answers agreed. The respondents, as an independent institution, has adopted the norms as published by the Council for Higher Education.'

ISSUES

- [9] The issues for determination are whether condonation of the late filing of the respondent's answering affidavit and leave to supplement the applicant's papers should be granted. Further, whether the applicant has made out a case for a declaratory order, and whether the applicant should be issued a degree certificate reflecting his new surname.

CONDONATION

- [10] Following service of the application on the respondents on 1 July 2025, the respondents filed a notice of intention to oppose the application on 11 July 2025. They filed their purported answering affidavit only in October 2025. It is

referred to as purported for the reasons that follow. They attributed the delay in filing their answering affidavit to three grounds. Firstly, a failed attempt to make an acceptable offer to the applicant. They stated that they held several meetings among themselves to try to resolve the issue at hand. The meeting they held on 11 August resulted in their offering the applicant a statement in lieu of a certificate, confirming that he was a registered student at Unisa and that he was the same person as reflected in his new identity documents. The offer was made on 12 August and rejected by the applicant the same day.

[11] Secondly, they averred that on several occasions the applicant was advised to apply formally to the registrar's office for the reissuance of the certificate bearing his new surname; however, he did not take up that offer.

[12] Lastly, at the time they needed to respond to the court processes, Unisa's Legal Service Office was undergoing a leadership transformation; for instance, the official assigned to the matter was no longer employed by Unisa, and some staff members' contracts had expired. A number of files were left unattended, and the file in this matter was among those that remained dormant. Further, given the chain of command and protocol, the decision to file an answering affidavit was made only on 14 October. The draft from their legal representative was received on 18 October 2025. On 23 October, a decision was made to oppose the application.

[13] They argue that there are prospects of success in opposing the application, as the applicant failed to exhaust internal remedies and did not demonstrate that he followed the procedure for applying to the registrar, which would have enabled the registrar to exercise their discretion to grant or refuse the application. Further, Unisa would suffer prejudice, as it would not exercise its discretion in terms of the Norms of Certification for the Higher Education Sector ('Norms of Certification') within the context of the Higher Education Qualification Sub Framework, which norms Unisa has consistently upheld since their adoption. The applicant would suffer no prejudice if condonation were granted. The matter is of general public interest and of importance to the parties, as it will provide certainty about the procedure to be followed by students in situations similar to the applicant's.

- [14] Opposing the condonation application, the applicant stated that he continues to suffer prejudice because he cannot present a degree certificate that reflects his lawful identity, thereby affecting his dignity and equal recognition under the law.
- [15] Rule 27(3) provides that the court may condone any non-compliance with the rules on good cause shown.
- [16] It is settled law that the standard for considering an application for condonation is the interests of justice. Whether condonation is in the interests of justice depends on the facts and circumstances of each case. Relevant factors 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. See *Van Wyk v Unitas Hospital (Open Democratic Advice Centre as Amicus Curiae)*.¹
- [17] The evidence was that, prior to the application, the parties exchanged correspondence in December 2023 regarding the matter. A letter of demand was served on 30 July 2024, followed by the application filed on 4 July 2025, with the answering affidavit due by 1 August.
- [18] Notwithstanding the respondents' knowledge that they had former and current students across the country who might find themselves in situations similar to that of the applicant, and that the matter was of general public interest and important to the parties, there was no courtesy correspondence from them to the applicant explaining why the answering affidavit was not forthcoming or was delayed. Although the respondents knew they would not file any answer by 1 August, no communication was sent to the applicant indicating that they were considering the issues in the application and would revert to the applicant, nor was the applicant invited to agree to halt the court proceedings.

¹ *Van Wyk v Unitas Hospital (Open Democratic Advice Centre as Amicus Curiae)* 2008 (2) SA 472 (CC) at 447A-B

- [19] Consequent upon the rejection of the offer on 12 August, the period between 13 August and 27 October is unaccounted for, except that the respondents held several meetings among themselves regarding the matter in an attempt to settle it out of court. The respondents proffered no proper explanation for the delay, nor was the applicant informed of the reasons.
- [20] With regard to the applicant's alleged failure to apply to the registrar for reissuance, this is irrelevant for the purposes of the late filing of the respondents' answering affidavit, as he had already elected to institute court proceedings and had served them. The respondents adopted a posture of relying on the applicant's alleged non-compliance with internal processes, which are within the court's discretion. It was for the court to rule whether, before approaching the court, he had exhausted all internal remedies.
- [21] Upon receipt of court process, a litigant bears a duty to make an immediate election to either answer the allegations made against them or allow the court to accept them as true and make an order accordingly. The answer is required within the timelines set out in the court process. It is generally expected, acceptable, and courteous for a litigant to inform the other party of the reasons they cannot meet those timelines.
- [22] In my view, it is not only about the litigants; it is about the lawfully issued legal document. At this stage, the concern is not about the validity or correctness of the legal document and its content, but about the integrity and high regard attached to the court process itself. It is not only about respect for one another as litigants, but more so about respect for the court process. To the extent that section 173 of the Constitution endows the High Court, the Supreme Court of Appeal and the Constitutional Court with inherent power to protect and regulate their own processes, that power is exercised when litigants institute proceedings through lawfully issued legal documents. Otherwise, the powers are latent and not invoked, hence the appropriate regard for a legal document.
- [23] The last ground advanced to explain the delay was that Unisa's Legal Service Office had undergone a leadership transformation; the official assigned to the matter was no longer employed by Unisa, some staff members' contracts had

expired, and the file in this matter remained dormant. There was no account of when the assigned official left the employ of Unisa or when the other officials' contracts expired. There was also no evidence before the court as to whether all these officials left at the same time and what roles they played in handling the file. The respondents had not taken the court into their confidence by adequately accounting for the entire period of delay. The respondents have not shown good cause for the court to condone the late filing of the answering affidavit. Accordingly, the condonation application ought not to succeed.

- [24] In October 2025, when the respondents filed the answer accompanied by a condonation application, a non-commissioned answering affidavit was filed on 24 October, followed by the commissioned one on 28 October. Paradoxically, the respondents' founding affidavit in support of the condonation application complied with Regulation 3².
- [25] The applicant raised an issue with the non-commissioned answering affidavit, contending that it was non-compliant with Regulation 3 because it was not deposited before a commissioner in person. The respondents averred that their legal team elected to put the issue in abeyance and to await a Supreme Court of Appeal decision in the *LexisNexis South Africa (Pty) Ltd v The Minister of Justice and Constitutional Development (LexisNexis)* appeal, in which the Supreme Court of Appeal held, among other things, that "in the presence of" in terms of Regulation 3 means physical, face-to-face presence.
- [26] After the *LexisNexis* judgment, the respondents filed their commissioned answering affidavit on 15 January 2026. The matter of *LexisNexis South Africa (Pty) Ltd v Minister of Justice and Correctional Services Development*³ was first heard in the Gauteng Division in Pretoria, and the judgment was delivered in April 2024.⁴

² Regulations of the Justice of the Peace and Commissioner of Oaths Act 16 of 1963, as amended.

³ *LexisNexis South Africa (Pty) Ltd v Minister of Justice and Correctional Services Development* (2023-010096) [2024]ZAGPPHC 446; 2025(2)SACR 36(GP)(29 April 2024).

⁴ The judgment was handed down in April 2024, dismissing *LexisNexis's* application to broaden the interpretation of "in the presence of" and to seek administration of oath by live electronic communication. Aggrieved by the High Court decision, *LexisNexis* appealed to the Supreme Court of Appeal. It was heard by the SCA in November 2025, and the judgment was handed down on 1 December 2025, upholding the High Court decision.

- [27] The respondents argued that the decision in the LexisNexis matter was determinative of whether to file an answering affidavit that strictly complied with Regulation 3. There is no explanation for why the respondents had to wait for the judgment rather than deposing to the affidavit in the normal way, as they did with the affidavit supporting the condonation application filed in October 2025, which complied with the Regulations.
- [28] Their reliance on the pending decision of the Superior Court is misplaced, as it has been held that affidavits not properly commissioned cannot be admitted as evidence and must be struck from the record. Although the respondents appear to recognise the importance of the matter, they failed to act accordingly. They disregarded the Uniform Rules of Court, practice directives, and procedural requirements governing the validity of affidavits.
- [29] The respondents did not consider it prudent to seek the applicant's consent to a stay of proceedings. They were informed on 1 November 2025 of their non-compliance with Regulation 3 regarding the answering affidavit; however, they failed to file it and later filed a late condonation application. Courts are to frown upon such conduct, not encourage or condone it. If the condonation application were granted in favour of the respondents, who relied on a pending superior court judgment to condone a delay and the late filing of court process, it would have a profound impact, as reliance on a pending superior court judgment would not be a persuasive explanation and would seem to undermine the rules of court.
- [30] I find that the circumstances in which the respondents delayed filing the answering affidavit were self-created; the period of delay is not adequately accounted for, and the explanation is unreasonable. They have failed to show any justification for the delay. Both grounds, including the applicant's refusal to accept the statement in lieu of the certificate, are unacceptable and do not justify the failure to file the answering affidavit in a timely manner. The respondents were lax in their participation in these proceedings. They continued to hold meetings to decide whether to oppose, even after their
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attorneys had provided them with a draft of the answering affidavit; they remained indecisive. Their enthusiasm for opposing the matter was shown only on receipt of the application, when they filed their notice of intention to oppose. It is imperative that the respondents allow themselves to be guided by the rules and respect them, as any other litigant would. Accordingly, the condonation application stands to fail, and the respondents' answering affidavit ought to be struck off the record.

LEAVE TO FILE A SUPPLEMENTARY AFFIDAVIT

[31] In motion proceedings, the affidavits constitute both the pleadings and the evidence, and the issues and averments in support of the parties' cases should appear clearly from them.⁵ A founding affidavit must contain sufficient facts in itself upon which a court may find in the applicant's favour. It is not permissible to raise new grounds for the application in the replying affidavit.⁶

[32] In *Director of Hospital Services v Mistry*,⁷ it was held:

'When, as in this case, the proceedings are launched by way of notice of motion, it is to the founding affidavit which a Judge will look to determine what the complaint is... and as been said in many other cases: "... an applicant must stand or fall by his petition and the facts alleged therein and that, although sometimes it is permissible to supplement the allegations contained in the petition, still the main foundation of the application is the allegation of facts stated therein, because those are the facts which the respondent is called upon either to affirm or deny.'

[33] "The filing of further affidavits is an indulgence, and a basis must be laid for such indulgence to be granted. There is a well-established principle that there are normally three sets of affidavits in motion proceedings: the founding affidavit, the answering affidavit, and the replying affidavit. In the absence of an explanation as to why the information included in the fourth set of affidavits could not have been included in the answering affidavit, the indulgence must

⁵ *Minister of Land Affairs and Agriculture v D & F Wevell Trust* 2008(2) SA 184 (SCA) at 200D.

⁶ *SA Railways Recreation Club and Another v Gordonia Liquor Licensing Board* 1953(3)SA 256(C) at 260A-D.

⁷ 1979(1)SA 626(A) at 635H.

be dismissed...”⁸ In each case, there should be a proper and satisfactory explanation, which navigates mala fides or culpable remiss, as to why the facts or information had not been put before the court at an earlier stage.⁹

- [34] The applicant averred that the necessity for filing the supplementary affidavit arose from the averments in the answering affidavit. Further, the new evidence in the affidavit related to the central dispute regarding the Norms of Certification and SAQA’s position in the matter. In my view, no exceptional circumstances have been alleged to show that anything unexpected or new has emerged, warranting a further supplementary affidavit. The supplementary affidavit evidently seeks to introduce new evidence. The answering affidavit it seeks to reply to has been struck off the record. Accordingly, condonation of the late filing of the supplementary affidavit is to be refused.

DECLARATOR

- [35] The High Court may grant a declaratory order without any consequential relief sought. When considering the grant of declaratory relief, the court will not grant such an order where the issue raised before it is hypothetical, abstract and academic or where the legal position is clearly defined by statute.¹⁰
- [36] An applicant seeking a declaratory order must satisfy the court that he or she is a person interested in an existing, future or contingent right or obligation. “Once the applicant has satisfied the court that it is interested in an existing, future or contingent right or obligation, it does not mean that the court is bound to grant a declarator. The court must consider and decide whether to grant or refuse a declarator after examining all relevant factors. The court accordingly has a discretion. In the exercise of that discretion, the court considers whether an applicant, in seeking such a declarator, has standing in terms of s 38 of the Constitution. In line with the doctrine of ripeness, the court may enquire as to whether alternative remedies have been

⁸ *M&G Media Ltd v President of the Republic of South Africa and Others* 2013 (3) SA 591 (GNP) at [27].

⁹ *Transvaal Racing Club v Jockey Club of South Africa* 1958 (3) SA 599 (W) at 604A-E.

¹⁰ Section 21(1)(c) of the Superior Courts Act, 10 of 2013.

exhausted. In addition, a court will not grant a declaratory order on moot or academic issues, as this would conflict with the doctrine of effectiveness ...'¹¹

[37] '... The jurisdictional facts that have to be established are whether the applicant has an interest in an existing, future or contingent right or obligation. If the court is so satisfied that such interest exists, it is required to consider whether the order for a declaratory relief should be granted. The court considers whether an applicant in seeking such an order has a standing in terms of s 38 of the Constitution. In addition, the doctrine of ripeness is at issue, as consideration is given to whether prejudice has already resulted or is inevitable, irrespective of whether the action is complete or not. The doctrine of ripeness may also require an enquiry as to whether alternative remedies have been exhausted. This is termed a premature action...'¹²

[38] Considering the above authority, I find that the applicant is directly affected by the non-issuance of the degree certificate in his new surname. Having considered all the relevant factors set out above, he has established a direct interest in the right at issue. Both the refusal to re-issue and the public policy statement that reads: "duplicate certificates will not be issued under any circumstances" directly affect his right to have his degree certificate issued in his new surname.

[39] The next question is whether this court should exercise its discretion, based on the facts and the issue raised, and grant the applicant the declaratory relief sought. In determining whether the order should be granted, the object of a mandamus must be considered. The object of mandamus "... is to compel an administrative organ to perform some or other statutory duty. The remedy is somewhat limited because the administration cannot be compelled to do anything it is not obliged to do under the enabling statute."¹³

[40] A mandamus is an order issued by a court directing a party to do or refrain from doing something. It is a remedy against the effects of an unlawful action that has taken place. It may be granted where there is a clear duty to perform the ordered act. To grant a mandamus, the following requirements must be proved:

¹¹ *Cordiant Trading CC v Daimler Chrysler Financial Services (Pty) Ltd* 2005 (6) SA 205 (SCA) at para 17.

¹² *Queen Sibongile Winnifred Zulu v Queen Buhle Mathe and Others* 2024 JDR 1017 (SCA) at para 12.

¹³ Burns & Beukes: Administrative Law under the 1996 Constitution, 3rd Edition, Lexis Nexis, at P.525.

(a) a clear right, (b) an injury actually committed or reasonably apprehended, and (c) the absence of similar protection by any other ordinary remedy. A declaratory order is a flexible remedy which may be accompanied by other forms of relief, including a mandatory order. It is valuable in a constitutional democracy.¹⁴

- [41] The founding affidavit addresses little to nothing regarding the declaratory orders sought in the amended notice of motion. The applicant averred that his identity is tied to his dignity; therefore, Unisa's refusal to reissue his degree certificate directly violates his right to inherent dignity, given that there is no law prohibiting the reissuance of the certificate and that no prejudice would be suffered by Unisa.
- [42] The evidence shows that Unisa informed the applicant that it would not reissue the degree certificate as sought, relying on its policies. The applicant's request for what he calls reissuance of his degree certificate was not included in the annexures to the founding affidavit. However, the statement of results dated 8 January 2024 clarifies that it was issued under his new surname.
- [43] It was submitted on behalf of the applicant that the application was not brought under the Promotion of Administrative Justice Act, Act 3 of 2000 (PAJA), but rather to protect and advance the applicant's fundamental rights. Public entities, such as Unisa, are obliged to act lawfully, reasonably, and in a manner consistent with the principles of dignity and equality as envisaged in sections 9, 10, and 33 of the Constitution. It is trite that the constitutional principle of legality governs the exercise of all public power, unlike PAJA's narrow definition of administrative action.
- [44] The public bodies may adopt policies. These policies must not be inflexible. Where discretion is required, the policy must allow for a margin to accommodate unique circumstances not foreseen when the policy was made. Otherwise, such a policy risks being attacked on the ground that it is perceived as arbitrary, oppressive and irrational. Where a policy has the effect of depriving a person of a practical right, it must be applied rationally and

¹⁴ 2005(2) SA 359 (CC) para 107- 108

proportionately. A blanket rule that fails to provide for the exercise of reasoned discretion in individual circumstances, or to provide a reasoned decision and a record, is liable to be set aside.¹⁵

[45] It was argued that the Unisa policy statement is unlawful, unreasonable, baseless, dogmatic and unconstitutional because it fails to take into account the rights of others or the reasonable circumstances that must be considered. A copy of the impugned policy statement was annexed to the founding affidavit, and it reads: *“Duplicate certificates will not be issued under any circumstances. If your certificate has been lost, stolen or destroyed, Unisa can issue a statement in lieu of a lost certificate.”* The applicant contended that the statement does not authorise the respondents to refuse, in all circumstances, to reissue a certificate where there is full and verifiable proof of a lawful name change.

[46] In order to review the policy statement’s constitutional legality and rationality, the court must read it in the context of the whole policy document to establish its purpose and relevance, as well as the outcome it sought to achieve. The court must consider, among other things, the policy document’s bases, purpose, and intent, and what it seeks to address, before making a pronouncement on it. The challenge in pronouncing on a document or an extract without proper reading and understanding of the context may inhibit the court from testing it against the Constitution and the rule of law, and from determining whether the applicant’s rights were limited without constitutional justification. In this regard, the policy’s alleged unconstitutionality and unlawfulness may not be established.

[47] I do not understand the policy document’s reference to the issuance of certificates as referring to the same issuance as in this application. What stands out in the application is that the applicant seeks the issuance of the certificate in his new surname, whereas the policy document refers to duplicate certificates. In terms of the application, it is more of a corrected certificate, a correction or an amendment to the certificate due to the surname change. A

¹⁵ *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs & Tourism & Others* 2004 (4) SA 490 (CC), 2004 (7) BCLR 687 (CC).

duplicate is different from a correction or an amendment. Corrected means a correct version of something. In this case, the issuance concerns a corrected or amended degree certificate reflecting Ka-Mthokozisi as the surname instead of Sibanda, due to the name change reflected on his identity document card.

- [48] The court could not identify the extent of invalidity for Unisa to rectify, amend or strike out the impugned policy statement, which is of no relevance to the basis of the relief sought. The relief concerns the issuance of a corrected or amended degree certificate reflecting the applicant's surname following a name change, whilst the policy statement addresses the reprinting of a lost, stolen, or destroyed document. Therefore, the applicant's reliance on the policy statement for his request to Unisa in these circumstances is misplaced, as is Unisa's reliance on it when refusing to issue the amended degree certificate to the applicant. For these reasons, no case was made out for declaring the policy statement and its implementation unconstitutional. Nor was any case made for declaring Unisa's refusal to issue the applicant's degree certificate unlawful and inconsistent with sections 9, 10 and 33 of the Constitution. Accordingly, the application ought to be refused.

REFUSAL TO RE-ISSUE

- [49] Regarding the respondents' refusal to reissue the certificate to the applicant to reflect his new surname and to provide an auditable record capable of independent verification by third parties, it was argued that the respondents have not identified any statutory or regulatory provision prohibiting the reissue of a degree certificate to reflect a lawful name change. In the absence of such a prohibition, their blanket refusal must be assessed against ordinary principles of rationality, fairness and legitimate expectation.¹⁶
- [50] Despite the 5 December 2023 correspondence requesting an amendment to his degree certificate to reflect his new surname, no response was received. After he personally attended Unisa on 8 January, his details in the system were updated to reflect the new surname. Notwithstanding this update, Unisa refused

¹⁶ Constitution Section 33 and PAJA Sections 3 and 4.

to issue him an LLB degree certificate reflecting his new surname; instead, it offered only a 'statement in lieu of a certificate', attaching the transcript and academic record. Between 24 and 28 February, he was informed that the amendment to the degree certificate could not be made. A letter dated 11 April 2024, served by the sheriff on 4 July 2025, demanding the amended degree certificate, received no response.

[51] Save for the policy on duplicate certificates, there is no legal impediment or ground for the respondents' refusal to issue an amended degree certificate to the applicant. The applicant was issued an identity document card. There was no evidence that Unisa could not adopt administrative procedures and mechanisms to issue an amended degree certificate without compromising the credibility and integrity of students' academic records, nor was there any evidence that Unisa lacked the systems and procedures to ensure security and to verify the authenticity of any documentation and or information presented to it. From the policy statement, it can be deduced that Unisa already has systems in place to issue duplicate certificates in cases of loss, theft, damage, or destruction. Further, only the degree certificate does not reflect the applicant's new surname, as his academic records have been updated to reflect it since January 2024.

[52] The absence of reasonable grounds for Unisa's refusal to issue an amended degree certificate to the applicant renders its conduct arbitrary, unreasonable, irrational, incoherent, and inconsistent with its conduct on 8 January 2024. On that date, the applicant's details were amended in its system, resulting in the furnishing of his academic record bearing his new surname. I could find no ground upon which Unisa cannot issue an amended degree certificate bearing his new surname. I believe the applicant has successfully made out a case for the issuance of an amended degree certificate reflecting his new surname, in accordance with his identity document card issued in December 2023. Accordingly, his application in this regard ought to succeed with costs.

[53] For these reasons, I make the following order:

Order:

[53.1] The respondents' application for condonation of the late filing of

their answering affidavit is dismissed, and the answering affidavit is struck out of the record.

- [53.2] The applicant's leave to file a further affidavit application is dismissed, and the further affidavit is struck out of the record.
- [53.3] The application for declaratory orders is dismissed.
- [53.4] The respondents are ordered to issue the applicant with an amended LLB degree certificate reflecting his surname, Ka-Mthokozisi, as it appears on his Home Affairs identity document issued in December 2023.
- [53.5] The respondents are ordered to pay the applicant's costs, which will include the costs of counsel, one paying and the other to be absolved.

NGM MAZIBUKO

Judge of the High Court

This judgment was handed down electronically and circulated to the parties' representatives by email.

Hearing date:

5 March 2026

Delivery date:

19 June 2026

Appearances

For the applicant:

Adv S Sibanda

Attorneys for the applicant

TK Baloyi Attorneys

For the respondent:

Adv T Moneri

Attorneys for the respondent:

Sephecholo Incorporated