

"C"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, PRETORIA

CASE NO: LP080761-2023

DATE: 8 FEBRUARY 2024

In the matter between

MICHELLE VAN DER MERWE

Applicant

**BEFORE THE HONOURABLE MR JUSTICE VALLY AND
MR JUSTICE MKHABELA**

ON BEHALF OF THE APPLICANT : ADV DU PLESSIS



**DIGITAL AUDIO
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MICHELLE VAN DER MERWE

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RECORDED AT : PRETORIA

DATE HELD : 8 FEBRUARY 2024

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PROCEEDINGS HELD ON 8 FEBRUARY 2024

REGISTRAR: Admissions and criminal appeals before Justice Vally and Acting Justice Mkhabela, today being 8th February 2024. The admission role will proceed in order of seniority. If there is any removals, counsel may proceed. Thank you.

ADV DU PLESSIS: As the Court pleases M'Lord and M'Lady.

COURT: Oops.

10 ADV DU PLESSIS: Ag, apologies.

COURT: Oops.

ADV DU PLESSIS: M'Lords.

COURT: There are those people which will want to be admitted.

ADV DU PLESSIS: Apologies.

COURT: We started with the first lesson. Okay.

20 ADV DU PLESSIS: I am Du Plessis, Mariska from the Pretoria Society of Advocates. I wish to refer M'Lords to matter number 11, Michelle Van Der Merwe. The matter needs to be removed from the roll.

COURT: Yes?

ADV DU PLESSIS: I was given very late instructions on this, and it is because of the LPC not giving a letter of consent as yet. That is what I was informed. So ...[intervenes]

COURT: That is not true; that is not the only reason. But yes ...[intervenes]

ADV DU PLESSIS: Well ...[intervenes]

COURT: You have been misinformed. You were probably given the brief ten minutes ago.

ADV DU PLESSIS: I was literally given the instructions via WhatsApp M'Lord.

COURT: Literally given. That is another lesson I am going to be talking to people about ... what attorneys
10 ... If you are an Advocate, for those who will be admitted as an Advocate, of how they try and abuse you ...

How attorneys try and abuse you, thinking they give you other work, so they can just call upon you last minute to say:

'Please help us out, and just go and solve this problem.'

Who briefed you?

ADV DU PLESSIS: Izak du Pisanie.

COURT: But he is not on record.

20 ADV DU PLESSIS: Well, I am ...[intervenes]

COURT: The attorney on record has withdrawn; no other attorneys have come on record.

ADV DU PLESSIS: Indeed.

COURT: And they have not given us ... In their notes of withdrawal, they have not said where the Applicant

can be contacted. So, the Notice of Withdrawal itself is irregular. And then another attorney briefs someone; forces them to be embarrassed in court, knowing that they do not have the powers to brief someone, because they are not on record themselves.

ADV DU PLESSIS: M'Lord, I do not have access ...[intervenes]

COURT: And this is now ... I am going to be talking to all the people being admitted, as to how not to do
10 things, and what happens in the profession. And what we will be saying is we do have a profession that has got a terrible reputation; a reputation that all of us that wear grounds ... particularly on the other side ... are a bunch of scoundrels.

That lawyers are not to be trusted. And this is the reasons why. Do we just not do our work properly? We do not comply with our ethical duties. We just think we are going to be able to get past the system, because this is what the system requires.

20 The process is (a) I must serve a Summons; (b) I must file a Notice of Intention to Oppose; (c) I file my Reply. Oops, I can get a condonation if I do not comply with any of that; out play that system. (d) At the end of it I will apply for an appeal; (e) I will petition if I fail to get an appeal.

And the process continues, on what some people call it Stalingrad tactics, and we continue for fifteen years in the same case. And it just goes on and on. And the world out there sees it, and they say:

‘But what are these lawyers up to?
When are we going to get finality?

I have been raped; I have been coming to court every day. I want to be ... I want my day in court.

10

I want justice.

Oops there is a postponement.

I have been robbed.

Oops there is a postponement and another postponement.

Oops, and I have only been briefed to apply for a postponement.

Now that the postponement has not been given, M'Lord can I withdraw from the matter?

20

Okay, you withdraw.’

Then the other person stands up and

says:

‘I need to get permission; I need to get another lawyer.

I apply for a postponement on a

different ground now.'

And it goes on and on, and this is what we get here. Why is that the case?

ADV DU PLESSIS: M'Lord, is that question for me specifically?

COURT: No. No, it is going to be a question for everybody. Why is it like that? It is a question that is not going to be answered today.

ADV DU PLESSIS: As the Court pleases, M'Lord.

10 COURT: But it is a very serious question.

ADV DU PLESSIS: M'Lord, ...[intervenes]

COURT: Where have we gone? How have we got to such a state?

ADV DU PLESSIS: M'Lord, I am in the court's hands.

COURT: There is a number of problems with this application; a number of problems. Firstly, we should never have been asked to read it; it took me one hour to study because she is in very ... Her application has got serious problems.

20 There was no ways she was going to be admitted by this court; absolutely no ways. She did not put up an affidavit, which makes serious allegations against her; but she puts up her answer to the affidavit. Now how am I supposed to make sense of her answer, without actually having the affidavit itself to compare with?

So that was ... She has got herself into some serious problems; allegations of getting involved with someone who this court has already ... And the Gauteng Court has already found to be a scoundrel with RAF monies taken; RAF monies ... run away to Australia.

There is allegations of her getting involved in all of those things. Why? Long before you even been admitted, why are you getting into all of these things? That is another thing I will be talking to everyone about;
10 ethical duties before you get admitted.

‘Oh, it is noble profession ...’

We will be telling them. That is what we will be telling everybody who wants to be admitted. People who come as young kids wanting to become Advocates, and attorneys thinking they will do good. And then this is what happens.

Why are we in such a state of affairs again? She will need to look at herself carefully and ask how did she get into such a situation. Who has been
20 advising her?

ADV DU PLESSIS: M'Lord, I cannot make any submissions in that regard.

COURT: Yes. She has got some genuine, genuine concerns, and some problems of some genuine kind. But this is not the way ... Is this the way to deal with

it? Who has been advising her? What is going on?

ADV DU PLESSIS: I cannot answer to that, M'Lord.

COURT: I would have loved to see her here and
say:
'But what is going on in your case?
Look at your situation.'

ADV DU PLESSIS: As the Court pleases M'Lord.

COURT: Matter 11.

10 ADV MAKHUBELA: I agree.

COURT ADJOURNS
