



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 1 December 2023

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

Legal Practice Council v Bulelani Rubushe (Case no 1004/2022) [2023] ZASCA 167 (1 December 2023)

The Legal Practice Council came on appeal to the Supreme Court of Appeal (SCA) from two paragraphs in an order made by the Eastern Cape Division of the High Court (Makhanda), in terms of which Mr Bulelani Rubushe was suspended from practice for two years and directed, if he wished to resume his practise at the end of that period, to apply to court for permission to do so. The Legal Practice Council contended that the High Court was misdirected in not acceding to its application that Mr Rubushe's name be struck off the roll of legal practitioners.

The evidence established that Mr Rubushe was guilty of a number of instances of misconduct involving dishonesty. The High Court found that Mr Rubushe was not a fit and proper person to continue to practise as an attorney but considered that it was inappropriate to impose the 'extreme sanction' of striking off because he had not succeeded in his scheme to overreach his client in a motor vehicle accident claim matter by appropriating 25 percent of the settlement award as his fee.

The SCA reiterated that it is axiomatic that, save in exceptional cases, a legal practitioner whose misconduct involves dishonesty is not a fit and proper person to continue in practice. The appropriate order in such matters is to strike off the practitioner's name from the roll. As the High Court was misdirected in the exercise of its discretion, the SCA intervened.

The SCA upheld the appeal. It set aside para 1 and 11 of the High Court order and replaced them with an order directing that Mr Rubushe's name be struck off the roll of legal practitioners (attorneys).

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