



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 28 November 2025

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgment of the Supreme Court of Appeal

Skhumbuzo Zulu v Vikizitha R Mlotshwa and Others (004/2024) [2025] ZASCA 177 (28 November 2025).

Today, the Supreme Court of Appeal (SCA) gave reasons for the order that it issued on 21 November 2025, namely to strike the application for reinstatement off the roll, with no order as to costs.

Before the merits of the appeal could be considered, some procedural issues needed to be addressed. The applicant and other members of the National Freedom Party (the party) instituted an application in the High Court, Pietermaritzburg (the high court) against the party and nine other members of the party. Despite such opposition, the high court declared the conference and the decisions taken at the conference, which was held at Ulundi during December 2019, unlawful and invalid. It made no order as to costs. On 17 November 2023, the high court granted the applicant and others leave to appeal to this Court.

In terms of rule 8(1) of the Rules regulating the conduct of the proceedings of the Supreme Court of Appeal of South Africa, an appellant shall within three months of the lodging of the notice of appeal lodge with the registrar of this Court six copies of the record of the proceedings in the court *a quo* and deliver to each respondent such number of copies as may be considered necessary or as may reasonably be requested by the respondent. In terms of rule 8(2), the registrar is, on request, entitled to extend the period within which the record must be lodged, but for no longer than two months. The applicant did not request the registrar for an extension of the period to lodge the record. He lodged the record and the application for condonation with the registrar on 29 November 2024, approximately ten months after he had lodged his notice of appeal.

The court file contains another application titled 'Amended Notice of Motion', which is dated 24 June 2024. In that application, the applicant seeks an order that 'the late lodging of the Reinstatement of the Notice of Appeal' be condoned. There is no proof of service of that application on the respondents. There is also no indication when that application was lodged with the registrar.

In terms of rule 10(2A)(a), the applicant was required to have lodged with the registrar six copies of his heads of argument within six weeks from the lodging of the record. The record

having been lodged on 29 November 2024, the applicant should have lodged his heads of argument on or before 10 January 2025. He did so only on 14 February 2025. His heads of argument were accordingly lodged four weeks late. The rule provides that if an appellant fails to lodge his or her heads of argument within the prescribed period or within the extended period, the appeal shall lapse. The applicant did not make an application for condonation for the late lodging of his heads of argument. The result is that the appeal has lapsed. The applicant must lodge an application to revive and reinstate the appeal that has lapsed, before the appeal can be heard.

Another matter is the state of the appeal record. Various pages, some of which are important, are missing from the record. The registrar drew these deficiencies in the record to the attention of the applicant's attorney during October 2025. It was only a few days before the hearing that the applicant's attorney responded in writing. His attitude was that the missing pages formed part of the first respondent's founding affidavit and that the deficiencies in the founding 'papers should not be an impediment to the Applicant being able to have this matter heard before this Court'. The duty to prepare a proper record of appeal is particularly important in a case like the present, where the respondents play no part in the appeal. Without a complete record, especially where pages containing portions of the cause of action are missing, the appeal cannot be heard.

Absent reinstatement of the appeal, this Court cannot entertain the appeal. Quite apart from the other deficiencies to which reference has already been made, there is no application to reinstate the appeal which has lapsed. If advised to proceed with the appeal, the applicant, especially his attorneys, must see to it that there is compliance with the rules of this Court in the prosecution of his appeal.

For these reasons, the appeal was struck off the roll.

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