



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: 18 August 2025
Status: Immediate

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James Thomas Evans v Western Province Athletics (Case no 1349/2023) [2025] ZASCA 119 (18 August 2025)

Today, the Supreme Court of Appeal (SCA) handed down judgment, striking from the roll an application for reconsideration in terms of s 17(2)(f) of the Superior Courts Act, with no order as to costs.

James Thomas Evans (Mr Evans) applied to the Western Cape Division of the High Court (the high court) to have Western Cape Province Athletics (WP Athletics) held in contempt for allegedly failing to hold disciplinary hearings within 90 days, as required by a prior court order. The high court dismissed the application with costs and also refused leave to appeal. Special leave to appeal to the SCA was refused by two justices. Mr Evans then applied under s 17(2)(f) of the Superior Courts Act for the President of the SCA to reconsider that refusal; the President referred the matter for reconsideration.

The factual background is as follows. Mr Evans laid complaints against certain members of WP Athletics and requested it to hold disciplinary hearings against them. This was followed by arbitration proceedings which culminated in an arbitration award. That award was made by consent in terms of a settlement agreement.

Mr Evans launched an application to make the arbitration award an order of court, which was granted by consent on 17 November 2021. He thereafter brought an application for WP Athletics to comply with the arbitration award. That too was made an order of court. WP Athletics was ordered to comply with clause 3 of the arbitration award by commencing compliance within 30 days of service and completing disciplinary processes within 90 days, unless an extension for completion (but not commencement) is granted on good cause.

The order was served on WP Athletics on 30 August 2022 and the first inquiry was conducted within the 30-day time period. Mr Evans on 30 November 2022, filed a filing sheet and supplementary affidavit supplementing his papers to apply, inter alia, for an order holding WP Athletics in contempt of court for failing to hold the further disciplinary hearings within the 90-day period. It later transpired that the contempt proceedings were launched upon the expiration of 90 ordinary days and not court days.

Mr Evans filed a further supplementary affidavit on 27 January 2023 in which he raised the issue whether 90 days were court days or ordinary days, but did not seek leave to file that further affidavit. The high court, inter alia, found that 90 days meant court days and that Mr Evans' filing sheet and supplementary affidavit were simply premature. It made no findings regarding the filing of the additional affidavits.

The issue for determination before the SCA was whether Mr Evans has satisfied the requirements for reconsideration. It is trite that in order for an applicant to succeed with an application in terms of s 17(2)(f), such applicant must establish whether exceptional circumstances exist.

The SCA, per Dawood AJ, reiterated that under s 17(2)(f) of the Superior Courts Act, exceptional circumstances exist only where a case raises a substantial legal issue, is of great public importance, or where refusing leave would cause a grave injustice. The provision is not intended to give litigants a second chance absent such circumstances.

Mr Evans argued that exceptional circumstances arose because: (a) the proceedings relating to the virtual hearing of the application for leave to appeal, were not recorded; (b) his right to access to court was infringed, as the additional affidavits were filed by WP Athletics without him being given an opportunity to respond; (c) the granting of orders, not sought by the parties, were irregular; (d) the rules of the court were flouted by WP Athletics, which prevented him from filing a replying affidavit; and (e) WP Athletics' non-compliance with court orders and the nature of the orders granted by the high court brought the administration of justice into disrepute.

The SCA found none of these grounds met the threshold for exceptional circumstances. It held that the absence of a recording or judgment did not cause a grave injustice; the high court's additional order setting out time periods for the individual disciplinary hearings was aimed at resolving the matter efficiently; the point that WP Athletics flouted the rules of this Court pertaining to an application for leave to appeal by impermissibly dealing with the merits of the matter and failing to give him time to file a replying affidavit did not constitute exceptional circumstances; and no prejudice arose from WP Athletics' conduct.

Importantly, the SCA held that the contempt proceedings were launched prematurely because the 90-day period in the order referred to court days, not calendar days, and the time for compliance had not expired.

The SCA accordingly, struck the application for reconsideration from the roll and made no order as to costs.

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