



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: 7 October 2026

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 judgments of the Supreme Court of Appeal.

Ackerman v Amaning and Another (744/2024) [2026] ZASCA 138 (07 October 2026)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal by Mr William Hendrick Ackerman (Mr Ackerman) against the whole of the judgment of the Gauteng Division of the High Court of South Africa, Gauteng. That court had held that Mr Ackerman had committed acts of hate speech as defined in section 10(1) of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (Equality Act).

Mr Ackerman, a white South African, is a former client of Caleo Capital (Pty) Ltd (Caleo), a business owned by Mr Amaning, a black South African resident, together with Mr Wellman, a white South African (the respondents). The business conducted investment management services for Mr Ackerman from 2008 to 2022. In 2023, Mr Wellman, Mr Liebman, a white South African of Jewish descent who was also a partner in Caleo, together with Mr Amaning, laid complaints of hate speech and harassment against Mr Ackerman. This follows after, in January 2018, Mr Ackerman and Mr Wellman met at Mr Ackerman's place of business to review Mr Ackerman's investment portfolio. During that meeting, Mr Ackerman made a statement that 'the k*ffirs running this country will just keep f*cking it up as they have done in the rest of Africa' (2018 communication).

On 28 August 2019, Mr Ackerman sent a WhatsApp text message to Mr Wellman saying: "Garth after today I might be seen as racist, but I will man alone kill every k*ffir that cross my path. So God help me" (2019 communication). The statement was made following a robbery incident that occurred on 23 August 2019 at Mr Ackerman's home. During October 2021, Mr Wellman called Mr Ackerman to discuss the potential impact of the National Union of Metalworkers of South Africa (NUMSA) strike on Mr Ackerman's business. In that conversation, Mr Ackerman stated, 'my k*ffirs know their place' (2021 communication). The 2018, 2019 and 2021 communications were at the centre of this appeal in the SCA (the impugned communications).

As stated above, Mr Amaning, Mr Liebmann and Mr Wellman filed a complaint of hate speech and harassment against Mr Ackerman in the Equality Court on 14 February 2023. Mr Wellman denied having made the statements attributed to him and argued that the WhatsApp messages could have been fabricated or occurred as a result of a technical error during cellphone updates. He invoked section 15 of the Electronic Communications and Transactions Act (ECTA), criticising Mr Wellman for failing to obtain expert evidence from an IT professional to verify the authenticity of the WhatsApp

communication. However, he also testified that he had been highly emotional as a result of the robbery, and '[a]s a deeply religious man . . . used the k-word "k*fir" [spelt with one f] in reference to a disbeliever in God' rather than as a derogatory reference to race. The Equality Court rejected his defences, found that there was no requirement under section 15 of ECTA to provide expert evidence and that the impugned communications fell outside the 'intimate personal sphere' of protected communication and were thus within the ambit of section 10(1) of the Equality Act. The Equality Court concluded that the impugned communications amounted to hate speech against all black people due to the nature of their content and harassment and ordered Mr Ackerman to pay a donation of R500 000 to the Ahmed Kathrada Foundation.

In the SCA appeal, Mr Ackerman raised six issues for determination. These were whether: (1) Mr Amaning and Mr Wellman had proved that the impugned communications were made; (2) the impugned communications constituted hate speech; (3) they constituted hate speech even though they were made privately by one white person to another; (4) the repetition rule applies to hate speech in circumstances; (5) the order made by the Equality Court in relation to the donation, sensitisation training and apology is appropriate; and (6) the cost order.

In answering the above issues, the SCA concluded that the finding by the Equality Court that the impugned communications were made was closely reasoned and highlighted that an appellate court will be reluctant to alter a trial court's factual findings, particularly those that rest on credibility. The SCA concluded that, indeed, Mr Ackerman made the impugned communications to Mr Wellman. As to whether the communications amounted to hate speech, the Court held that the test is whether a reasonable person would interpret the words as demonstrating the requisite intent to be harmful or to incite harm and to promote or propagate hatred. It found that use of the k-word by Mr Ackerman requires no further analysis except to note his aversion and ill will for those about whom he was communicating.

The court further held that the k-word used inherently refers to race – a prohibited ground under s9(3) of the Constitution, and the fact that it was a private conversation with another white person does not provide a safe escape for Mr Ackerman. The court reasoned that, even the right to communicate freely in private comes with the responsibility of doing so in a manner that does not threaten the 'broader social wellbeing'. It found that the communications were not made within the space of Mr Ackerman's inner sanctum. On the appropriateness of the remedy, the court held that section 21(2) of the Equality Act, empowers the Equality Court the discretion to award the remedy as it did in this case, and it would be inappropriate for an appellate court to interfere unless it is satisfied that the discretion was not exercised judicially, or was influenced by wrong principles or a misdirection on the facts. The court concluded that the Equality Court's decision does not merit such interference and dismissed the appeal with costs.

~~~~ends~~~~