

**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GRAHAMSTOWN)**

Case No: CA18/2020

In the matter between:

THE MINISTER OF POLICE

First Appellant

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Second Appellant

And

RANSHAW BAGLEY

Respondent

JUDGMENT

BESHE J:

INTRODUCTION

[1] This is an appeal against the judgment and order handed down in the Regional Court, Port Elizabeth on the 10 December 2019 after a rather protracted trial. The appellants were defendants in the matter and the plaintiff therein is the respondent in this appeal. The respondent has also filed a cross appeal in the matter. To avoid confusion, the parties will be referred to as they were in the court *a quo*.

[2] In respect of claim 1, the plaintiff who is incidentally an employee of the first defendant sued the latter for wrongful and unlawful assault. In respect of claim 2, he sued for malicious alternatively wrongful and unlawful arrest and detention. Claim 3 is for wrongful, false and malicious prosecution against both defendants.

[3] After hearing evidence and considering all the evidential material, the court *a quo* dismissed plaintiff's first claim, gave judgment in favour of the plaintiff against the first defendant in respect of claim 2 and dismissed claim 3.

Plaintiff was awarded an amount of R250 000.00 as and for damages in respect of claim 2. His claim was for R300 000.00.

[4] The grounds of appeal relied upon by the appellants can be summarised as follows:

That the Magistrate erred by failing to adopt the correct approach when dealing with the mutually destructive versions as presented by the parties;

Erred by failing to find that the plaintiff failed to show that the arrest was malicious and wrongful as he bore the *onus* to do so in regard to claim 2;

(The arrest was found to have been wrongful and unlawful though).

She erred by not finding that the jurisdictional factors for reliance of *Section 40 (1 (a) of the Criminal Procedure Act 51 of 1977* were met by the employees of the first defendant in that plaintiff had committed *Schedule 1* offences - namely assault and resisting arrest;

In respect of the quantum of the award for damages, first defendant contends that the amount of R250 000.00 is grossly excessive. And that the Magistrate erred in not properly taking, *inter alia* the following factors into account:

the duration of the detention;

absence of malice on the part of the employees of first defendant;

circumstances surrounding the arrest / deprivation of liberty;

status of the plaintiff;

the degree of publicity of the incident;

previous awards and inflation.

As regards costs, it is contended that the Magistrate should have ordered the plaintiff to pay defendants' costs in respect of claims 1 and 3.

[5] The cross appeal is premised on the following grounds:

Claim 1:

The Magistrate misdirected herself by finding that the assault was not intentional, that the use of the pepper spray at the scene by an employee of the defendant did not amount to an assault on the plaintiff. Especially in view of her finding that plaintiff did not assault the police or resist an arrest;

That she erred by drawing an adverse inference against plaintiff's failure to mention that he was also assaulted by being lifted up with handcuffs during the criminal trial;

Erred in finding support for her finding that plaintiff was not assaulted on the fact that National Prosecuting Authority declined to prosecute the members of the first defendant for assault.

Erred by failing to deal with the malicious prosecution claim against first defendant in view of the fact that she accepted plaintiff's evidence / version.

She erred in finding that the prosecution was not malicious on the part of second defendant in light of the fact that second defendant did not call any witness to support its case.

PLEADINGS

[6] According to plaintiff's Particulars of Claim, the assault took place on the 6 April 2013 at or near his home where he was assaulted by members of the South African Police Services (SAPS) who sprayed him with pepper spray and punched him with fists on his upper body. That thereafter SAPS members arrested him without a warrant and he was later admitted to the Provincial Hospital under police guard. He was released on bail on the 8 April 2013 after

appearing in court. He was charged, it being alleged that he is guilty of assault and of resisting an arrest. He was found not guilty and discharged. Plaintiff further pleads that the charges were a result of SAPS members false and malicious conduct (submitting false statements) and that the prosecutor who dealt with the matter maliciously and recklessly proceeded with prosecution against him.

DEFENDANTS' PLEA

[7] First defendant denied that plaintiff was wrongfully and unlawfully assaulted. Pleading that plaintiff is the one who assaulted a police official and resisted being arrested, which resulted in the police officials using minimum force. As far as the arrest is concerned, first defendant pleaded that plaintiff's arrest without a warrant was justified in terms of *Section 40 (1) (a) of the Criminal Procedure Act*¹ as plaintiff had committed the offences as alleged by first defendant in the presence of the police. The detention subsequent to the arrest was also admitted by the first defendant. In respect of claim 3 the defendants deny plaintiff's allegation in this regard, save to admit that the criminal case against the plaintiff ended in his favour.

EVIDENCE

[8] Plaintiff's case was supported by three witnesses. The plaintiff, his wife **Mrs Charmain Bagley** and the attorney who acted for him during the criminal trial, **Mr Roelofse**. Four witnesses testified in support of defendants' case. The arresting officer, **Sergeant Jela (Jela)**, **Constables Mqokozo** and **Brecht** and **Ms AC Salman**, a forensic handwriting examiner.

Briefly stated, plaintiff's evidence was to the following effect:

On the date in question, being the 6 April 2013 his younger brother **Ryan** arrived at his home in Mt Croix in Port Elizabeth at noon. **Ryan** asked him to

¹ Act 51 of 1977.

help him test the speakers of the motor vehicle he was driving. One of his neighbours approached them and complained about the noise from his brother's car radio. The radio was switched off. A few seconds thereafter a police motor vehicle pulled up in front of his house. The officer in the passenger seat spoke to him but he could not hear him properly because he was eating from a lunch box. Plaintiff asked him to finish eating and then talk to him so that he can hear what he is saying clearly. He has since established that was **Jela** then a constable. He appeared to have been offended by plaintiff's request because he alighted from the motor vehicle and spoke to him gesturing with his hands and pointed him on his chest a couple of times – his finger coming into contact with his chest. Plaintiff pointed out to **Jela** that he was assaulting him, but **Jela** carried on. At that stage his partner **Mqokozo** was speaking to plaintiff's brother **Ryan** signalling his intention to arrest him. Plaintiff proceeded to the driver's side of the motor vehicle where **Mqokozo** and his brother were and asked for the reason for **Ryan's** arrest. **Mqokozo** did not respond. Plaintiff proceeded to get hold of his brother by hugging him from behind. Once again he enquired why his brother was being arrested – he was told, for resisting an arrest. Another police vehicle arrived and the group of policemen at the scene held him with a view to separate him from **Ryan**. He was also at the stage sprayed with pepper spray. The spray also affected **Jela's** eyes like those of the plaintiff. Plaintiff was blinded on both eyes by the pepper spray. Two weeks prior to the incident he has an operation to his left eye and still had stitches at the time. He became nervous and swung his arms around in a bid to defend himself as he expected to be assaulted at any time. He swung his arms twice and felt them connecting with someone or some object on both occasions, possibly with **Jela**. He was assaulted by a number of police officers after being pepper sprayed. He managed to get away and walked towards his house from the street where the incident was unfolding. He observed **Ryan** being placed at the back of the police van. He washed the pepper spray off and heard police saying they were going to kick his door

open, because, according to plaintiff the door had been locked after he got in having been pushed by wind. He opened the door to find his porch teeming with police officials. He was told to get dressed. **Jela, Mqokozo, Nombembe** and three or four other officers got into his room and watched him getting dressed after which he was forcefully handcuffed and thrown into the bag of police van and taken to Mt Road police station. According to the plaintiff, he was neither advised of his constitutional rights nor “charged”. At some stage after his arrest, he was taken first to Livingstone Hospital and later to Provincial Hospital where he was kept under police guard and shackled to the bed. He was taken to hospital following his complaint about the eye that had recently undergone surgery. Attempts by his wife and attorney to get him released on bail or own recognisance failed. He was only admitted to bail upon his appearance in court on the 8 April 2018.

[9] Plaintiff’s wife **Ms Charmain Bagley** confirmed plaintiff’s evidence regarding the arrival of his brother **Ryan** at their house that day, who then invited them to come and listen to the sound of his new speakers which was parked in their driveway as well as about what happened leading to the radio being switched off. As well as about the arrival of **Constables Jela and Mqokozo**. How plaintiff asked **Jela** to finish eating first and then speak to him. **Jela** getting out of the motor vehicle and pointing at plaintiff. How plaintiff intervened when **Mqokozo** was arresting plaintiff’s brother asking why he was being arrested and held him in a “bear hug”. She confirmed that a number of other police vehicles arrived at the scene and a tug of war ensued between the police on the one side and plaintiff on the other over the latter’s brother. The police also tried to kick at them (plaintiff in particular) but the blows missed the plaintiff. Pepper spray was also used. At that stage she was trying to intervene and warned that they must be careful because plaintiff’s eye had been operated on recently. At that stage plaintiff was swinging his hand widely as he tried to open the way so that he can go to his house to wash his face. At the time she was trying to intervene she was pushed as a result of which she

fell. Plaintiff ultimately found his way into the house. The police followed him and threatened to break down the door that had slammed shut. According to her **Jela** was one of the police officers who followed the plaintiff into his house. Plaintiff was handcuffed and placed in the police van. During cross-examination, she denied that plaintiff struck **Jela** with clenched fists several times (repeatedly) causing him to collapse.

[10] Next to testify in support of plaintiff's case was the attorney who represented plaintiff and his brother during the criminal trial, **Mr Paul Roelofse**. It was common cause that both had been acquitted of the charges they were facing. The following emerged from **Mr Roelofse**' evidence: He handed the video footage of the incident to the prosecutor. He also made representations to the prosecutor in view of the outcome of the departmental inquiry against the plaintiff in respect of which he was absolved. The state nonetheless decided to proceed against the plaintiff.

[11] The plaintiff was recalled at defendants' request for another bout of cross-examination regarding *inter alia* statement he made to the police about the incident as well as what appears under "relevant medical history in the J88" where it appears he complained or described the assault as one involving a "batton" as well as other entries in the J88 and about his evidence during his criminal trial.

DEFENDANTS' EVIDENCE

[12] The first witness to testify in support of defendants' case was **Jela**. He testified that whilst on duty with his partner **Mqokozo**, he received a complaint about noise pollution coming from house number 24 Kelly Street in North End. They attended at the said house which belonged to the plaintiff. (This appears to have been common cause). They met the plaintiff, his brother and a lady from whom they asked if that was house number 24. To which plaintiff's brother responded by asking what their problem was and appeared agitated.

As he was trying to calm him down, plaintiff approached them looking aggressive asking if they did not have anything better to do and branded them cowards. He then alighted from the motor vehicle and proceeded towards the plaintiff expressing his disappointment at the manner he was behaving. Although he admits pointing at him, he denies that he touched or poked him as he was steps away from him. Plaintiff objected to being pointed at and grabbed his wrist in the chest area forcefully and pushed him against the police van. They were joined by plaintiff's brother (**Ryan**) and wife. The latter referred to them as "kaffirs". His partner who was the driver of the police van, **Mqokozo** came around to where they were with a view to intervene by pushing at plaintiff and **Ryan** away. **Ryan** assaulted **Mqokozo** who ran back to the van and called for backup. At this stage they had signalled their intention to arrest the plaintiff and his brother. That it was **Mqokozo** who said he was going to arrest plaintiff's brother. Both plaintiff and **Ryan** proceeded to the house but came back when the backup **Mqokozo** had marshalled arrived. At that stage **Jela** was next to a small gate and plaintiff's house with other police officials who were being briefed about what was happening. An attempt was made to arrest plaintiff and his brother. Plaintiff was pulling his brother away from the police. **Jela** was pulling plaintiff away from his brother. Plaintiff's wife pushed **Jela**, he in turn pushed plaintiff's wife away. It was at that stage that plaintiff struck him with fists on his jaw, knocking him out. He felt dizzy and fell to the ground. He was thereafter transported to Greenacres Hospital. It is common cause that **Jela** preferred charges of "assault on police" and resisting lawful arrest against the plaintiff. It is common cause that the plaintiff was found not guilty and discharged in respect of both charges. During cross-examination, he confirmed that they did get the opportunity of informing the two brothers of the purpose of their visit at the said house. It was during this stage that inconsistencies between his evidence during the criminal trial and in respect of this matter were explored by plaintiff's legal representative. **Jela** testified that he does not recall pepper spray being used at the scene. It

appears to be common cause that when **Jela** was later examined by a doctor, the presence of pepper spray was detected on both his eyes.

[13] The next witness to testify in support of the defendants' case was **Constable Bheki Mqokozo** who together with **Jela** visited plaintiff's home following a noise pollution complaint they had received. He confirmed that it was **Jela** who addressed the plaintiff and his brother to confirm the address. Plaintiff's brother asked whether there was a problem. **Jela** told him of a complaint about noise. Plaintiff also proceeded to their vehicle and asked whether they did not have something better to do – in an aggressive manner and referred to them as cowards. Plaintiff also asked if they knew who he was. It is at that stage that both officers alighted from their vehicle. He denied that **Jela** was eating at that stage. **Jela** expressed the view that he was disappointed at the manner plaintiff was behaving. This apparently did not go down well with plaintiff what started pushing at **Jela**. His younger brother did likewise. Plaintiff's wife joined the fray and hurled insults at them. He tried to intervene by getting in between plaintiff and **Jela**. Plaintiff's brother charged at him and struck him with fists on his face and chest. Realising that the situation was getting out of hand, he called for backup. To do so he had to go back to their vehicle. As he was calling for backup he saw plaintiff and his brother proceeding to the house and plaintiff came out with a pepper spray canister in his possession. At that stage he was standing next to plaintiff's gate with **Jela**. The backup they had called for to assist them arrest the plaintiff and his brother arrived. They intended arresting the two men for having assaulted them. An attempt was made before the backup they called for arrived but he realised plaintiff and his brother would overpower them. After the arrival of their colleagues he grabbed plaintiff's brother and told him he was under arrest for assaulting the police. He resisted going towards the police van. **Constable Nombembe** and **Jela** assisted him in trying to arrest plaintiff's brother. Plaintiff grabbed his brother and pulled him away from the arresting officers. He was assisted by his wife who pushed **Jela** away. It was at that

stage, according to **Mqokozo**, that plaintiff assaulted **Jela** with clenched fists causing him to fall and lose consciousness. He managed to place plaintiff's brother inside the police van. A pepper spray was used even though he is not in a position to say who used it which was after **Jela** fell to the ground. He was later taken to hospital. Thereafter that plaintiff was also arrested. **Mqokozo** testified that he could not release the plaintiff or set bail for him because of his rank and also because the officer the case would be assigned to was required to check the arrested person's records first.

[14] During cross-examination inconsistencies between his evidence and his testimony during the criminal case were put to him.

[15] Next to testify was **Constable Brecht**. His testimony concerned his commissioning of plaintiff's statement which was apparently penned by the plaintiff. According to **Becht** he read the statement back to the plaintiff to confirm. This was placed in dispute by the plaintiff on the basis that he would have corrected mistake(s) he made when penned the statement. I do not think much turns on this.

[16] The next witness to testify was **Ms Annemarie Solomon**, a corporate forensic investigator and handwriting examiner. She was required to examine documents one of which was plaintiff's statement (as penned by him), an official document SAPS 14 (a) as well as an Occurrence Book (SAPS10) entry. The purpose was to assess the potential authorship of the documents. According to her the Occurrence Book entry was authored by two persons. The latter part being authored by the plaintiff. This latter part of the documents relates to plaintiff being alleged to have had loose stitches in his eye.

FINDINGS BY THE MAGISTRATE

[17] The Magistrate acknowledged that the parties put forward divergent versions as well as the technique that is generally adopted in resolving factual

disputes.² Having assessed the evidence in its totality, the Magistrate concluded that the version of how things unfolded as suggested by **Constable Jela** and **Mqokozo** is not probable that it is in fact inconsistent and makes no sense and accepted plaintiff's version. The court *a quo* also found that there was no noise at the time of the arrival of the police (**Jela** and **Mqokozo**). That the plaintiff was preventing unlawful arrest of his brother. She also found however that the police did not have the intention to assault the plaintiff and that the plaintiff failed to prove that he was assaulted by the police on a balance of probabilities. This also in view of the inconsistencies in this regard that emerge from his testimony in the criminal case as opposed to what he said during the civil case regarding the use of handcuffs. She found this to be supported by the fact that the prosecution declined to prosecute the police in this regard. Hence the dismissal of claim 1.

[18] Regarding the claim for unlawful arrest, the court *a quo* found that the actions of the first defendant's employees cannot be justified under *Section 40 (1) (a) of the Criminal Procedure Act* in that there was neither an assault on the police nor resisting of an arrest. There was no noise either the radio having been turned off.

[19] In respect of claim 3, the court *a quo* acknowledged that in order to succeed the plaintiff bore the *onus* of alleging and proving the existence of the four requirements for a claim of malicious prosecution. After examining the legal principles that are applicable in respect of this claim, the Magistrate found that the officials of the second defendant were satisfied that there was a *prima facie* case against the plaintiff and that therefore there was no malicious intention in proceeding with the prosecution. She concluded that the plaintiff had not made a case against the defendants.

² As enunciated in *Stellenbosch Farmers Winery and Another v Martell et Cie and Others*, 2003 (1) SA 11 SCA paragraph [5].

DISCUSSION

[20] In considering the submissions made by the parties, it is well to remind one of the trite principles relating to appeals against findings of fact. Namely that in the absence of a demonstrable and material misdirection on the part of the trial court, its findings of fact are presumed to be correct. An appellate court can only disregard them if shown to be clearly wrong.³ This principle has endured since its enunciation in a matters such as that of ***R v Dhlumayo and Another***⁴ where the principles that should guide an appellate court were said to *inter alia* the following:

“(1) An appellant is entitled as of right to a re-hearing, but with the limitations imposed by these principles; this right is a matter of law and must not be made illusory.

(2) Those principles are in the main matters of common sense, flexible and such as not to hamper the appellate court in doing justice in the particular case before it.

(3) The trial Judge has advantages—which the appellate court cannot have—in seeing and hearing the witnesses and in being steeped in the atmosphere of the trial. Not only has he had the opportunity of observing their demeanour, but also their appearance and whole personality. This should never be overlooked.

(4) Consequently the appellate court is very reluctant to upset the findings of the trial Judge.

(5) The mere fact that the trial Judge has not commented on the demeanour of the witness can hardly ever place the appeal court in as good a position as he was.

(6) Even in drawing inferences the trial Judge may be in a better position than the appellate court, in that he may be more able to estimate what is probable or improbable in relation to the particular people whom he has observed at the trial.

(7) Sometimes, however, the appellate court may be in as good a position as the trial Judge to draw inferences, where they are either drawn from admitted facts or from the facts as found by him.

³ S v Hadebe and Others 1977 (2) a SACR.

⁴ 1948 (2) SA 677 AD.

(8) Where there has been no misdirection on fact by the trial Judge, the presumption is that his conclusion is correct; the appellate court will only reverse it where it is convinced that it is wrong.

(9) In such a case, if the appellate court is merely left in doubt as to the correctness of the conclusion, then it will uphold it.

(10) There may be a misdirection on fact by the trial Judge where the reasons are either on their face unsatisfactory or where the record shows them to be such; there may be such a misdirection also where, though the reasons as far as they go are satisfactory, he is shown to have overlooked other facts or probabilities.

(11) The appellate court is then at large to disregard his findings on fact, even though based on credibility, in whole or in part according to the nature of the misdirection and the circumstances of the particular case, and so come to its own conclusion on the matter.”

[21] Having applied these principles to the matter at hand, I could not find any misdirection on the part of the court *a quo*. The Magistrate gave a detailed, well-reasoned judgment with additional reasons when called upon by the parties in respect of *Rule 51 (1)*,⁵ even going so far as to respond to the cross appeal.

[22] As I indicated earlier in this judgment, the Magistrate acknowledged that the parties having presented divergent versions, it was necessary to adopt the technique suggested in ***Stellenbosch Farmers Winery and Another v Martell et cie.***⁶ Having analysed the evidence she concluded that plaintiff's version was more probable as to how the events unfolded on that day. In this regard, the Magistrate pointed out to contradictions and improbabilities that were inherent from the defendants' evidence. One such improbability being the fact that none of the two officers (**Jele** and **Mqokozo**) shed light as to who administered the pepper spray. The Magistrate pointed out that they tended to distance themselves from its use. **Jela** seems to know nothing about the use of the pepper spray when he was at the scene. Yet it was detected on both his

⁵ Magistrate's Court Rules.

⁶ Supra.

eyes. This led her to find that at the time an attempt was made to arrest **Ryan**, no offence had been committed in the presence of the police. And that therefore no justification for the arrest and thereof no resistance of a lawful arrest by both **Ryan** and the plaintiff who wanted to know why his brother was being arrested. That therefor plaintiff's arrest was not justified in terms of *Section 40 (1) (a) of the Criminal Procedure Act*. Accordingly, that the arrest was unlawful.

[23] The Magistrate does not seem to have paid lip service to the application of the technique suggested in ***Stellenbosch Farmers Winery Group*** matter, but to have adopted the technique in assessing the evidence given by the witnesses. In doing so she did not accept or reject the evidence where she did, in a wholesale manner. She went on to determine whether it supported the allegations made by each party. The judgment is assailed on the basis that she should have found in favour of the plaintiff in respect of the other claims as well, having accepted his evidence. (Cross appeal). However, she reasoned that those claims had not been supported by the evidence. I did not understand her mention of the fact that the state declined to prosecute defendants' employees for assault on the plaintiff to be the only reason why she was of the view that plaintiff had not discharged the *onus* of proving the assault. It was but one of the factors she took into account.

[24] I can find no fault with her finding that the plaintiff did not succeed in showing that the officers of the defendants acted with malice (*animo injuriandi*) in respect of claim number 3. I can find no reason why there should be interference with the Magistrate's findings.

THE AWARD FOR DAMAGES

[25] First defendant complains that the award is grossly excessive in the circumstances. It is trite that the amount of damages to be awarded is within the discretion of the trial court, which discretion must be exercised reasonably.

It is also trite that the interference will only be justified in the following circumstances:

Where the trial court has misdirected itself on the facts, or on its approach to the assessment thereof or where its assessment of damages is markedly disparate to that of the appellate court.

[26] The Magistrate considered awards made in previously decided matters. The incursion of or deprivation of a person of his liberty is always viewed in a serious light. It is so that the assessment of damages depends on the circumstances of each case. The circumstances surrounding plaintiff's arrest are that he was arrested at around midday on Saturday and released around the same time on Monday following his appearance in court. Part of the period spent in detention was spent in hospital where he was shackled to a bed. He was an employee of the first defendant and held the rank of a warrant officer. He was arrested in full view of his neighbours and relatives. Spent time in custody both in the holding cells and when he was being transported to court in company of other detainees and in fear in light of his career being a police detective who deals with suspects / offenders.

[27] Be that as it may, *“money can never be more than a crude solatium for the deprivation of what, in truth, can never be restored”*.⁷

[28] I am however of the view that an award of R250 000.00 in the circumstances of this case is considerably disparate to the amount this court could have awarded the plaintiff. An appropriate award in respect of claim 2 is R120 000.00.

COSTS

[29] The Magistrate being of the considered view that the plaintiff had been substantially successful in the action she ordered the defendants to shoulder

⁷ Minister of Safety and Security v Seymour 2006 (6) SA 320 at 326 [20].

the costs of the action. I am unable to agree with the Magistrate in this regard. Plaintiff only succeeded in one of three claims. I am not persuaded that her discretion was exercised reasonably in this regard.

[30] It is worth mentioning that the litigation in this matter was conducted in a rather grandiose manner. In my view, the trial was unnecessarily protracted. This thread has carried on to the appeal stage with defendants' heads running into 68 pages as well as 18 pages of supplementary heads. Plaintiff filed heads running into 81 pages. Litigants are reminded that heads of argument should consist of a concise and succinct statement of the main points which will be argued.

[31] The appeal in so far as it relates to the Magistrate's order that the first defendant is liable for damages arising from plaintiff's unlawful and wrongful arrest fails. The appeal relating to the amount of the award succeeds. The appeal against the order for costs against the defendants succeeds. The cross appeal is dismissed.

ORDER

[32] The order of the court *a quo* is altered to read:

32.1 (i) Plaintiff's first claim is dismissed.

(ii) In respect of claim 2, judgment is granted in favour of the plaintiff against the first defendant. The first defendant is ordered to pay plaintiff R120 000.00 as and for damages for unlawful arrest and detention. Interest on R120 000.00 to be paid at the prescribed rate from 14 days after judgment to date of payment.

Claim 3 is dismissed.

First defendant is to pay 50% of plaintiff's costs.

32.2 The cross appeal is dismissed with costs.

(iii) First defendant is to pay 75% of respondent's costs in the appeal.

**N G BESHE
JUDGE OF THE HIGH COURT**

DUKADA AJ

I agree.

**N DUKADA
JUDGE OF THE HIGH COURT (ACTING)**

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