REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2023-084448
Case Number: 2023-097051
Case Number: 2023-097091

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

30 April 2025
DATE SIGNATURE

In the matter between:

ANDELINE WILLIAMS First Applicant

and

THE LEGAL PRACTICE COUNCIL, GAUTENG First Respondent

ADV. FRANCOIS M WASS Second Respondent

In the matter between:

ANDELINE WILLIAMS First Applicant

and

THE LEGAL PRACTICE COUNCIL, GAUTENG First Respondent

KAREL BREDENKAMP Second Respondent

In the matter between:

ANDELINE WILLIAMS First Applicant

and

THE LEGAL PRACTICE COUNCIL, GAUTENG First Respondent

PRABASHNI SUBRAYAN NAIDOO Second Respondent

JUDGMENT

This judgment is handed down electronically by circulation to the parties' legal representatives by email and by being uploaded to CaseLines. The date and time for hand down is deemed to be 30 April 2025.

DE OLIVEIRA, AJ

Introduction

[1] I heard three applications on 11 March 2025 involving Ms Williams-Pretorius, on the one hand, and the Legal Practice Council ("LPC") and certain legal practitioners on the other. In all three applications Ms Williams-Pretorius appeared in person. The LPC was represented by Damons Magardie Richardson Attorneys; Ms Magardie appearing in the first two applications and Ms Moolman in the third.

[2] Two further matters involving Ms Williams-Pretorius and the LPC were heard by JM Berger AJ the week before. Those matters are similar in many respects to the three that I heard. I have had the benefit of considering the judgment delivered in

the matters before JM Berger AJ.[1] As an aside, in the matters before him, JM Berger AJ delivered a consolidated judgment in view of the substantial overlap between the two matters, which I think was prudent and which approach I intend to adopt here.

[3] The three applications before me were brought by Ms Williams-Pretorius for the review and setting aside of the decisions of an investigating committee of the LPC which, in terms of section 37(4) of the Legal Practice Act 28 of 2014 ("LPA"), must, if it is satisfied that:

> *"(a) the legal practitioner, or the candidate legal practitioner concerned may, on the basis of available prima facie evidence, be guilty of misconduct that, in terms of the code of conduct, warrants misconduct proceedings, refer the matter to the Council for adjudication by a disciplinary committee; or*
>
> *(b) the complaint should be dismissed on the grounds that the conduct in question does not necessarily warrant misconduct proceedings, as set out in the code of conduct, it must dismiss the complaint, inform the Council, the complainant and the legal practitioner, candidate legal practitioner or juristic entity of its finding and the reasons for it, whereafter the complainant may appeal in terms of section 41, if the complainant is aggrieved by-*
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> *(i) the manner in which the investigating committee conducted its investigation; or*
>
> *(ii) the outcome of the investigating committee."*

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[1] *Williams-Pretorius v Legal Practice Council Gauteng Provincial Office and Another* 2025 JDR 1042 (GJ).

[4] In all three applications the LPC is cited as the first respondent. The second respondent in each instance is the legal practitioner concerned, although none of them participated in the various proceedings. The legal practitioners in question are as follows:

(a) case number 2023-084448 – Adv Franscois Wass;

(b) case number 2023-097501 – Mr Karel Bredenkamp; and

(c) case number 2023-097091 – Ms Prabashni Subrayan Naidoo.

[5] I will deal with each matter in this order and refer to them respectively as "the first case", "*the second case" and "the third case*".

The Legislative Framework

[6] The LPC is established in terms of section 4 of the LPA. In terms of section 5(g), one of the objects of the LPC is to "*determine, enhance and maintain appropriate standards of professional practice and ethical conduct of all legal practitioners and all candidate legal practitioners."*

[7] In terms of section 37(1) of the LPA, the LPC must, where necessary, establish investigating committees "*to conduct investigations of all complaints of misconduct against legal practitioners, candidate legal practitioners or juristic entities."* In terms of section 37(4), the LPC must refer the matter or communicate its decision as referred to in paragraph [3] above.

[8] Rule 40 of the Rules promulgated in terms of the LPA affords an investigating committee extensive powers for purposes of carrying out its responsibilities.[2] Whilst the breadth of an investigation will depend on the facts of each case,[3] and whilst JM Berger AJ in the matters before him found that "*the investigating committee did not conduct an investigation of any sort. Instead, a decision to dismiss the complaint was made solely on the basis of a consideration of three documents: the original complaint, Ms de Jager's response, and Ms Williams-Pretorius' consideration of that response*", I agree with Yacoob J in *Groundup News NPC and Others v South African Legal Practice Council and Others* that reading the complaint and response may, in some cases, amount to a sufficient investigation.[4] It is perhaps for this reason that Rule 40.2 is couched in directory and not peremptory language.

[9] It is against this brief overview that I turn to consider the merits of the respective cases.

The First Case

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2 Rules in terms of sections 95(1), 95(3) and 109(2) of the Act, published under GenN 401 in *GG* 41781 of 20 July 2018.

3 Rule 40, for example, empowers an investigating committee to subpoena a legal practitioner to appear before the committee and/or to call for the inspection of documents in the possession or under the control of the legal practitioner in question.

4 2023 (4) SA 617 (GJ) at [37].

[10] Ms Williams-Pretorius' grievances appear to have arisen out of what she believes to be the misappropriation of her intellectual property by a certain media group. As I understand things, Ms Williams-Pretorius has instituted a claim against the media group for damages sustained by her as a result of such misappropriation. In order to prosecute such a claim, Ms Williams-Pretorius has from time to time enlisted the services of various legal practitioners. The legal practitioners in the matters before me are three of several such practitioners.

[11] In the case concerning Adv. Wass, on 17 September 2020 the LPC received a complaint from Ms Williams-Pretorius in terms of which she stated that, during March 2020, she consulted with Adv. Wass and instructed him to act on her behalf against the media group after she was "dropped" by her previous set of attorneys, who she called "dishonest".

[12] Ms Williams-Pretorius alleged that Adv. Wass failed to timeously respond to her communications; failed to properly deal with her instructions; had employed delaying tactics insofar as an advertisement for public funding was concerned (so as to enable Ms Williams-Pretorius to fund the litigation against the media group); misled her about legal privilege; deliberately deceived her regarding the advert he prepared and deliberately delayed her matter against the media group.

[13] Subsequent to procuring and obtaining Adv. Wass' response to the complaint, it transpired that whilst he is a practicing advocate, Adv. Wass does not practice as

such with a fidelity fund certificate. This is important because it emerged that Adv. Wass had acted for Ms Williams-Pretorius, for reward, without the intervention of an instructing attorney, which is a serious breach of section 27.2 of the LPC's Code of Conduct. The LPC's investigating committee accordingly recommended that Adv. Wass be subjected to a disciplinary hearing before a disciplinary committee.

[14] Ms Williams-Pretorius was nonetheless dissatisfied with the LPC's "limited recommendation" because it did not pertinently deal with her substantive complaints, namely those referred to in paragraph [12] above. In the subsequent application brought before me, Ms Williams-Pretorius sought an order reviewing and setting aside this "limited recommendation", though the notice of motion does not state what is to occur if the Court does so.

[15] In opposing the review application, the LPC raised two points *in limine,* namely that Ms Williams-Pretorius' founding affidavit was not properly commissioned and that the review application was brought approximately one and a half years after the LPC's decision was communicated to Ms Williams-Pretorius.

[16] As far as the former is concerned, there is no indication that Regulation 4 was complied with at all. At most there is an SAPS stamp a long way beneath Ms Williams-Pretorius' signature, but no indication whatsoever that even an oath or affirmation was administered.

[17] Regulation 4 of the Regulations Governing the Administration of an Oath or Affirmation provides as follows:[5]

> *"(1) Below the deponent's signature or mark the commissioner of oaths shall certify that the deponent has acknowledged that he knows and understands the contents of the declaration and he shall state the manner, place and date of taking the declaration.*
>
> *(2) The commissioner of oaths shall —*
>
> *(a) sign the declaration and print his full name and business address 2 below his signature; and*
>
> *(b) state his designation and the area for which he holds his appointment or the office held by him if he holds his appointment ex officio."*

[18] Whilst it has been held that the provisions of Regulation 4 are directory and not peremptory, and whilst the failure to comply with the provisions can be condoned at the discretion of the court where it is clear from other indications in and on the document that an oath was in fact administered by the commissioner of oaths,[6] in the cases where strict non-compliance was condoned, there was at least substantial compliance with Regulation 4 whereas *in casu* there is none.

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[5] GN R1258 of 21 July 1972, amended by GN R1648 of 19 August 1977, by GN R1428 of 11 July 1980 and by GN R774 of 23 April 1982.

[6] *Parys-Aan-Vaal Woonstelle (Pty) Ltd v Plexiphon 115 CC* (unreported, FB case no 3489/2021 dated 20 January 2022) at paragraph [15]; *Land and Agricultural Development Bank of South Africa v Winsbeslis Vyf (Pty) Ltd* (unreported, GP case no 28604/21 dated 16 February 2022) at paragraphs 11 and 12, referring with approval to *Malan v Minister of Police NO* 2019 (2) SACR 469 (GJ) at paragraphs 43 and 44; *Petersen v Gqosha* (unreported, ECEL case no 1574/2022 dated 25 April 2023) at paragraphs [26]–[30].

[19] It appears from the judgment of JM Berger AJ that Ms Magardie and Ms Moolman withdrew the LPC's reliance on similar points taken in the matters before him, a fact of which I was regrettably not informed. In view of the fact that the point before me was pertinently persisted with, I feel constrained to uphold it.

[20] Even if I am wrong to uphold this point *in limine,* it gives me some comfort that I am nonetheless inclined to dismiss the first case on the merits as dealt with below. Before I turn to the merits, however, I must first say something about the point *in limine* pertaining to delay.

[21] The recommendations (i.e., the decisions) of the investigating committee were taken on 1 December 2021, whereas the first case was only instituted on 24 August 2023. The point on delay was initially taken because the LPC contended that the investigating committee's decision was communicated to Ms Williams-Pretorius on 2 March 2022, whilst no explanation for the delay between March 2022 and August 2023 was proffered.

[22] It appears however that Ms Williams-Pretorius only came to learn of the decision of the investigating committee in June 2023, as a consequence of which the LPC did not persist vociferously with this point *in limine.* I accordingly find that there was no delay in instituting the first case and that the second point *in limine* falls to be dismissed.

[23] As far as the merits are concerned, the first case is peculiar in the sense that Ms Williams-Pretorius' complaints against Adv. Wass were, perhaps in the most serious respects, successful. Indeed, when I put this peculiarity to Ms Williams-Pretorius, she appeared to appreciate this fact and the consequence thereof, namely that the first case was mostly unnecessary.

[24] To the extent that Ms Williams-Pretorius nonetheless sought to review and set aside the investigating committee's failure to recommend that Adv. Wass face disciplinary charges in connection with the grounds advanced in paragraph [14] above, it appears to me that there is simply no evidence in support of Ms Williams-Pretorius' allegations that the LPC generally, and the investigating committee in particular "committed gross irregularities", or that it "exceeded its powers" (though I fail to appreciate how this was the case at all) or that it was "clearly biased". All of these allegations appear to me to be speculative and, to some extent at least, conspiratorial. Indeed, Ms Williams-Pretorius appeared to believe that Magardie Richardson Attorneys had colluded with the LPC to sabotage the litigation, to the extent that documents allegedly removed from CaseLines had been removed deliberately to mislead the court; and that her email inbox had been "hacked",[7] presumably by the LPC and/or its representatives.

[7] I use this word not because it appears in Ms Williams-Pretorius' affidavits, but because it colloquially describes what Ms Williams-Pretorius suspects in relation to her email account/s.

[25] In all, the complaint by Ms Williams-Pretorius against Adv. Wass, his response thereto and Ms Williams-Pretorius' further response were all detailed and to some extent supported by additional documents, such as email exchanges. In contrast to the tenor of the first case, it appears that the LPC did indeed investigate the complaint fully, to the extent that it recommended that Adv. Wass face disciplinary charges. Incidentally, despite Ms Williams-Pretorius being requested to attend that hearing for purposes of carrying out the disciplinary hearing, she declined to do so.

[26] This appears to me to be the type of case foreshadowed in the *Groundup News* case, namely where reading and considering the complaint and response thereto amounts to a sufficient investigation for purposes of section 37 of the LPA read with Rule 40. I accordingly find that no case has been made out by Ms Williams-Pretorius for the review and setting aside of the decision of the LPC's investigating committee dated 1 December 2021.

[27] As far as costs are concerned, I am satisfied that Ms Williams-Pretorius is seeking to assert and vindicate her rights, in which case the general rule is that each party should pay its own costs.[8]

[28] The first case will accordingly be dismissed with no order as to costs.

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[8] See generally *Biowatch Trust v Registrar, Genetic Resources, and Others* 2009 (6) SA 232 (CC).

The Second and Third Cases

[29] Ms Williams-Pretorius' affidavits in the second and third cases suffered from the same defects as in the first case. My finding in regard thereto is *mutatis mutandis* the same as in the first case.

[30] In at least in two respects, however, the second and third cases stand on a different footing to the first case: first, the delay in the institution of the second and third cases is indeed inordinate (an issue to which I will turn in a moment); and secondly the LPC's investigating committee dismissed Ms Williams-Pretorius' complaints against Mr Bredenkamp and Ms Naidoo outright (whereas in the first case the committee recommended that Adv. Wass face a disciplinary hearing).

[31] As far as the delay is concerned, in both the second and third case it is in excess of a year between the decisions of the investigating committee and the institution of the review applications.

[32] Although Ms Williams-Pretorius does not specify if the proceedings are instituted in terms of the provisions of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") or on some other basis, there has been an inordinate delay either way.

In this regard it is trite to state that proceedings for judicial review must be instituted *without* unreasonable delay.

[33] In *Opposition to Urban Tolling Alliance v South African National Roads Agency Ltd*,[9] it was held that:

> *"(26) At common law application of the undue delay rule required a two stage enquiry. First, whether there was an unreasonable delay and, second, if so, whether the delay should in all the circumstances be condoned (see eg Associated Institutions Pension Fund and others v Van Zyl and others 2005 (2) SA 302 (SCA) para 47). Up to a point, I think, s 7(1) of PAJA requires the same two stage approach. The difference lies, as I see it, in the legislature's determination of a delay exceeding 180 days as per se unreasonable. Before the effluxion of 180 days, the first enquiry in applying s 7(1) is still whether the delay (if any) was unreasonable. But after the 180 day period the issue of unreasonableness is pre-determined by the legislature; it is unreasonable per se. It follows that the court is only empowered to entertain the review application if the interest of justice dictates an extension in terms of s 9. Absent such extension the court has no authority to entertain the review application at all. Whether or not the decision was unlawful no longer matters. The decision has been 'validated' by the delay (see eg Associated Institutions Pension Fund para 46). That of course does not mean that, after the 180 day period, an enquiry into the reasonableness of the applicant's conduct becomes entirely irrelevant. Whether or not the delay was unreasonable and, if so, the extent of that unreasonableness is still a factor to be taken into account in determining whether an extension should be granted or not (see eg Camps Bay Ratepayers' and Residents' Association v Harrison [2010] 2 All SA 519 (SCA) para 54)."*

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[9] 2013 (4) All SA 639 (SCA).

[34] If the application is brought under PAJA – though this is not articulated in any of Ms Williams-Pretorius' papers – the delay is "unreasonable per se". If not, the delay nonetheless appears to me to be unreasonable. The enquiry is thus whether the interests of justice dictate an extension of the applicable time period and/or whether the delay should be condoned.

[35] Whilst in the matters before him JM Berger AJ found that Ms Williams-Pretorius had proffered an explanation for the delay, albeit one that is "somewhat rambling and imprecise", on the facts before me I am unable to find that the lengthy delay taken to institute the second and third cases was reasonable, or that the delay can be condoned.

[36] I mention that Ms Williams-Pretorius appeared to me to be able, eloquent and intelligent (I say this with all due deference and without meaning to sound patronising), and that she was in her papers aware of the need to act with the necessary haste, whether it be in the proceedings before the LPC or the courts. There was however no explanation for the delay whatsoever. Even when Ms Williams-Pretorius was criticised for the delay, she did not seek to explain it by way of a replying affidavit (and there was no indication that she was unaware of her right to file such an affidavit).[10] In these circumstances, and to the extent that

[10] The "replying affidavit" filed of record was actually a supplementary affidavit filed after the LPC delivered the record of proceedings in terms of rule 53 of the Uniform Rules of Court.

the decisions of the investigating committee fell to be reviewed and set aside (though that is not my view), such decisions have been "validated" by the delay.

[37] I accordingly find that Ms Williams-Pretorius has failed to proffer any explanation for the inordinate delay, let alone one that is full and satisfactory and which covers the entire period. The delay cannot be condoned under these circumstances. I would dismiss the second and third cases on this basis alone.

[38] In any event, even if I am wrong to dismiss the second and third cases on the basis of unreasonable delay, I would nonetheless dismiss them on their respective merits.

[39] In the second case, Ms Williams-Pretorius' complaint was both detailed and informative. Mr Bredenkamp's response consisted of in excess of 100 pages (with annexures). The LPC engaged extensively with Ms Williams-Pretorius to ensure that she obtained a full copy of Mr Bredenkamp's response. She was distrustful of the LPC and refused delivery of the documents to her home or even some other address. Eventually, the LPC couriered Mr Bredenkamp's comprehensive response to Ms Williams-Pretorius' nearest postnet.

[40] Ms Williams-Pretorius submitted her comments to Mr Bredenkamp's response under cover of a dossier entitled "Responding to the lies of Karel Bredenkamp of

Bredenkamp Attorneys Inc." This document is also exceedingly detailed and, with annexures, runs to in excess of 50 pages.

[41] In the third case, Ms Williams-Pretorius' complaint against Ms Naidoo was equally detailed and informative, as was Ms Naidoo's response, which included annexed communications between her and Ms Williams-Pretorius.

[42] There is no evidence to suggest that the LPC's investigating committee did not conduct the necessary investigations, which it did, as in the first case, by reading and considering the complaint, the response thereto and Ms Williams-Pretorius' reply thereto. One wonders, in the circumstances of the second and third cases, what else the investigating committee is required to do when it is seized with what appears to be *all* of the relevant material. To reiterate, as Yacoob J held in *Groundup News*, reading and considering the complaint and response may, in some cases, amount to a sufficient investigation.

[43] As in the first case, Ms Williams-Pretorius' allegations of bias, gross irregularity and other such reviewable conduct do not pass muster. I regret to say that, as in the first case, such allegations are merely speculative and conspiratorial. Again, although many of these issues were raised by way of the LPC's answering affidavit, Ms Williams-Pretorius chose not to file a replying affidavit.

[44] There is one final aspect pertaining to the second and third cases that merits the court's censure: in both such cases, the investigating committee delivered its decision along the same lines as those quoted in the judgment of JM Berger AJ.[11]

[45] Whilst in my view it is not apparent *ex facie* the decisions that the LPC is guilty of some or other reviewable conduct, I agree with Ms Williams-Pretorius that the decisions are "silly" in the context of such important matters. I took her to mean that they were simple and devoid of substance. Save to reiterate that it is not apparent *ex facie* the decisions that they fall to be set aside, I agree with Ms Williams-Pretorius that the decisions themselves are indeed silly. I would go further to state that, from at least a grammatical point of view, the decisions should serve to cause the LPC embarrassment. It is my hope that the LPC and its appointed investigators will henceforth formulate their recommendations with the care and precision demanded of the LPA as read with the Rules. The litigating public is, at a minimum, entitled to this.

[46] Despite my findings in regard to the second and third cases, there will be no order as to costs for the same reasons as those advanced in respect of the first case.

Order

[47] In the circumstances, I make the following order:

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[11] At paragraph [14].

(a) In case no. 2023-084448, the application is dismissed with no order as to costs.

(b) In case no. 2023-097501, the application is dismissed with no order as to costs.

(c) In case no. 2023-097091, the application is dismissed with no order as to costs.

DE OLIVEIRA AJ
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

Applicant:	Ms Williams-Pretorius (in person)
Legal Practitioner for the First Respondent:	Ms S L Magardie / Ms M Moolman of Damons Magardie Richardson Attorneys
Date of hearing:	11 March 2025
Date of Judgment reserved:	11 March 2025
Date Judgment delivered:	30 April 2025

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