REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 26675/2022

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES: NO
REVISED: YES/NO
DATE: 08-01-2024
PD. PHAHLANE

In the matter between:

B[...] M[...] G[...] S[...]	**APPLICANT**
And	
M[...] B[...] S[...]	**1st RESPONDENT**
MINISTER OF POLICE	**2nd RESPONDENT**
SHERIFF OF THE COURT	**3RD RESPONDENT**

The judgment is issued by the Judge whose name is reflected herein and is submitted electronically to the parties/their legal representatives by email. The judgment is further uploaded to the electronic file of this matter on Caselines by her secretary. The date of this judgment is deemed to be 08 January 2024.

JUDGMENT

PHAHLANE, J

[1] The applicant (Mr S[...]) brought this application on an urgent basis in terms of Rule 6(12) of the Uniform Rules of Court for the contempt of two Court Orders granted against the first respondent by Voster AJ, on the 4th of August 2021 ("the Voster Order") and by Mosopa J, on the 27th of June 2022 respectively ("the Mosopa Order").

[2] It is trite that our law permits an aggrieved litigant to approach a court for an order of contempt pursuant to an earlier court order being defied by the contemnor. In such an application, the applicant must set forth the circumstances which is averred renders the matter urgent. Both the first respondent and her attorney of record, Mr Selala of KJ Selala Attorneys were served. This is so because apart from the applicant's attorney being served with the application, the first respondent was al o served electronically[1] at l[…]@gmail.com with the "subject" of the contents of the email being clearly specified as "Urgent Application", to reflect the contents of the email. The first respondent responded to this email on the 4th of January 2024 at 19:01 seeking clarification about the email. She was also served via SMS and WhatsApp. The first respondent and her attorney failed to oppose the application within the time set by the applicant in his application and the matter then proceeded on an unopposed basis.

[3] The applicant and the first respondent are both biological parents of the minor child who was at the centre of the Rule 43 application which led to the granting of the Voster Order on the 4th of August 2021. The relief sought by the applicant aim to protect his rights as the father of the minor child, and to have the right of access to, and contact with his minor child.

[4] The applicant contends, and correctly so, that the urgency of this

[1] Caselines at 019-2

matter relates to the minor child in that in every matter concerning the child, the best interest of the minor child is of paramount importance[2]. It was argued on behalf of the applicant that this matter is further rendered urgent by the fact that the applicant as the father of the minor child is being deprived of his rights in terms of section 18(2)(b) of the Children's Act 38 of 2005 ("the Children's Act") The section provides as follows:

> ***Parental responsibilities and rights***
>
> *S18(2) The parental responsibilities and rights that a person may have in respect of a child, include the responsibility and the right-*
>
> *(a)* .....
>
> *(b)* *to maintain contact with the child.*

[5] In considering the issue of urgency in a case like this, the court in my view, must apply the best interest of the child principle. The overarching principle in our law in matters involving children has always been - what would be in the child's best interest. While section 4(b) of the Children's Act provides that "in any matter concerning a child, a delay in any action or decision to be taken must be avoided as far as possible", section 6(2)(a) on the other hand provides that "all proceedings, actions, or decisions in a matter concerning a child must respect, protect, promote, and fulfil the child's rights set out in the Bill of Rights".

[6] As indicated above, the Bill of Rights in the South African Constitution is celebrated for its extensive commitment to the protection of the rights of children in section 28, particularly section 28(2), which emphatically underscores the paramountcy of the child's best interests. On the other hand, section 9 of the Children's Act also echoes section 28(2) of the Constitution. Accordingly, in every matter where the rights of a child are at stake, the

[2] Section 28(2) of the Constitution of the Republic of South Africa, Act 108 of 1996.

interests of the child take preference over the interests of the parents.

[7] The background of this case has been obtained from the founding papers filed of record. In his founding affidavit, the applicant refers to the Vaster Order in which he was ordered to pay maintenance in the amount of R15 000 per month, and states that to date, he has not been able to have any contact with his minor child[3].

[8] In terms of the Vaster Order, the applicant was also granted full parental rights and responsibilities, together with the first respondent in terms of section 18 of the Children's Act. He was also "granted reasonable contact to the minor child on every alternate weekend and reasonable consultation and contact at all relevant times to a maximum of two hours per day".

[9] The first respondent disobeyed and refused to comply with Vaster Order, and as a result of non-compliance with the aforesaid court Order, the applicant brought an application to have the first respondent declared in contempt, and accordingly, the Mosopa Order was then granted on 27 June 2022. His Lordship Justice Mosopa also ordered that the first respondent be committed to imprisonment for a period of thirty days for the contempt of the Vaster Order. The two abovementioned Orders form the basis of the current application because the first respondent still refuses to comply with these court orders.

[10] The applicant states in his affidavit that he has been attempting to get access to and have contact with his minor child whose primary residence and care is with the first respondent as per the Voster Order. He further states that he has sent correspondence to the first respondent through his attorney of record, requesting her to comply with the Vaster Order to allow him to have contact with the minor child, and this exercise

[3] Paragraph 5 of the Voster Order reflects that maintenance in the amount of R5000 per month in respect of the minor child and R10 000 per month in respect of the first respondent should be paid by the applicant.

has been fruitless. It is therefore clear that even with the knowledge of the Mosopa Order which found her to be in contempt, the first respondent continues to deny the applicant access to the minor child. Accordingly, there is no doubt in my mind that the first respondent is fully aware of the Court Orders.

[11] With several correspondence having been sent to the first respondent's attorney, at least two of the latest correspondence are in letters dated 30 August 2023 and 6 September 2023 respectively. These correspondences were sent by the applicant's erstwhile attorney. In an attempt to get the first respondent to comply with the Voster Order even after being favoured with the Mosopa Order, ccorrespondence sent on 30 August 2023 was to inform the first respondent that the applicant would be fetching the minor child on 1 September 2023. The first respondent did not respond to this correspondence and remained disobedient towards the Orders rendering the decision of the court impotent and the judicial authority a mere mockery. The following is noted in this letter regarding when the applicant would be exercising his right of contact with the minor child:

> "....*We notify you to advise your client that our client is coming to fetch the child commencing on 1 September 2023. We look forward to your prompt response before end of business day on 31 August 2023".*

[12] With regards to the letter dated 6 September 2023, the following is noted:

> *"We refer to our letter dated 30 August 2023. As stated in that letter, we advised you of our client's intention to come and fetch the minor child as per the Court Order of 4 August 2021. However, we were not favoured with your response.*
>
> *We therefore advise you to inform your client regarding our client's rights of reasonable access and contact with a minor child in which he would*

like to exercise on 8 - 10 September 2023. We looked to your prompt response before end of business day today".

[13] This letter dated 6 September 2023 is either deliberately ignored by the first respondent's attorney, or he simply does not care and make common cause with the defiance and violation of the Court Orders by the first respondent, alternatively, he simply fails to properly advice his client accordingly. I will deal with this aspect later in the judgment.

[14] The duty to observe court orders is a constitutional imperative flowing from the rule of law protected in section 1 of the Constitution, and the provisions of section 165, which vouchsafe judicial authority. The Constitutional Court recognizes that "disobedience towards court orders or decisions risks rendering our courts impotent, and judicial authority a mere mockery, and the' effectiveness of court orders or decisions is substantially determined by the assurance that they will be enforced"[4].

[15] In ***Pheko and others v Ekurhuleni City[5],*** the Constitutional Court explained that:

"Contempt of court is understood as the commission of any act or statement that displays disrespect for the authority of the court or its officers acting in an official capacity. This includes acts of contumacy in both senses: wilful disobedience and resistance to lawful court orders. This case deals with the latter, a failure or refusal to comply with an order of court. *Wilful disobedience of an order made in civil proceedings is both contemptuous and a criminal offence. The object of contempt proceedings* is *to impose a penalty that will vindicate the court's honour, consequent upon the disregard of its previous order,* as

[4] Matjhabeng Municipality v Eskom 2018(1) SA (1) at paragraph 46 to 67; Pheko and others v Ekurhuleni City ('Pheko') 2015(5) SA 600 (CC); 2015(6) BCLR 771 (CC); [2015] ZACC 10 at paragraphs 1-2 and 25 to 37 with reference inter alia to Fakie NO v CCII Systems (Pty) Ltd 2006(4) SA 326 (SCA).
[5] 2015(5) SA 600 (CC); 2015(6) BCLR 771 (CC); [2015] ZACC 10 at para 28

well as *to compel performance in accordance with the previous order".*

[16] There is no doubt in my mind that the jurisdictional requirements necessary to hold the first respondent in contempt of court were met[6] as demonstrated by the correspondence. Similarly, the first respondent is fully aware of the contempt order granted against her and she is determined to frustrate the applicant and rob him of his relationship with the child.

[17] I am inclined to agree with the applicant's counsel that the behaviour of the first respondent prejudices the interests of the very child who she is supposed to protect as required of her by both the Constitution and the Children's Act. Counsel correctly argued that this child's rights are being violated because he cannot fight for himself, and he is being used and robbed of having any chance of knowing his father and forming a relationship with him.

[18] One would have expected the first respondent as the mother of the minor child to make decisions which would serve the best interests of the minor child as they are of paramount importance. The best interest of the child in this case is the child's right to have a relationship with his father. Like any other person, the applicant has a right to be treated equally before the law and has the right to equal protection and benefit of the law, which includes the full and equal enjoyment of all rights and freedoms towards his child. The court will strive to promote the achievement of such equality as protected in the Bill of Rights.

[19] While courts do not countenance disobedience of judicial authority, it needs to be stressed that contempt of court does not consist of mere disobedience of a court order, but of the contumacious disrespect for judicial

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[6] Le Harlie and Others v Glasson and Others (214/2021) [2022] ZASCA 59 (22 April 2022); Secretary, Judicial Commission of Inquiry into Allegations of State Capture v Zuma and Others [2021] ZACC 18; 2021 (5) SA 327 (CC) para 37); Fakie NO v CCII Systems (Pty) Ltd 2006 (4) SA 326 (SCA).

authority[7]. The first respondent displayed herself to be recalcitrant in her behaviour, and it is my view that her continued defiance in respecting the rule of law, and her prolonged violation of her own child's rights and best interests, is something which cannot be ignored by this court. The Children's Act provides in Section 7(1)(f) that in determining the best interest of the child, the court must be guided by "the child's need" to maintain a connection with his/her family. *In casu,* the need for the minor child to maintain a connection with his father is of paramount importance.

[20] There is no denying that the applicant has been disadvantaged unfairly while having Court Orders at his disposal. This speaks volumes on how the first respondent has reduced Court Orders into a mere paper that has no value. In my view, this utter disrespect and violation of the Court Orders cannot be tolerated.

[21] Having regard to the above, it can be deduced from her unreasonable and unlawful behaviour that the first respondent has no intention of complying with the Court Orders as she continues to be in gross violation and disregard of the rule of law for an extended period of time - since 2021 and again in 2022. Be that as it may, despite all these breaches of the Court Orders, the applicant had been paying and continues to pay maintenance to the first respondent and the minor child as ordered by the court without any default.

[22] In this regard, the applicant continues to obey and comply with the Voster Order by contributing to the maintenance of the minor child as required of him as a father to the minor child in terms of section 18(2)(d) of the Children's Act, even though he is being deprived of his rights to maintain contact with the child as stipulated in section 18(2)(b) of the Children's Act.

[23] It is on this basis that counsel on behalf of the applicant submitted that the applicant has been unreasonably and unlawfully deprived of his protected

[7] Pheko at para 42.

rights in terms of the law - to see the minor child or have contact with the minor child as specifically contemplated in the Children's Act, and as required of him in terms of the Voster Order which specifically stated that the applicant has a responsibility to maintain both physical and telephone contact.

[24] It was argued that a continued violation and disregard of the court orders have the effect of impacting negatively on the growth and the development of the minor child. It was further argued that the first respondent's conduct in refusing to comply with the Court Orders negatively impacts on the applicant's rights as a father - who is doing his best to comply with the Vester Order.

[25] It was submitted that as clearly stipulated by both the Constitution and the Children's Act, this court should protect the very interests of the minor child, so that he can be able to bond at an early age with the applicant, and to also allow the applicant to play his role as a father. Counsel stressed the point that- a bond between a child and a parent is very important and that anyone who interferes with that directly impacts negatively on the growth and the development of the child. He submitted that both the minor child and the applicant continue to suffer even though there is an order in place, which compels the first respondent to comply.

[26] Having said that, as it relates to contempt of court, counsel submitted, and correctly so, that the applicant has succeeded in demonstrating that the first respondent has once again, wilfully and *mala fide* disobeyed the Court Orders and conducted herself in a manner that violates the rights of the minor child and the applicant. He submitted that these rights are the most fundamental rights which should be protected as guaranteed by both the constitution and the Children's Act.

[27] Although the court was not addressed on the health condition of the applicant, the applicant stated in his affidavit that being denied access and contact with his child took a toll on his health as he has to constantly

consult his medical doctor and is in a state of depression, and therefore seeks the assistance of the court to allow him to spend time with, and form a relationship with the minor child. He pleaded that the court should in the determination of this matter "consider his rights as the biological father of the minor child, as well as the rights of the child so that the child can experience a loving relationship with his father".

[28] Having considered all the circumstances of this case, as well as the actions of the first respondent, I am of the view that the first respondent acted wilful and *mala fide* by continually refusing to comply with the Court Orders and disrespecting the authority of the court and the rule of law. Her continued non- compliance with the authority of the courts undermines the two legislations of paramount importance, the constitution and the Children's Act - the objective of which is to guarantee the protection of the best interests of her own minor child, as well as the parental rights of the applicant.

[29] As indicated *supra,* the child's best interests become of paramount importance in arriving at a just decision. In my view, the rights of a child should never be deliberately and arbitrarily compromised by anyone. It is therefore imperative that a court exercise its powers to ensure that its decisions or orders are complied with, thereby giving effect to the rights of a successful litigant, and most importantly, by acting as a guardian of the Constitution. In the process of doing that, as it relates to matters such as the current matter before court which relates to the protection of the vulnerable people who cannot fight for themselves as submitted on behalf of the applicant - the best interests of the minor child (of the applicant and the first respondent) takes priority above all.

[30] It is to be gleaned from the papers that the first respondent is not interested in complying and does not have the intention to comply with the court orders - looking at her behaviour since 2021 and not even considering what is best for her own minor child, or at the very least, consider how the circumstances of the case will impact the minor child. It follows that compliance

with the authority and orders of the court does not start or stop with any willingness on the part of the applicant to exercise access or the respondent to enable access to the minor child. But rather access, can only be realized as a matter of fact if the parties comply with the terms of the Court Orders regarding access, and more specifically with the principle of the best interest of the child safeguarded by the legislature.

[31] In considering whether the requirements in respect of the current application have been met, I am once more satisfied that the first respondent and her attorney had knowledge of the court orders and knew the contents thereof. Nonetheless, the first respondent without proper advice from her attorney, continues to disobey them. She continues to disrespect the authority of the court and the parental rights of the applicant, - and it is the duty of the court to stop this gross violation of court orders and the abuse on the applicant, who has been in possession of valid court orders.

[32] What cannot be avoided is the fact that the first respondent has been in violation of the Vester Order which is the subject of this application, for the past three years. This is despite the fact that the first respondent is legally represented. As stated above, one of the requirements for a contempt of court is that the non- compliance or refusal to obey a Court Order must be both wilful and *mala fide.* Having regard to the above-mentioned, I am of the view that the first respondent has willfully, and *mala fide* breached the court order which she continues to grossly violate, even after the Mosopa Order was granted. This brings me to the conduct of the first respondent's attorney.

[33] One of important lessons which every legal practitioner should carry with pride is to adhere to the rules of court and to properly advice clients. Every legal practitioner has an obligation to provide competent legal advice to their clients. It is a basic rule of our law that Court Orders remain operative: valid: and enforceable until reviewed or set aside by a court of competent jurisdiction - and until that is done - the Court Order must be

obeyed, even if it is wrong[8]. (underlining added for emphasis).

[34] Legal practitioners are officers of the court and do not owe a duty to their clients only, but they also owe a duty to the courts and the legal system. It is therefore important to always bear in mind that legal practitioners have an ethical duty to advice their clients to obey Court Orders, whether the client agrees with such an Order or not. Failure to do this may sometimes be interpreted as making common cause with a client who continues to be in defiance and violation of the Court Orders, alternatively, having failed to properly advice client accordingly.

[35] It is rather concerning that legal practitioners find themselves in situations where their profession would be compromised, considering that there was failure to advice the first respondent to comply with the Court Orders, or better yet, advice on what is in the best interests of her minor child, taking into account the impact non-compliance will have on the growth and the development of the child.

[36] In a correspondence dated 21 December 2023, the applicant's attorney of record wrote to the first respondent's attorney, alleging some sort of an unethical behaviour which it is said will be reported to the Legal Practice Council against the first respondent's attorney.

[37] As indicated above at paragraph 11 and 12, there was already correspondence dated 30 August 2023 and 6 September 2023 respectively from the applicant's attorneys in which the first respondent's attorney was requested to advice first respondent that the applicant would be coming to fetch the child as ordered by Vester J. It follows from this that when correspondence was sent to the first respondent's attorney on 21 December 2023, he already knew that the applicant is no longer represented by his erstwhile attorneys, and have appointed his current attorney, Mr. Mafetsa. The letter reads as follows:

[8] See Department of Transport v Tasima (Pty) Ltd 2017 (2) SA 622 (CC).

Dear K.J. SE*LALA ATTORNEYS*

RE: [BMGS] / [MBS]

> *1. "We confirm that we act on behalf of our client [BMGS] in this matter.*
> *2. Our client has instructed us, as attorneys of record to direct this letter to you regarding the above matter.*
> *3. It is our instruction that you send* a *notice of set down to KGAKA and MASINGI ATTORNEYS notwithstanding that you have knowledge that the above attorneys are no longer on record.*
> *4. It is further our instruction to inform you* ***once again*** *that MAFETSA ATTORNEYS are new attorneys of record.*
> 5. *Your action is unethical and desperate attempt to mislead the court, and we find it unacceptable and unethical conduct.*
> *6. It is on record that the above matter was postponed on 24 November 2023, so who gave you* a *date of 26 February 2024 without our knowledge, bypassing the court practice directive on date allocation.*
> 7. *We as our client's attorneys of record, reserve our client's rights to report your unethical conduct to LPC and to further take necessary legal action to stop you forthwith, with legal costs consequences.*
> *8. We trust you find the above in order"*

[38] If one looks at this correspondence and the conduct of the first respondent in her continued disrespect for the authority of the court; her wilful disobedience; violation and total disregard of the court order, there can be no doubt that the first respondent was either ill-advised or not advised at all, or that her attorney was making common cause with her unlawful conduct of disregarding the rule of law. I say this because it is clear from the previous

correspondence that the applicant's attorney requested and informed the first respondent through her attorney, that the applicant would be fetching the minor child in order for him to comply with the Vaster Order. Having said that, the conduct of the first respondent which constitutes a willful disobedience and resistance to a lawful Court Order, should have been apparent to a careful legal practitioner. However, it seems to me that the attorney failed to give proper attention and either made common cause with a case for his client and lost his independence to act in a professional manner, alternatively failed to act in a professional manner in the best interests of the first respondent.

[39] The Constitutional Court in ***Eke v Parsons***[9] affirmed the essential characteristics of a Court Order and accepted that a Court Order must be enforceable and immediately capable of execution. The rule of law requires not only that a court order be couched in clear terms but also that its purpose be readily ascertainable from the language of the order. This is because disobedience of a court order constitutes a violation of the Constitution[10]. (emphasis added)

[40] Upon perusal of the papers filed of reoord, there is no indication that an application was made to vary or set aside the Vester Order, and as such, this Order remains enforceable and **must** be complied with. Reading through the Vester Order, which forms the basis of this application and the previous contempt application, the language used is clear and unambiguous. The language can easily be understandable to an ordinary person. Accordingly, there was no excuse, and there is still no excuse for the first respondent not to adhere to and comply with the Voster Order. Similarly, the Court Order of 27 June 2022 is also couched in a clear language.

[41] Consequently, I find that the first respondent had deliberately disobeyed the Court Orders, and she continues to be in gross violation of these Orders. It is inconceivable that the first respondent would continue to violate the child's

[9] 2016 (3) SA 37 (CC) (2015 (11) BCLR 1319; [2015] ZACC 30) para 64
[10] In a minority judgment with Jafta J concurring.

best interest which is of paramount importance, and which **must** be protected by every parent. In the circumstance, I am inclined to agree with the applicant's counsel that it is not only the applicant who suffers as a result of his parental rights being trampled upon, but the minor child suffers the most because he is put in a position where he would never know what is like to have a relationship with his father.

[42] With that being said, it is imperative that the first respondent understands that - not only is she in violation of the Court Orders, but she has - through her actions - triggered a gross violation of the provisions of the Children's Act and the Constitution which is the Supreme Law of this country. Her behaviour continues to disrespect or defies the court's authority, dignity, and orders. Consequently, I am satisfied that the applicant succeeded in proving beyond a reasonable doubt that the first respondent knew of the court orders.

[43] The standard of proof for a finding of contempt where the sanction is committal in prison is the criminal standard, in other words, proof beyond a reasonable doubt. However, once the applicant has established the first three elements for contempt, *mala fides* and wilfulness are presumed. I have already found that the applicant has proved beyond a reasonable doubt that the first respondent is in contempt of court in respect of the Voster Order and Mosopa Order respectively. The court in ***Pheko*** *supra* held that the object of contempt proceedings is to impose a penalty that will vindicate the court's honour, consequent upon the disregard of its previous order.

[44] The applicant requested the court in his notice of motion to impose a sanction of direct imprisonment for continued non-compliance of the two Court Orders, having regard to the fact that such a punishment was also ordered by the court on 27 June 2022.

[45] In this regard, his counsel argued that a period of nine months imprisonment as prayed for in the notice of motion is lenient, considering that

there has been non-compliance for period of three years, in respect of - not only one, but two Court Orders. He submitted that it would be in the interest of justice for the court to consider an appropriate term of imprisonment in light of those two Orders and taking into account a violation of the minor child's rights since 2021 - which are protected by both the Children's Act and the Constitution.

[46] Sentencing remains within the discretion of the court. The rule of law needs to be maintained. I am inclined to agree with the applicant's counsel that a custodial sentence of nine months is too lenient in the circumstances of this case. Be that as it may, to show that the best interests of the child are of paramount importance, Section 35(1) of the Children's Act which relates to "refusal of access or refusal to exercise parental responsibilities and rights" - prescribes a sentence in case of a violation of the other parent's parental rights. The section provides as follows:

> *"Any person having care or custody of a child who, contrary to an order of any court or to a parental responsibilities and rights agreement that has taken effect as contemplated in section 22(4), refuses another person who has access to that child or who holds parental responsibilities and rights in respect of that child in terms of that order or agreement to exercise such access or such responsibilities and rights or who prevents that person from exercising such access or such responsibilities and rights is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one* vear".(underline added for emphasis).

[47] Having considered all the circumstances of this case, the papers filed of record, and having heard submissions by the applicant's counsel, I am of the view that an appropriate sentence to be imposed is a period of twelve months imprisonment.

[48] With regards to the issue of costs, the applicant contends that because

of the continued violation of his rights and the rights of his minor child, having regard to his health condition, he had no choice but to bring an application to enforce an existing Order granted by Vester J, in 2021, and the Mosopa Order granted in 2022 which has already declared that the first respondent is in contempt of court. It was submitted that having regard to the circumstances which prompted the institution of this application, the first respondent should be liable for costs on attorney and client scale. As a rule, the costs should follow the Oder, and in the circumstances, the first respondent should pay the costs on attorney and own client scale, including the costs of employing Counsel.

[49] In the circumstances, the following order is made:

1. The Draft Order dated 5 January 2024 which I signed remains an order of court.

PD. PHAHLANE
JUDGE OF THE HIGH COURT

Counsel for the Applicant	: Adv. Z. Zakwe
Instructed by	: L. MAFETSA ATTORNEYS
	Email: mafetsakg96@gmail.com
Counsel for the 1st Respondent	: No Appearance
Date of Hearing	: 5 January 2024
Judgment Delivered	: 8 January 2024

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

On the 5th day of January 2024

CASE NO: 26675/2022

In the matter between:

B[…] M[…] G[…] S[…]	**APPLICANT**
And	
M[...] B[…] S[…]	**1st RESPONDENT**
MINISTER OF POLICE	**2nd RESPONDENT**
SHERIFF OF THE COURT	**3rd RESPONDENT**

~~DRAFT~~ ORDER

HAVING read the papers filed on record and having heard Counsel, the following is made:

IT IS ORDERED THAT:

1. That the forms, service and time period prescribed by Uniform Rules of Court be dispensed with, and that the matter be heard as one of urgency in terms of Rule 6 (12) of the uniform Rules of the Court.

2. That the First Respondent be declared to be in contempt of the authority and order of this Court granted on the 6th of August 2022 under Case No: 63920/2021and the order granted by MOSOPA J, under Case No: 26675/2022

dated 27 June 2022.

3. That the First Respondent be committed to prison for the contempt of two Court Orders for the period TWELVE (12) months.

4. That the First Respondent, be and hereby directed to report to the PRETORIA CENTRAL POLICE STATION within 24 hours of this court order, for her incarceration for duration of TWELVE (12) months at KGOSI MAMPURU CORRECTIONAL SERVICES, FEMALE PRISON.

5. That the Applicant is granted immediate access to the minor child, and the First Respondent is ordered to deliver the minor child to the Applicant by no later than 17h00 on the 05 January 2024 at No 1[…], S[…] E[…], N[…] P[…], PERTORIA, GAUTENG PROVINCE.

6. That the sheriff of the Court and/or where necessary, accompanied by the South African Police, is hereby authorized to enter the property at 1[…] M[…] B[…] […], PHOKWANE, NEBO, LIMPOPO PROVINCE and/or any other place where The First Respondent has taken the minor child, to remove the minor child from the First Respondent and deliver the minor child to the Applicant.

7. That service of this Order upon the First Respondent be effected by means of electronic mail to l[…]@gmail.com and on her Whatsapp number 0[…] or via SMS, and such service be regarded a sufficient upon dispatch thereof.

8. That the First Respondent pays the costs of this application on Attorney and own client scale, including the costs of employing Counsel, and if defended, costs de *bonis propriis.*

BY ORDER
REGISTRAR
2024-01-05