IN THE HIGH COURT OF SOUTH AFRICA

(TRANSVAAL POVINCIAL DIVISION)

DATE: 4 August 2005

CASE NO: 17354/05

DELETE WHICHEVER IS NOT APPLICA

(1) REPORTABLE: YES

(2) OF INTEREST TO OTHER JUDGES: /NO

(3) REVISED

In the matter between:

MAPHUTHEGO CONNIE NETHAT'E — Applicant

ALFRED THARINGO LUKOTO — Respondent

JUDGMENT

NGOEPE, JP

The Applicant applies in terms of Section 25(1) of the Supreme Court Act 1959 (the Act) for leave to sue the respondent, a judge of the Venda High Court, for the maintenance of a 14 year old boy. The section prescribes that leave must first be granted by the court before summons or subpoena is issued against a judge. The applicant Is the mother of the boy, who Is presently attending high school. The applicant alleges that the respondent is the father of the boy. The respondent denies paternity and thus resist the

maintenance claim. It is necessary to go into the history of this dispute as it is not as simple as it appears, having originated while the respondent was still a practising attorney prior to his elevation to the Bench.

[2] A maintenance inquiry in terms of the Maintenance Act 1998 commenced before Magistrate Ackerman in Polokwane on 6 October 1999 under case no: *14/3/2 – 262/98* against the respondent. After the applicant's evidence, the magistrate declared: " .... in terms of section 5 the court makes no order and gives absolution of the instance ..." The applicant's understanding of the magistrate's judgment was *that* it was not terminative of her claim, whereas the respondent thought the opposite. This is still the dispute between the parties. In line with her understanding of the magistrate's judgment the applicant sought to relaunch the inquiry, but according to a letter she wrote to the then Minister of Justice and Constitutional Development in 2000, she was on occasions told that the respondent was acting as a judge and he could therefore not be summonsed . (the respondent ".'CIS appointed a permanent judge of the Venda High Court on 25 April 2000).

[3] The Minister brought the applicant's complaint to my attention for two reasons. Firstiy, because I hold an acting appointment to the Venda High Court and I also perform the duties of a Judge President in respect of that

court - it has only two permanent judges; secondly, because I was the head of a Division having jurisdiction over Polokwane, where the mother and the boy lived and where the inquiry was held in 1999. I referred the matter to the maintenance officers at Polokwane and asked them to attend to the matter as an impression was being created by the applicant in her complaint to the Minister that the respondent was being shielded because he was a judge. The office of the public prosecutor, Polokwane, submitted an application in the form of a letter dated 19 April 2002 for leave to summons or subpoena me respondent in terms of section 25(1) of me Act.

sue him/her. The matter may then be disposed of in chambers or in an open

[4] It is necessary to explain how such applications are traditionally dealt with, and the reasons therefor. Normally, it is the Judge President who would receive such an application, and consider it in chambers. This mechanism would quietly dispose of patently frivolous claims which might unjustifiably damage the reputation of a judge. Where there appears to be at least an arguable case, the Judge President would approach the judge concerned. In appropriate circumstances, the Judge President might even urge the judge to oblige; for example, where there is a clear debt against the judge. The Judge President would Impress on the judge concerned that those who are the ultimate enforcers of the law, must themselves make every endeavour to observe it; also of importance *is* to avoid the appearance of a judge as litigant in court, particularly in the lower courts. Where there seems to be an arguable

case against the judge but the latter remains recalcitrant, the Judge President would give the judge the opportunity to oppose the application for leave to

court, depending on the intensity of the opposition. Once an applicant shows good cause, leave would be granted; *Soller v President of the Republic of South Africa* 2005(3) SA 567 TPD at 572A.

[5] After receiving the application by the public prosecutor, Polokwane, and in accordance with the above practice, I contacted the respondent telephonically. He was at home on sick leave, which was for the period 16 April 2002 to 31 July 2002. I telephoned the respondent at home and informed him of the application. He did not oppose it, although he told me he disputed paternity. I do recall the conversation because of the discomfort I felt in raising this kind of issue with the respondent while he was at home; I only proceeded to do so after he had told me that he did not mind. I then wrote a letter to the public prosecutor dated 12 June 2002 granting leave. Around 6 August 2002, when attempts were made to settle a date for the hearing, the respondent informed me that in fact the claim had been dismissed in 1999. He was still on sick leave! which was to continue until 30 September 2002. I conveyed this to the prosecutor and informed the latter that., in that case. the leave I had granted on i2 June 2002 should be regarded as withdrawn or of no force and effect from 23 August 2002.

[6] On 16 August 2002 the prosecutor wrote to dispute the claim that the matter was *res judicata,* insisting that absolution from the instance had been granted, and therefore that the necessary leave should be given. At my request, a copy of the record of proceedings before magistrate Ackerman in 1999 was submitted to me by the prosecutor under cover of a letter dated 25 October 2002. After reading magistrate Ackerman's conclusion referred to earlier, I formed the view that the contention that the claim had not been finally terminated was arguable. I therefore once more telephoned the respondent, and told him that I was inclined to grant the leave to sue and that it would be for the maintenance court to rule whether or not the applicant's claim was indeed *res judicata.* The respondent said that he would not oppose the application. He did tell me though. again. that he disputed paternity and also that his view was that applicant's claim had been finally terminated. I granted a fresh leave in chambers on 25 November 2002. Had the respondent then opposed the application, as he does now, I would have most probably directed that the matter be heard in an open court.

[7] Pursuant to the leave I granted on 25 November 2002 a fresh inquiry (second inquiry) was to commence before magistrate Ramothopo, Polokwane, on 23 January 2003 under case no: 14/3/2 -262/98 (i.e the same old case number). On that date it was postponed to 4 – 5 March 2003. It commenced

on 4 March 2003, when a number of points *in limine* were raised on behalf of the respondent. A total of eight points were raised; as it can be expected, One of them was that tile maintenance claim was *res judicata.* All tile points were subsequently dismissed by the magistrate. It ought to be specifically mentioned, for reasons which will appear later, that the decision to grant leave to sue was not challenged on either the ground that the respondent had not been given the opportunity to be heard, or that I lacked jurisdiction. Such an argument would have been inconsistent with the respondent's consent that leave be granted and that the question of *res judicata* be left to the maintenance court. Only on 8 June 2005, which was 2½ years after the consent had been granted, did the respondent file what is described as a review of my decision to grant the leave. I will later return to this issue in another context.

[8] The inquiry before magistrate Ramothopo in March 2003 was postponed to 15 - 16 April 2003 for evidence. Counsel for respondent had in the meantime asked for an indefinite postponement in order to bring an application to review the magistrate's dismissal of the points in *limine.*. Instead of proceeding with the hearing to finality,. as it is normally the case,. the application was granted.

t9J The review application against the dismissal of the points *in limine* was issueaintf1is court on 28 March 2003 under case no 08621/2003, Magistrate Ramothopo was clted as the first respondent; he chose to. abide the decision of the court. The applicant now before me (the mother of the minor child) was the second respondent. She opposed the application, through attorneys, and delivered her opposing affidavit on 19 June 2003. No replying affidavit was filed and, for more than a year, the respondent did not set the matter down. Eventually the child's mother delivered a notice of set down dated July 2004, setting the matter down for 14 October 2004. On this day, counsel for respondent asked for a postponement, which was refused. Motata J, dismissed the respondent's application. Reasons were asked for and Motata J, gave his reasons on 26 November 2004.

[10] After the judgment of Motata J, the office of the public prosecutor, as per letter of 4 May 2005, brought a new application in terms of section 2S(1) of the Act for leave to summons or subpoena the respondent back to the maintenance court. The intention was that the inquiry, which had been interrupted in April 2003, would resume. Seen in this light, it was not necessary to re=apply for a fresh leave to summons the respondent; what needed to be done was merely to arrange a date for the hearing with this court (the High Court).

[11] The prosecutors application of 4 May 2005 was in the form of a formal letter, on their official letterhead. Under cover of my handwritten letter of 6 May 2005, I on that same date fixed the prosecutor's letter to the respondent. I asked for his response by 13 May 2005, after which I would decide. At that stage, I felt that it was becoming more pressing that the matter be finalized as soon as possible one way or the other. In fact an article had already appeared in the Northern Review newspaper edition of 23 November 2004 under the bold heading: "Judge in support scandal"; this newspaper is published in Polokwane. The following day the Citizen newspaper published the same story under the bold heading "Mistress of Limpopo judge in court wrangle over maintenance". The articles were about the wrangle between the two parties. I telephoned the respondent and drew his attention to them; they were not fluttering. My concern about a possible negative impression of the judiciary was becoming more grave; I feared that the impression was created that the course of justice was being stalled because of the office the respondent held.

(12] The respondent did respond before 13 May 2005 as requested by myself. He submitted a memorandum In which he opposed the application. The following were some of the grounds: that the matter was *res judicata,* and that only the Venda High Court .. to which he was appointed .. had jurisdiction to grant such application. The first point was precisely what the

maintenance court should resolve, not me; in any event, was amongst the points already dismissed by the magistrate and Motata J. The second point was based on a patent misinterpretation of section 25(1) of the Act: the court which has jurisdiction to grant *leave* is the High Court which enjoys jurisdiction over the tower court before which a judge is to appear. In the present case, it is the Magistrate Court, Polokwane, which is to hear the inquiry; The Transvaal Provincial Division has jurisdiction over that court. Given the vehemence of the respondent's opposition, I informed the public prosecutor that the application could not be considered further unless supported by an affidavit. A brief and concise affidavit was submitted to my chambers, alleging, *inter alia,* that the respondent was the father of the boy and that respondent should maintain. My office faxed a copy thereof to the respondent. As it became clear that the respondent was determined to oppose the application this time round, I asked the Chief Registrar to allocate the matter a case number sothat it could be heard in an open court.

(13] After receipt of the applicant's affidavit, the respondent filed a written document in which he raised the issue that there was no formal notice of motion accompanying the application. On 25 May 2005, I Issued a directive to the parties that the matter would be heard on 10 June 2005 in an open court and that the parties would be free to raise whatever points they wanted to raise then. As a result of certain developments unrelated to the matter, I

could not sit on 10 June ZOOS; accordingly, I informed the parties that the matter would De heard on Monday 13 June 2005.

[14J On the morning of 13 June 2005, Mr Moremi of the Johannesburg Bar appeared for the respondent; Mr Mpshe SC, the Director of Public Prosecutions, appeared for the applicant assisted by a junior. Mr Moremi promptly informed the court that he was asking for a postponement of the matter so that he could launch a substantive application for my recusal. He argued, until after 12h00, setting out the grounds on which the envisaged application for recusal would be based. Mr Mpshe was later to go into the history of the matter, to point out what appeared to be several tactics by the respondent to frustrate or delay the finalization of the matter one way or the other. Mr Mpshe opposed the application for postponement, arguing that the grounds on which the substantive application would seek to rely, as presented by Mr Moremi, had *ho* merits.

[1S] In the exercise of my discretion, I turned down the application for a postponement. Firstly, there was no explanation why the substantive application for my recusal could not have been filed before the hearing; secondly, the matter had been dragging on for a long time and was beginning to impact negatively on the image of the judiciary bearing in mind that a judge was involved. Thirdly, the grounds on which the application was to be

based[as presented by Mr Moremi, had no merits at all. I discuss them briefly.

[16] He argued that as I had previously granted leave for the respondent to be sued, I would be prejudiced. This argument failed to appreciate that as counsel himself conceded, on the earlier occasions as there was no opposition before me as the respondent did not oppose the applications; the circumstances then were therefore different. Another point raised was that I had given legal advice to the applicant by requiring an affidavit, as already mentioned. There is no merit in this. I was entitled to issue-a directive of this nature to ensure that the matter was decided on a proper footing given the respondent's opposition this time round. It was further argued that in my directives, I spoke prematurely of an "application" while the respondent was yet to argue that there was no "application" as there was no accompanying formal notice of motion; therefore, the argument went, I had already prejudged the issues. But the word “applicant” was already contained in the formal letter from the office of the public prosecutor right from the beginning; in any event, I had indicated in my directive that all the issues were still open, and could therefore be argued when the matter was heard; that, to me, Indicated openness of mind on my part. The contention was therefore not sound. No postponement could be justified solely for the opportunity to launch a substantive application the grounds of which were patently without merit. A postponement is[in any event, an indulgence which must be earned;

it does not come as of right; *National Police Service union and Others v Minister of Safety and Security and Others* 2000(4) SA 1110 (CC) at 1112 C. As I have already said, no explanation, let alone a reasonable one, was proferred why no substantive application for my recusal had not been filed prior to the hearing. We are here concerned with a maintenance inquiry in respect of a minor child, and the matter needs expeditious resolution.

[17] After the application for a postponement was turned down, the merits of the matter were argued, after which I reserved judgment. I deal with the points raised on behalf of the respondent in opposing the application for leave to sue him.

[18] Firstly, it was argued that this court had no jurisdiction as the respondent was a member of a different Bench. I have already dismissed this argument as a misreading of the Jaw.

[19] It was also argued that the "application" was no application at all as the affidavit was not *accompanied* by a formal *notice* of motion. Mr Moremi went so far as to attempt to explain to me how a notice of motion looked like! It is true that there was no formal notice of motion accompanying the affidavit, but this did not warrant the dismissal of the matter. Firstly, the court has an inherent power to condone non-compliance with its Rules. I felt

justified to do so for, inter alia, the following reasons: firstly, the court is dealing with a claim for the maintenance of a 14 year old child who is, himself, obviously ignorant of how to enforce his claim; he can only be .assisted by others, in this case, by the mother and the office of the public prosecutor which is itself a public office rendering free service to the best of its ability and in good faith to helpless people. Secondly, there was no prejudice to the re5pondent; indeed, no attempt was made to point out any. !n any case the relief sought, which would have been the core of the notice of Motion, was not only fully set out in me letter and the affidavit, but also very narrow and dearly identifiable in nature; there was indeed only one relief sought: leave to issue summons/subpoena against the respondent to appear before a maintenance inquiry. The relief sought was therefore very dear in the letter from the public prosecutor, which letter had promptly been faxed to the respondent upon receipt. There was nothing substantive which a notice of motion could have added. In any event, the office of the Director of Public Prosecutions delivered a formal notice of motion on 8 Nay 2005, apparently to meet the objection. No attempt was made to point out any prejudice that would ensue from this late step; indeed, given the narrowness of the relief and the fact that it was Identifiable from the fetter of the prosecutor, there could not have been any.

[20] The other point raised was the now well known argument that the matter was *res judicata*. It was not for me to resolve this; it was a matter on which the maintenance court had to pronounce itself. In fact, as I have already indicated, the lower court dismissed this point in April 2003; an attempt to challenge the magistrate's decision was also dismissed by Motata J. What was therefore left was for the inquiry to resume.

[21] In refusing the application for a postponement and in condoning the non-compliance of the Rules, I have, apart from the other factors referred to above, been influenced by the provisions of section 28(2) of the Constitution. The section provides:

> "A child's best interests are of paramount importance in every matter concerning the child."

Interpreting the section, Mogoro J, said:

> "Children have a right to proper parental care. It is universally recognized in the context of family law that the best interests of the child are of paramount importance/'

Bannatyne v Bannatyne (CGE as *Amicus Curiae)* 2003(2) SA 363(CC) page 375 para 24 C=D.

12.2.] I am satisfied that good cause has been shown for leave to be granted to issue summons/subpoena against the respondent in terms of

section 25(1) of the Act. In any event, such consent, I do find, was already given in November 2002; what only remained was for the maintenance officers to arrange an appropriate date of the hearing with this Court.

[23] Having disposed of the question of leave(the matter would ordinarily come to an end; but the matter has long ceased to be an ordinary one given in particular its history and the submissions by Mr Mpshe that the respondent, a judge, is delaying or frustrating proceedings. The submissions must be considered against the developments set out below.

[24] This is not the first matter in which I have been approached to grant leave in terms of section 25(1) of the Act to issue summons or a subpoena in a maintenance claim against a judge. All the previous matters were, unlike the present one, expeditiously resolved through the efforts of the very judges involved. They dealt with the claims in a manner which was consistent with the nature and demands of their office as judges of the High Court.

[25] The submission that the respondent has delayed and is still delaying the resolution of the matter, may not be unfounded. If it is not, we would all be greatly troubled that a judge should be adopting such an attitude particularly where the maintenance claim for a 14 year old child is in issue; not only because of the provisions and spirit of the Maintenance Act 1998.f but because a judge is by law the upper guardian of all minor children.

[26] I want to mention that when I realized where my pen was leading me to once I began with dealing with the submissions about the delay, I interrupted the finalization of my judgment and wrote a letter to the respondent on 26 July 2005 which was faxed to him and received by him, on the same day. I suggested that, even at that late stage, he should withdraw his opposition to this application; secondly, I suggested that he undertook to allow the hearing to resume before the magistrate. The intention was to give him the opportunity to refute the impression that he was bent on delaying or obstructing the resumption of the inquiry. When I did not hear from the respondent, I resumed the agony of continuing with this judgment.

[27] I must, for a start, point out that there were times when the applicant and/or the office of the public prosecutor could also have done more to expedite the proceedings, though for most of 2002 respondent was on sick leave - from mid April to end of September. I emphasize upfront that the issue here is not whether or not the respondent is the father of the child, but whether or not the respondent deliberately delays the matter, or gives the Impression of doing so. The submissions on the alleged delaying mechanisms were not peripheral, but material to the exercise of my discretion in the resolution of two issues. Firstly, whether I should grant the application for postponement solely to enable the respondent to bring a substantive

application for my recusal, a step which would have caused yet a further delay. Secondly, whether, regard being had to the fact that this matter had been with us for years, I should dismiss the application on the technicality that there was no formal notice of motion accompanying the application for leave to issue summons/subpoena against the respondent. I have already disposed of these two issues. I merely mention them to show that in considering them, it was unavoidable to consider the submissions around the issue of the delay.

(28] The warning in Bannatyne's case, supra, is apposite:

> "Courts need to be alive to recalcitrant maintenance defaulters who use legal processes to Side-step their obligations towards their children .....The respondent appears to have utilized the system to stall his maintenance obligations through the machinery of the (Maintenance) Act. It appears from the evidence .....that this happens frequently in the maintenance COUrts;11 page 378 para 32 F-H.

A judge may not be one of such people. I now set out some of the events relevant to the contention that the respondent is delaying the resolution of the matter.

[29] On 6 October 1999, a maintenance inquiry is held before magistrate Ackerman; Polokwane; under case no *14/3/2 - 262198,* At the end of the evidence of the child's mother the magistrate makes this pronouncement "... in terms of section 5 the court makes no order and gives absolution of the instance ...".

review proceedings against the magistrate's rulings. The information set out

[30] The respondent is appointed a judge to the Venda High Court in April 2000.

[31] The Minister receives a complaint from the mother that her matter is being delayed; the Minister refers the complaint to the Judge President as per letter dated 11 August 2001. The Judge President refers the matter to the maintenance officers in Polokwane for their attention.

[32] Toe judge President receives a letter from the office of the public prosecutor Polokwane, dated 19 April 2002 asking for leave to issue summons against the respondent. Leave granted on 12 May 2002 but withdrawn in August 2002; a fresh one issued on 25 November 2002.

[33] The hearing is scheduled for 23 January 2003, on which date it was postponed to 4 - 6 March 2003. On the latter date several points in *limine* were raised oo behalf of respondent. AU the points were dismissed by

magistrate Ramothopo. Before the hearing could commence in April 2003, counsel for respondent asked for an indefinite postponement to prosecute

in this paragraph can be gleaned from a record of proceedings before magistrate's Ackerman and Ramothopo, submitted in terms of Rule 53 in case no 8621/2003, Transvaal Provincial Division.

[34] A perusal of case no *8521/2003* reveals the following: The application *for* review was issued with the Registrar of this court on 28 March 2003. The applicant before me filed her notice to oppose that application on 5 June 2003; she was represented by a firm of attorneys at that stage. Her opposing affidavit was delivered on 19 June 2003. No replying affidavit was delivered by the respondent. A year after the matter had become due to be set down for hearing, the respondent had not yet done so. It was left to the mother of the child to set down the matter by her notice dated June 2004. The date for the hearing was to be 14 October 2004.

[35] When the matter served before Motata J, on 14 October 2004, counsel for the respondent (then applicant) still asked for a postponement. It was refused; the review application was dismissed with costs. Clearly, a postponement would have resulted in a further delay. A short judgment was

given, dated 26 November 2004. At these appear from the judgment of Motata J.

f36] No application for leave to appeal the judgment of Motata J was lodged within the period prescribed by the Rules. It was only at the hearing of the present application on 13 June 2005 that counsel for respondent informed the court that they had just filed such an application, six months after the judgment was handed down. Without prejudicing the merits of any application for condonation, it is noteworthy that the respondent took more than six months before bringing an application for leave to appeal against the judgment of Motata J. This belated step would again cause a further delay. It is also noteworthy that what purports to be an application for leave was filed only after the public prosecutor had brought this application in terms of section 25 (1) of the Act.

{37] Following the dismissal of the respondents review application by Motata J, the office of the public prosecutor, Polokwane, applied for leave to issue summons/subpoena against respondent, as per their letter of 12 May 2005 referred to above, which is the application now before me.

138] On 8 June 2005 the respondent lodged an application styled a review, to challenge the validity of the leave I granted on 25 November 2002. This

application was brought 2 years 6 months after the decision it seeks to challenge was taken. Counsel for respondent informed me that as a result of this step, my previous leave to sue was rendered ineffective. He handed a copy of the application from the Bar, bearing case no 19774/05. The move to challenge the validity of my decision 2V2 years tater, especially on the grounds advanced which in my view lack merit, astounds me. This step, itself 2½ years late, introduces into the case yet a further delay.

[39] On 10 June 2005, an attempt is made to postpone the application before me; yet another move which would have resulted in yet another delay. Not only was the attempt unwarranted, but it was also not backed up by any papers! nor was an explanation given why proper papers could not be filed.

[40] In the light of all the aforegoing, however unpleasant it is to me, I do find that the respondent did engage in acts or omissions the effect of which could have delayed speedy resolution of the matter. I also find that in other instances, such acts or omissions have in fact not only delayed the matter but that they are continuing to do so. I *summa* rise some of those ads or omissions hereunder.

141] Toe respondent asked for a postponement on three occasions. "Firstly, he did so before magistrate Ramothopo. The application was granted! but

see my comments in paragraph 8 above. There is no doubt that the postponement resulted in a considerable delay. The second attempt to postpone the matter was before Motata J; the application was refused. Had it been granted, there would inevitably have been a delay. The third attempt to postpone the matter was before me on 13 June 2005. The application was turned down for the reasons contained in paragraph 15 above. Again, the requested postponement would have delayed the hearing of the application before me, which, in turn, would have further delayed any possible resumption of the inquiry. Apart from unjustified requests for postponement, the respondent failed at various stages to prosecute his case in accordance with the Rules and established practice the observance of which is precisely to avoid delays. Firstly, the respondent failed for more than a year to set down his review application referred to earlier, although he was aware that he had halted the proceedings before magistrate Ramothopo pending the outcome of the review. For as long as the review application was not yet set down and finalized, the inquiry would not resume. Secondly, the respondent only filed an application for leave to appeal the judgment of Motata J six months after the judgment was handed down; see paragraph 36 above. Thirdly, papers attempting to challenge my decision in November 2002 granting leave to summons respondent to a maintenance inquiry were filed 2½ years after the decision; see paragraph 38 above. It is to be noted that the last two steps

the courts, especially the lower court, the agony of hearing a case against a judge of the High Court. We also know that the respondent contends that the

were taken only after the public prosecutor had launched the application now

[44] The child is said to be 14 at present; this saga has been going on before me against the respondent.

since 1999; at this rate, the child would become an adult before the matter is

resolved, if at all. If, by any dint of chance, tile respondent is in fact the

[42] Individually and accumulatively, respondent's acts and omissions set biological father (which I am not saying he Is), a great deal of Injustice has out above are inconsistent with an intention to bring to a speedy resolution a already occurred. In any event, even if the respondent is not the father, matter the nature of which demanded precisely that. The respondent is a justice required a speedy resolution of this matter to avoid the impression that judge of the High Court and therefore an upper guardian of all minor children, the justice system becomes tardy when a judge is a litigant. The system including the 14 year old, Delaying a speedy resolution of an inquiry into the ought to spare the 14 year old some anxiety.

-maintenance of a minor child is therefore inconsistent with the nature and the

demands of the office he holds,

The following order is made:

[43] True, the respondent denies paternity; yet this issue, we all know, is

(a) Leave is hereby granted in terms of section 25(1) of the Supreme capable of being resolved within the wink of an eye, as it was done in one of Court Act, 1959, for the issue of summons and/or subpoena against

AT Lukoto, a judge of the Venda High Court, for the purpose of

prosecuting a maintenance inquiry against him for the maintenance of

the minor child Nelson Tsoane Khumo Nethathe.

judgment of magistrate Ackerman was finally terminative of the matter's

(b) The date of hearing will be determine by the Judge President of the claim for the maintenance of her minor child. The respondent is perfectly Transvaal Provincial Division or a judge of the Division in collaboration entitled to raise this point. But again, we know that this point was dismissed with the office of the Director of Public Prosecutions, Polokwane

by magistrate Ramothopo; we know further that the respondent's challenge

'to Ramothopo's rulings was dismissed by Motata J in his judgment dated 26

November 2004.

B M NGOEPE
JUDGE PRESIDENT OF THE
HIGH COURT OF SOUTH AFRICA,
TRANSVAAL PROVCINCIAL DIVSION