

SOUTH AFRICA / JUDGMENT

B.U v C.M and Others (2025/017920) [2025] ZAWCHC 342 (12 August 2025)

[2025] ZAWCHC 342

COURT

Western Cape High Court, Cape Town

BEFORE

Njokweni

CASE / FILE NUMBER

2025/017920

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IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

Not Reportable

Case no: 2025/017920

In the matter between:

B[...] U[...] Applicant

and

C[...] M[...]

First Respondent

DIRECTOR GENERAL THE DEPARTMENT OF

HOME AFFAIRS: MR MAKHODE

Second Respondent

MINISTER OF THE DEPARTMENT OF HOME AFFAIRS:

DR SCHREIBER MP

Third Respondent

Neutral citation: B[...] U[...] v C[...] M[...] and 2 others (Case no 2025-017920) [2025] ZAWCHC (31 JULY 2025)

Coram: NJOKWENI AJ

Heard: 28 May 2025

Delivered: 12 August 2025

Summary: section 28 of the Constitution – section 18 of the Children’s Act – child’s best interest vis-à-vis consent affidavit for overseas travel considered – court’s discretion – profanity in court papers not permissible

- parent’s conditions for consent tantamount to refusal – Hague convention – mirror order – section 172(1)(b) of the Constitution – just and equitable relief – special conditions on overseas travel of the minor child imposed.

ORDER

1. The First Respondent, within 10 working days of the granting of this order, is compelled and directed to:

1.1 rectify the birth certificate of the minor female child born out wedlock between Applicant and First Respondent (“the parties”), one O[...] U[...], born on 4 May 2013 (“the child”) to reflect the First Respondent as the biological father of the child by completing all the necessary forms and to provide the offices of the department of home affairs in Cape Town any information necessary for the issue of unabridged birth certificate in respect of the minor child.

1.2 Sign and return to the Applicant all requested visa and consent documents to enable the minor child to travel to the Czech Republic.

1.3 Provide all such necessary documents as may be required by the Applicant and the minor child from time to time in relation to any travel visas and/or renewal of the minor child’s South African passport to enable her and the Applicant to travel to other European countries whilst on holiday in Czech Republic. In this regard, the Applicant shall be obliged to-ensure that the minor’s

passport is renewed timeously;

1.4 all necessary documents in relation to all or any medical procedures that may be required by the Applicant and the minor child.

2. In the event of the First Respondent’s failure to comply with the orders in paragraphs 1.1 to 1.4 above, within the period stated in paragraph 1 above, the First Respondent’s consent that may be required for the Applicant and the minor child’s travel to the Czech Republic is dispensed with in terms of s 18(5) of the Children’s Act 38 of 2005 and such consent shall not be necessary.

3. Within 30 days prior to departure with the minor child to the Czech Republic, the Applicant is hereby ordered to provide the First Respondent with:
 - 3.1 Copies of the minor child's passport.
 - 3.2 Copies of paid-up flight tickets of the minor from the Republic of South Africa to the Czech Republic and from Czech Republic to the Republic of South Africa.
 - 3.3 Itinerary of the overseas travel from the Republic of South Africa to the Czech Republic and from the Czech Republic to the Republic of South Africa.
 - 3.4 Address details of where the minor child would be staying in Czech Republic.
 - 3.5 Personal details and contact information of the person other than the Applicant with whom the minor child would be residing and the details of the person under whose care and supervision the minor would be, if different to the former.
4. The First Respondent shall retain rights of co-guardianship in respect of the minor child; together with the Applicant, save to the extent that the First Respondent's consent will not be required for the minor child to travel on holiday to other countries from the Czech Republic, provided that such countries are signatories to the Hague Convention and the First Respondent shall be given reasonable notice of such travel.
5. Provided that the Applicant shall consult with the First Respondent and take his views into account before making such decisions, the Applicant shall be entitled to make all major decisions regarding the minor child's medical procedures or medication and her religious needs whilst travelling overseas.
6. The Applicant shall inform the First Respondent via email of:
 - 6.1. any change of address in the Czech Republic, should she move from the initially provided address;
 - 6.2. the minor child's hospitalization or any major surgery.
7. The First Respondent shall be entitled to reasonable rights of contact with the minor child, as follows:
 - 7.1 All the costs in respect of the Respondent's contact with the children (including airfares, accommodation and subsistence costs) shall be borne by the Respondent.
 - 7.2 Reasonable electronic contact with the minor child. In turn, the minor child shall be entitled to contact the First Respondent at any time.

8. The Applicant shall take all steps, as advised by her legal representatives, to request that the provisions of this order are recognised, avoiding any conflict of laws, in the competent court in the relevant jurisdiction of the Czech Republic, Germany and any other European country that is a signatory to the Hague Convention, having regard to the fact that the United Kingdom exercises a “no order principle” in cases concerning children's welfare.
9. In the event that either of the parties requires further steps to be taken that this order be made an order of the competent court in the relevant jurisdiction of the Czech Republic, Germany or any other European country that is a signatory to the Hague Convention, the Applicant shall instruct her legal representatives to do all things necessary to obtain such order within the earliest period that the Applicant's legal representatives can obtain the order, and after that, within 7 (seven) days to furnish the First Respondent with proof that such an order has been registered.
10. The First Respondent shall do all things necessary to assist the Applicant in securing the aforesaid order.
11. The party who requests that this order be made an order in the Czech Republic shall be responsible for all such costs. The requesting party shall be required to provide the Applicant's legal representatives with the costs required for the securing of the aforesaid order prior to such legal representatives taking any steps in respect thereof.
12. No cost order is made with regards to this application.

Njokweni AJ

Introduction

- [1] This application concerns a legal dispute between the Applicant and the First Respondent regarding the latter's refusal to consent to the minor child's planned overseas travel with the Applicant. It also concerns the First Respondent's lack of co-operation in passport and visa applications for the minor child.
- [2] The First Respondent also has on numerous occasions failed to attend to the Department of Home Affairs to rectify his missing details on the minor child's birth certificate which in turn presents difficulties in obtaining the passport and visa for the minor child.
- [3] Applicant seeks relief for the minor child's travel to the Czech Republic in September 2025 and to compel First Respondent to take necessary steps required for the issuing of a passport and visa to enable the minor child to travel to the Czech Republic in September 2025.

Relevant Facts

- [4] The Applicant, Ms. B[...] U[...] and the First Respondent (“the parties”) are natural parents of a minor child, O[...], a girl born out of wedlock between the parties on 4 May 2013.

[5] There is a history of acrimony between the parties evinced by protracted litigation over the First Respondent's disputed paternity as O[...]’s natural father and thus his parental rights as such. However, on 20 September 2014 DNA paternity test results confirmed the First Respondent is O[...]’s biological father. In the result, on 26 September 2016, per Kose AJ, the parties

were awarded:

- (a) co-holders of parental responsibilities and rights in respect of O[...] as contemplated in sections 18(2)(a) and 18(2)(b) of the Children's Act 38 of 2005 ("the children's Act").
- (b) Co-guardianship of O[...] as contemplated in sections 18(2)(c), 18(3), 18(4) and 18(5) of the Children's Act.

[6] Kose AJ further ordered that:

- (a) the primary residence and care of O[...] is awarded to the Applicant.
- (b) the co-parental responsibilities and rights of the parties in respect of O[...] were to be exercised in accordance with the parental plan annexed as "A" be incorporated into the order as part thereof subject to the condition that the minor child will not be able to travel overseas for more than six (6) weeks without having contact with the First Respondent.
- (c) the First Respondent's name be added as O[...]’s biological father on O[...]’s unabridged birth certificate, South African and German passports.
- (d) the Applicant can only travel overseas with O[...] for a period not exceeding six (6) weeks after the First Respondent's name has been added to O[...]’s unabridged birth certificate and to both her South African and German passports.
- (e) the parties should attend the Department of Home Affairs at Barrack Street, Cape Town by no later than 1 October 2016 and the First Respondent to pay the necessary costs associated with addition of his name as a biological father on O[...]’s unabridged birth certificate, South African and German passports.

[7] In and around August 2019, the First Respondent had not yet taken steps necessary for the issue of O[...]’s South African and German passports. As a result, on 13 August 2019 the Applicant launched an application in this Court for an order compelling the First Respondent to take such necessary steps. On 28 August 2019 this Court, per Erasmus J ordered:

- (a) the parties to take all steps necessary to make an application for the issuing of O[...]’s South African passport prior to the end of September 2019.
- (b) The First Respondent to attend to the German Consulate General in Cape Town on 24 September 2019 between the hours of 08h30 and 11h30, alternatively at such specific time as may be arranged by Applicant on 24 September 2019, for the purposes of signing the

necessary consent form or take such steps as may be necessary for the application for a German passport for O[...].

- (c) That in the event that either party wishes to travel overseas with O[...], such party shall request the consent of the other party

for such travel, not later than 2 months prior to the proposed departure. The requested party shall have one (1) week to consider

the request and to provide the requested party with their response. The consent of the requested party shall not be unreasonably

withheld.

- (d) In the event that the parties are unable to agree on future care and contact arrangements themselves, such issues are referred to

the Office of the Family Advocate for mediation and both parties are directed to co-operate with mediation process.

[8] It appears from the papers that O[...]'s passport was subsequently issued but expired in September 2024. Prior to its expiry, the Applicant had since 16 January 2024 attempted to secure the First Respondent's attendance and co-operation for completion of necessary forms for renewal of O[...]'s South African passport. However, such attempts proven futile as the First Respondent failed to do so. After expiry of O[...]'s South African passport the Applicant continued to pursue First Respondent's co-operation and attendance to take steps necessary for the renewal of O[...]'s South African passport but yet again the First Respondent failed to do so inter alia citing work commitments. This was so despite being given a two months' notice of a scheduled visit at the offices of Home Affairs.

[9] Frustrated by First Respondent's non-cooperation, in February 2025, the Applicant launched the present application on an urgent basis inter alia seeking orders compelling the First Respondent to:

- (a) attend the offices of Home Affairs and take all steps necessary for the renewal of O[...]'s South African passport.
- (b) sign and return (within 48 hours) any and all required documentation for visa application and consent affidavit to enable O[...] to travel overseas with her.
- (c) rectify O[...]'s unabridged certificate by providing his missing information thereon (i.e. First Respondent's place of

birth) and other relevant information or documents.

- (d) Contribute equally with the Applicant towards the costs of O[...]'s passport.

- [10] In addition to the above orders sought and in the event the First Respondent opposes this application, Applicant seeks final relief dispensing with the necessity of obtaining the First Respondent's consent to apply for Oria's passport and visa and his consent affidavit for O[...]’s overseas travel and ancillary relief.
- [11] The First Respondent contends that he is not opposed to O[...]’s travel overseas with the Applicant, but insists on a mirror order containing conditions, that the Applicant:
- (a) shall prior to any overseas travel provide paid up outward bound and return tickets three calendar months before intended travel to the other remaining party along with the itinerary of country(ies) to which travel is proposed.
 - (b) The persons with whom O[...] will be staying and will be caring for her whilst overseas.
 - (c) The dates, times (South African GMT) when O[...] will be available for telephonic/video calls as well as the specific platform intended.
 - (d) That an amount to be deposited into an escrow account to be determined by this Court to be used by the respondent in the case that there should be a failure to return to South Africa as per the paid-up return tickets as aforesaid.
 - (e) That prior proof be furnished that the German Embassy in Cape Town has been advised in writing of the proposed travel and destination(s); given that O[...] keeps a German Passport.
 - (f) That prior proof be furnished that the German Embassy in Cape Town has been advised in writing of the proposed travel and destination(s); given that O[...] keeps a German Passport.
 - (g) That the applicant and respondent will in good time sign all necessary documentation to assist with the facilitation of overseas travel after the compliance with paragraphs 5, 6, 7, 8 and 9 above have been complied with in full; failing which and on the same papers, either party may return to this honourable Court for an order permitting such travel.
 - (h) That the applicant is interdicting from approaching any court in matters relating to the First respondent or O[...] before having obtained written legal advice regarding the merits and her prospects of success from a legal representative with more than ten years standing in the legal profession and which written opinion shall be disseminated before any such legal application; the cost of which shall be for the applicant's sole account; and
 - (i) that the parties are prohibited from using the other parties contact period set out in the parenting plan as the dates and times to travel overseas with O[...];
 - (j) that the oversight contained in the parenting plan regarding the omission of shared public holidays be amended to reflect same; and
 - (k) any further relief that this honourable Court deems relevant and in the interests of the minor child.

- [12] The Applicant argues that the Respondent's conditions for consent are unreasonable and should not be dispensed with.

Common cause facts

- [13] In view of the above relevant facts the following facts are found to be common cause:
- (a) The First Respondent is not per se opposed to furnish consent affidavit for O[...]’s travel to Czech Republic and other European countries provided the Court issues a mirror order incorporating the conditions mentioned by the First Respondent above.
 - (b) The First Respondent agrees to attend to all steps necessary for applying for O[...]’s South African passport and visa to Czech Republic.

Issues for

determination

- [14] Given the common cause facts, I therefore distilled the issue for determination as being:
- (a) whether a mirror order is warranted in the present circumstances.
 - (b) whether the conditions sought by the First Respondent to be incorporated prerequisites to furnishing of the consent affidavit required for O[...]’s travel to the Czech Republic and other European countries are reasonable.
 - (c) if I find that such conditions are unreasonable, to consider and determine what conditions would be reasonable in permitting O[...]’s travel to the Czech Republic and other European countries whilst allaying the First Respondent’s safety concerns for O[...]’s return to the Republic of South Africa.

Legal Framework

- [15] The best interests of the child are paramount according to the Constitution[1] and the Children's Act. In matters involving overseas travel of a child with one parent or third party, the consent of another parent is required. This is in the form of a consent affidavit as envisaged in section 18(3)(c)(iii) of the Children’s Act. In relevant part, section 18 of the Children’s Act provides:

“18 Parental responsibilities and rights

- (1) A person may have either full or specific parental responsibilities and rights in respect of a child.
- (2) The parental responsibilities and rights that a person may have in respect of a child, include the responsibility and the right-
 - (a) to care for the child;

- (b) to maintain contact with the child;
 - (c) to act as guardian of the child; and
 - (d) to contribute to the maintenance of the child.
- (3) Subject to subsections (4) and (5), a parent or other person who acts as guardian of a child must:-
- (a) administer and safeguard the child's property and property interests;
 - (b) assist or represent the child in administrative, contractual and other legal matters; or (3) Subject to subsections (4) and (5), a parent or other person who acts as guardian of a child must-
- ... (b) assist or represent the child in administrative, contractual and other legal matters; or
- (c) give or refuse any consent required by law in respect of the child, including:-
- ...(iii) consent to the child's departure or removal from the Republic; (iv) consent to the child's application for a passport;
- ...(4) Whenever more than one person has guardianship of a child, each one of them is competent, subject to subsection (5), any other law or any order of a competent court to the contrary, to exercise independently and without the consent of the other any right or responsibility arising from such guardianship.
- (5) Unless a competent court orders otherwise, the consent of all the persons that have guardianship of a child is necessary in respect of matters set out in subsection (3) (c)."

[16] In *LA v EFV*[2] the Court held:

"[10] The key section in the present application is section 18(3) of the CA, which provides that a parent or guardian is obligated to give or refuse any consent required by law in respect of the child. For the purposes of the present application, the giving or refusal of consent involves a consent for the child's departure from the Republic. It is clear from these provisions that the obligation to give or refuse any consent is that of a parent or a guardian. Whilst the exercise of the responsibility or right ultimately affects the minor child, the CA did not find it necessary to prescribe the application of the standard of the best interests. Unlike in section 28(4) of the CA, the Act does not prescribe that when a Court is considering a section 18(5) application, it ought to be guided by the best interests' standard. Section 29(1) of the CA lists the statutory applications which will require the Court, in considering them, to be guided by the principles set out in Chapter 2, to the extent that those principles are applicable. Conspicuously absent from section 29(1) is the mention of the section 18(5) application. Clearly, it is not required that before deciding to refuse or give consent, the standard of the best interests must be applied. Section 31(1) simply provides that the person who decides within the contemplation of section 18(3)[3]." is obligated to give due consideration to any views and wishes expressed by the child, bearing in mind the child's age, maturity and stage development.

[11] Accordingly, this Court must take a firm view that in giving or refusing consent, no best interests of the minor child is involved. What is involved is the exercise of parental responsibilities and rights. A parent may, in an attempt to spite the other parent, refuse to give consent for very flimsy reasons and in advancement of self-interest. The legislature was, in my view, acutely aware of such a possibility, hence the enactment of section 18(5) of the CA. The ideal position or default position contemplated by the legislature is that the consent of all persons is necessary. However, if one of the parties refuses to give consent as fortified to do so by section 18(3), the Court may intervene and order that the consent of the one who unreasonably refuses is not necessary. The Court, in my view, as the upper guardian of all minors, is there to unlock the legal impediment of consent by all in a situation where only one guardian has consented instead of all. The legal impediment is such that if consent of all is not available, a child cannot depart the Republic unless a competent Court orders otherwise. The otherwise is not that the child is permitted to travel, but the otherwise is that the consent of the other guardian is not necessary for the sake of the departure.”

Application of Law to

Facts

[17] In the present application, the issue of refusal of consent does not arise. This is so because, the First Respondent is not refusing to give consent per se but submits that this Court should issue a mirror order with stringent conditions which are listed in paragraph 11 (a)-(k) above. The Applicant contends that these conditions are unreasonable and in essence amount to refusal of consent by the First Respondent.

[18] As stated in the introduction to this judgment that there is a history of acrimony between the parties. This much so is evinced by

the foul language used in the papers and profanity that decorates such acrimony. These profanities are most evident from the First

Respondent's papers. For example he accuses applicant of “being a con artist, blatantly lying under oath, behaviour representative of borderline and narcissistic traits,” etc. I do not recite each and every one of them as if to give credence to them. The Applicant too, has thrown similar profanities to the First Respondent and even accused him of criminal conduct. What these profanities reveal is that the conditions that each of the parties suggest should be incorporated in the Order of this Court regarding O[...]’s travel overseas have nothing to do with her best interests. The parties have used this application to have a go at each other and to ventilate issues that are irrelevant to this application.

[19] In turn, this affirms my view that this matter has nothing to do with the First Respondent's concerns that the Applicant would not return to South Africa with O[...] if permitted to travel to Czech Republic with O[...]. There is no evidence in the papers to suggest that the First Respondent has even taken a moment to engage O[...]’s views on the planned overseas

planned trip. In this day in age, a 12 year old child can express her own views on a matter that interests her. Generally, children enjoy travelling to places they have never been, and if the places are overseas, the enjoyment is accelerated.

[20] In as much as the First Respondent claims that he has no objection to O[...]’s travel to Europe save for his fears that the Applicant may not return her to South Africa were she to be permitted to travel with O[...] to Europe without a mirror order incorporating First Respondent’s conditions aimed, on his view, at “securing” safe return of O[...] to South Africa, the said conditions are an impediment to O[...]’s travel to Czech Republic and are tantamount to an unreasonable refusal of the required consent.

[21] Accordingly, this Court’s jurisdiction in terms of section 18(5) of the Children’s Act is engaged. Similarly, since this matter concerns a child’s constitutional rights that are guaranteed in section 28 of the Constitution as supplemented in the Children’s Act, this Court’s just and equitable jurisdiction in terms of section 172(1)(b) is engaged.

[22] In the answering affidavit and in his heads of argument, the First Respondent asked this Court:

- (a) in the exercise of its inherent jurisdiction to find the Applicant guilty of perjury and to sentence her to a fine or a period of community service to be determined by this Court.
 - (b) To order Applicant to permit O[...] the use of her Samsung A32 cellphone bearing cellular number [07...] whilst in her care and in the event of her failure to do so, First Respondent be permitted to approach this Court, on the same papers (duly supplemented) for appropriate relief.
 - (c) For an order incorporating conditions set out in paragraph 11
 - (a) – (k) above or such conditions this Court deems appropriate
- for O[...]’s overseas travel.

[23] The First Respondent did not file any counter application supported by an affidavit in which he seeks punitive relief against the Applicant for the alleged perjury. Accordingly, this Court cannot and does not make any finding on the alleged perjury.

[24] The issue of permitting O[...] the use of her Samsung A32 relate to the issue of contact and which has already been decided by Erasmus J[4] which were referred to the Office of the Family Advocate for mediation and which directed both parties to co-operate with such a mediation process.

[25] Similarly, the order of Erasmus J referred to in the preceding paragraph directed both parties to take all steps necessary to make

application for the issuing of O[...]’s South African and German passports. Erasmus J also ordered that in the event that

either party wishes to travel overseas with O[...], such party shall request the consent of the other party for such travel, not later than 2 months prior to the proposed departure. The requested party shall have one (1) week to consider the request and to provide the requested party with their response. The consent of the requested party shall not be unreasonably withheld.

[26] The First Respondent has, since the Order of Erasmus J was made, failed to take steps necessary to make application for the issuing of O[...]’s South African (or renewal thereof) and German passports. Save to truncate, for practical purposes and to give effect to the order I make in this application, the time period within which the First Respondent has to take such steps in lieu of the overseas travel planned for September 2025, I am bound by the Order of Erasmus J.

Conclusion

[27] Having read the papers filed of record by both parties, heard submissions from both of them and considered the application, I find

the conditions which the First Respondent has demanded to be agreed to by the Applicant prior to furnishing of his consent affidavit for O[...]’s overseas travel are found to be unreasonable and tantamount to a refusal thereof. Notwithstanding, this Court has decided to issue a mirror order incorporating certain conditions. This order will permit the Applicant’s travel to Czech Republic with O[...] on one hand and also place conditions to that travel aimed to allay First Respondent’s concerns as discussed in this

judgment.

[28] In the circumstances, I am satisfied that the order I make below is just and equitable.

In the result, I make the following order.

1. The First Respondent, within 10 working days of the granting of this order, is compelled and directed to:

1.1 rectify the birth certificate of the minor female child born out wedlock between Applicant and First Respondent (“the parties”), one O[...] U[...], born on 4 May 2013 (“the child”) to reflect the First Respondent as the biological father of the child by completing all the necessary forms and to provide the offices of the department of home affairs in Cape Town any information necessary for the issue of unabridged birth certificate in respect of the minor child.

1.2 Sign and return to the Applicant all requested visa and consent documents to enable the minor child to travel to the Czech Republic.

1.3 Provide all such necessary documents as may be required by the Applicant and the minor child from time to time in relation to any travel visas and/or renewal of the minor child’s South African passport to enable her and the Applicant to travel to other European countries whilst on holiday in Czech Republic. In this regard, the Applicant shall be obliged to-ensure that the minor’s

passport is renewed timeously;

1.4 all necessary documents in relation to all or any medical procedures that may be required by the Applicant and the minor child.

2. In the event of the First Respondent's failure to comply with the orders in paragraphs 1.1 to 1.4 above, within the period stated in paragraph 1 above, the First Respondent's consent that may be required for the Applicant and the minor child's travel to the Czech Republic is dispensed with in terms of s 18(5) of the Children's Act 38 of 2005 and such consent shall not be necessary.

3. Within 30 days prior to departure with the minor child to the Czech Republic, the Applicant is hereby ordered to provide the First Respondent with:

3.1 Copies of the minor child's passport.

3.2 Copies of paid-up flight tickets of the minor from the Republic of South Africa to the Czech Republic and from Czech Republic to the Republic of South Africa.

3.3 Itinerary of the overseas travel from the Republic of South Africa to the Czech Republic and from the Czech Republic to the Republic of South Africa.

3.4 Address details of where the minor child would be staying in Czech Republic.

3.5 Personal details and contact information of the person other than the Applicant with whom the minor child would be residing and the details of the person under whose care and supervision the minor would be, if different to the former.

4. The First Respondent shall retain rights of co-guardianship in respect of the minor child; together with the Applicant, save to the extent that the First Respondent's consent will not be required for the minor child to travel on holiday to other countries from the Czech Republic, provided that such countries are signatories to the Hague Convention and the First Respondent shall be given reasonable notice of such travel.

5. Provided that the Applicant shall consult with the First Respondent and take his views into account before making such decisions, the Applicant shall be entitled to make all major decisions regarding the minor child's medical procedures or medication and her religious needs whilst travelling overseas.

6. The Applicant shall inform the First Respondent via email of:

6.1 any change of address in the Czech Republic, should she move from the initially provided address;

6.2 the minor child's hospitalization or any major surgery.

7. The First Respondent shall be entitled to reasonable rights of contact with the minor child, as follows:

7.1 All the costs in respect of the Respondent's contact with the children (including airfares, accommodation and subsistence costs) shall be borne by the Respondent.

7.2 Reasonable electronic contact with the minor child. In turn, the minor child shall be entitled to contact the First Respondent at any time.

P NJOKWENI

ACTING JUDGE OF THE HIGH COURT

Appearances:

Applicant

: in person

First Respondent

: in person

Second and Third Respondents : no appearance

[1] Section 28 of the Constitution of the Republic of South Africa, 1996 ("Constitution"). In relevant part, section 23(2) of the constitution provides: "A child's best interests are of paramount importance in every matter concerning the child."

[1] Section 28 of the Constitution of the Republic of South Africa, 1996 ("Constitution"). In relevant part, section 23(2) of the constitution provides:

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

[2] LA v EFV (2024-017275) [2024] ZAGPPHC 213 (11 March 2024) unreported but available on SAFLii. Reference to CA in LA v EFV means the Children's Act.

[3] Section 31(1)(b)(i) of the Children's Act.

[4] See order of Erasmus J at paragraph 7 above.

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