

SOUTH AFRICA / JUDGMENT

J.P v M.W (5299/2019) [2021] ZAFSHC 183 (7 July 2021)

[2021] ZAFSHC 183**COURT**

Free State High Court, Bloemfontein

BEFORE

Daniso

CASE / FILE NUMBER

5299/2019

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record**SAFLII****Note: Certain****personal/private details of parties or witnesses have been redacted
from this document in compliance with the law and SAFLII****Policy****IN THE HIGH****COURT OF SOUTH AFRICA,****FREE STATE****DIVISION, BLOEMFONTEIN****Case****Number: 5299/2019****In**

the matter between:

J.

P Applicant

And

M.

W

Respondent

HEARD

ON:

This

matter was disposed of without the hearing of oral arguments as
provided for in s 19(a) of
the Superior
Courts Act 10 of 2013.

JUDGMENT

BY: DANISO, J

DELIVERED ON: This judgment was handed down electronically by circulation to the parties' representatives by email and by release to SAFLII. The date and time for hand-down is deemed to be 15H30 on 07 July 2021

- [1] The applicant seeks leave to appeal to the full bench of this division against the judgment of this court handed down on 25 February 2021 in terms of which a cost order was made against the applicant that: the applicant is liable to pay the respondent's costs incurred by the respondent after the confirmation of the rule nisi on party and party scale. Such costs to include the costs of counsel. The application is opposed by the respondent.
- [2] On 18 March 2021 the applicant filed a notice of application for leave to appeal with the Registrar. Approximately a month later, on 26 April the applicant fled an "amended application for leave to appeal."
- [3] Written heads of argument comprising of a bulky 53 pages excluding the replying heads of argument were filed by the applicant. In response, the respondent filed shorter and succinct 14 pages of heads for which I'm grateful.
- [4] The applicant essentially asserts that the court was erroneous in failing to consider that the applicant had obtained a substantial success in the main application and in making adverse findings in relation to the applicant's conduct resulting in an order of costs granted against the applicant. It is the applicant's case that another court will not order the applicant to pay the costs, instead, it will order the respondent to pay the costs, alternatively that each party pays his/her own costs and will also not make such negative findings against the applicant.
- [5] As correctly pointed out by the respondent, the applicant has regurgitated the arguments presented in the main application. In paragraph 1.4. page 1 of her heads of argument the applicant actually invites the court to have regard to the heads of argument filed in the main application.
- [6] The facts of this matter are comprehensively illustrated in the main judgment together with the reasons for the subsequent order. I accordingly deem it unnecessary to repeat what is set out in the

judgment.

- [7] The provisions of section 17(1) (a)

- (i) or (ii) Superior Courts Act 10 of 2013 enjoins me to grant leave to appeal if I'm of the opinion that the appeal would have a reasonable prospect of success or there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.
- [8] In this matter, the applicant in the quest to curtail the respondent's parental contact rights launched an application and sought amongst others an order that: the office of the Family Advocate be directed to conduct an investigation regarding the best interest of the minor children, CW and MW, and more particularly with regard to the contact rights to be awarded to the respondent and to report to the honourable court as soon as reasonably possible."
- [9] The Family Advocate obliged and in its report basically found that:
- "the mother's attitude towards the father is negative and not in the best interest of the minor children (my emphasis). By badmouthing the father and file a motion at court to change the Deed of Settlement in respect of the way the father exercises his parental responsibilities and rights, without even discussing the situation and alleged behaviour of the father with him, is definitely not in the best interest of the children." Para 10.5.2.2 at page 47.*
- "There is no doubt that the mother is exercising Parental Alienation regarding the children's contact with the father..." para 10.5.2.4 at page 48.*
- [10] Having regard to the above factors I'm not persuaded that another court will reasonably conclude that applicant's actions in launching the main application were motivated by a need to protect the interest of the children what was instead established is that the applicant was the one not acting in the best interest of the children.
- [11] Parental Alienation is a form of child abuse. The child is deprived of love and care of the other parent by being manipulated to reject the other parent. The consequences are not only visited on the child and the targeted parent, they continue well into adulthood and affect his/her future relationships.[1] I find that there are no exceptional circumstances why this appeal should be heard
- [12] In the result the following order is made:
1. The application for leave to appeal against the order/judgment of this court granted 25 February 2021 is dismissed with costs.

NS DANISO, J

For the applicant: BR ASHMAN ATTORNEYS

C/O ROSSOUW ATTORNEYS

Bloemfontein.

For the respondent VAN WYK ATTORNEYS INC

Bloemfontein

[1] Author, Dr. Edward Kruk sums up the subject succinctly in “Parental Alienation as a form of Emotional Child Abuse” 2018 (4) volume 22.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAFSHC/2021/183.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/jp-v-mw-unknown-topic-afshc-2021>

Prepared on 24 October 2026 · Esheria