IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NUMBER: **D5809/2024B**

In the matter between:

TRANSNET ENGINEERING **APPLICANT**
A DIVISION OF TRANSNET SOC LTD

and

MUSA MBUNDWINI **RESPONDENT**

Coram: MOSSOP J
Heard: 12 and 17 February 2026
Delivered: 17 February 2026

ORDER

The following order is granted:

1. The applicant is granted permission to deliver a supplementary affidavit dated 9 February 2026.

2. The respondent, having been sentenced to imprisonment for a period of 30 calendar days on 8 August 2025, which sentence of imprisonment was suspended for five years on condition that:

(a) he removed, within 24 hours of the granting of that order, all videos relating to the applicant from TikTok, Facebook, and/or all other social media platforms to which such videos had been published; and

(b) he desisted from posting any further videos to those social media platforms in which he defamed the applicant,

it is declared that the respondent is in breach of the aforementioned conditions of suspension.

3. The suspended sentence of 30 calendar days imprisonment imposed upon the respondent is not brought into operation and is re-suspended for the period of five years imposed by the order of 8 August 2025 on the following terms:

(a) The respondent is to delete the following videos from his Facebook profile under the name 'M[…] B[…]':

(i) Video with the number '501';

(ii) Video with the message 'I'm humbled by God Part 2';

(iii) Video with message 'God im humbled by you'; and

(iv) Video with the message 'To All the Judges and Magistrates',

before the applicant's legal representatives and the respondent leave the court this afternoon.

(b) That the respondent does not post, spread, publish or make known to the public on any social media platform, and TikTok and Facebook in particular, any statement regarding or concerning Transnet, and/or aimed at defaming or damaging Transnet's reputation, either verbally and/or in writing in any form whatsoever, and particularly in video format; and/or

(c) Is not otherwise found to be in contempt of any court order issued out of this court under case number D5809/2024B.

4. The applicant's attorneys, alternatively the Sheriff of this court, are authorised to approach the administrators of TikTok and request the deletion of the respondent's profile under the name 'Mncushucushu 1' and the videos found under that profile and to the extent that such administrators require an order for them to remove the profile and the videos, this shall be that order.

5. The respondent is directed to pay the costs of this application, which may be taxed on scale B, including the costs reserved on 12 February 2026.

JUDGMENT

MOSSOP J:

Introduction

[1] This is an ex tempore judgment.

[2] The applicant seeks an order that the respondent be committed to prison for a period of 30 days for not complying with the conditions of suspension of a sentence imposed on him by this court on 8 August 2025 arising out of him being convicted for being in contempt of a several orders of this court.

[3] The period of imprisonment for 30 days to which the respondent was sentenced was suspended on condition that he performed certain acts within 24 hours of the granting of that order. Those acts related to the respondent being required to remove certain videos that disparaged and defamed the applicant that he had posted on popular social media platforms and to stop from posting further similar videos to those platforms.

[4] In bringing this application, the applicant alleges that the respondent did not comply with either of the conditions of suspension and accordingly seeks that the suspended period of imprisonment now be invoked.

An abridged history of the matter

[5] This matter has an exceptionally crowded history that reaches back to 2017.

[6] The applicant is a division of Transnet SOC Limited and, inter alia, is involved in the manufacture of rolling stock and the provision of general maintenance services to Transnet, a State owned company. The respondent is a welder by qualification and was previously employed by the applicant but was dismissed by it in February 2018 for dishonesty and fraud.

[7] The respondent contested his dismissal, and two arbitration hearings were thereafter conducted under the aegis of the Transnet Bargaining Council (the Bargaining Council). The first arbitration, completed in March 2019, found the

respondent's dismissal to have been fair. The respondent, however, did not accept this finding and approached the Labour Court for relief. There he triumphed, but solely on a technicality: a transcript of the first arbitration proceedings could not be produced to the Labour Court for some reason and, as a consequence, the Labour Court referred his matter back to the Bargaining Council for a re-hearing.

[8] The rehearing occurred as directed and a decision was handed down on 18 November 2022. The decision, as before, was that the respondent's dismissal had been fair, and it therefore stood.

[9] The respondent took no further steps to challenge the second arbitration decision. He, however, took to social media, including TikTok (TikTok) and Facebook (Facebook), which are universally popular social media platforms, and repeatedly proclaimed that the applicant was guilty of fraud and dishonest and unethical conduct in dismissing him. The allegations were made through the medium of videos, which featured the respondent filming himself whilst he made allegations about the applicant. The allegations were clearly defamatory of the applicant.[1] Examples of what the video posts made by the respondent stated were, inter alia, the following:

(a) There were 'dirty people under the employ of Transnet';

(b) Transnet was fighting with him 'not because they have evidence; because they used fraudulent documents';

(c) Transnet 'committed fraud through these documents';

(d) That '… these Transnet people used certain fake documents to oppress me, but they failed';

(e) 'The problem is those people who are hiding behind it whilst doing wrong things and they are colluding with Transnet bargaining council'; and

(f) '… they are the ones who committed fraud and everything I am saying here is truthful and I can be responsible for explaining it that they used fraudulent documents'.

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[1] *Barloworld South Africa (Pty) Ltd v Not in my Name International NPC and Others* [2026] ZAGPJHC 73 para 17.

[10] Those examples of the respondent's utterances mentioned above are but a small sample of such statements that he has made and there are many more of them.

[11] The applicant was initially unaware of these videos and apparently only came to know of their existence in March 2024. Having acquired that knowledge, the applicant took exception to what was being said about it publicly by the respondent, correctly considering his words to be defamatory of it, and it accordingly approached this court for relief.

[12] On 6 August 2024, Steyn J granted an order, which read in part as follows:
'Pending the final determination of the application, the respondent is hereby interdicted and restrained from posting, spreading, publishing, or making known to the public on any social media platform, and TikTok in particular, any statement regarding or concerning Transnet, and/or aimed at defaming or damaging Transnet's reputation, which is made verbally and/or in writing in any form whatsoever, in particularly in a video format.'

[13] The respondent did not observe the provisions of the order granted by Steyn J, so on 16 April 2025, Bedderson J granted a further order. This read as follows:
'1. The respondent be interdicted and restrained from posting, spreading, publishing, or making known to the public on any social media platform, and TikTok in particular, any statement regarding or concerning Transnet, and/or aimed at defaming or damaging Transnet's reputation, which is made verbally and/or in writing in any form whatsoever, and particularly in a video format.
2. The respondent be directed to remove all videos from TikTok that relate to Transnet, as reflected in annexure's D2 and D3, within five days from the date on which an order is served on the respondent by way of email.
3. In the event that the respondent fails, neglects or refuses to comply with paragraph 2 above, the Sheriff of the High Court shall immediately be authorised and ordered to remove the videos published on TikTok by the respondent that relate to Transnet, as reflected in annexures D2 and D3.'

[14] The respondent allegedly also did not comply with Bedderson J's order, and the applicant therefore brought contempt proceedings against him in June 2025. On

6 June 2025, Henriques J granted a comprehensive order which, although lengthy, I narrate in full:

'1. A rule nisi do hereby issue calling upon the respondent to show cause, if any, on a date to be arranged on the motion role, why an order in the following terms should not be granted:

1.1 That the Respondent be declared in contempt of the order of this court granted on 6 August 2024 under case number D5809/2024B.

1.2 That the Respondent be declared in contempt of the order of this court granted on 16 April 2025 under case number D5809/2024B.

1.3 That the Respondent be sentenced to a term of imprisonment for a period determined appropriate by this Honourable Court.

1.4 That, in the event of this Honourable Court sentencing the Respondent to a term of imprisonment as provided for in paragraph 1.3 hereof:

1.4.1 A warrant of committal for the Respondent's detention shall issue;

1.4.2 The Sheriff of the High Court is authorised and directed to take the Respondent into his custody, and to deliver him to the commanding officer of Westville Prison to facilitate the commencement of the Respondent's committal to prison in terms hereof;

1.5 That, in the event that a sanction of direct imprisonment is considered by this Honourable Court not to be appropriate, then in such event, any sentence of imprisonment is to be wholly suspended on condition that the respondent is not within a period of five years from the date of this order found to be in contempt of any Order of this Court;

1.6 That the Respondent is directed to purge his contempt of the final Order and is directed to comply with the terms of the final Order by:

1.6.1 Immediately removing all videos from TikTok, Facebook, and/or all other social media platforms to which such videos have been published, that relate the (sic) Transnet;

1.6.2 In the event that the Respondent fails, neglects or refuses to comply with paragraph 1.6.1 above, that the Sheriff of the High Court be immediately authorised and directed to remove all such videos that relate to Transnet, and that the Respondent be directed to:

1.6.2.1 Provide the Sheriff with his username and password for each relevant social media account held by the Respondent, including TikTok and Facebook;

1.6.2.2 Provide the Sheriff with the full names, physical addresses and contact details of the persons assisting on enabling him in accessing his relevant social media accounts, including TikTok and Facebook, creating video content, and/or publishing videos on social media platforms, including TikTok and Facebook; and

1.6.2.3 provide any additional information that may be required so as to enable the sheriff to access the Syd videos for the purpose of the deletion.

1.7 That the respondent be directed to pay the costs of this application on an attorney and client scale, inclusive of the costs consequent to the employment of counsel, with counsel's fees to be calculated in accordance with scale B at Uniform Rule 69(7).

2. The Respondent is directed to deliver his answering affidavit, if any, on or before Friday, 13 June 2025.

3. The Applicant is directed to deliver its replying affidavit, if any, on or before Friday, 20 June 2025.

4. The applicant and/or the respondent are granted leave, following the exchange of affidavits as directed in paragraphs 2 and 3 above, if any, to approach the Senior Civil Judge for the allocation of a preferent hearing date.

5. The Respondent is found to be in breach of the order granted on 16 April 2025 by Bedderson J.

6. The Respondent is directed to remove all videos from TikTok which relate to Transnet, as reflected in annexures D2 and D3, within five (5) days from today.'

[15] The granting of this order also did not induce compliant conduct from the respondent. Accordingly, on 8 August 2025, Bhagwandeen AJ granted the following order at the instance of the applicant:

'1. The respondent is found to be in contempt of the Court Order issued under case number D5809/2024B out of this Court by Steyn J, on 6 August 2024.

2. The respondent is found to be in contempt of the court order issued under case number D5809/2024B out of this Court by Bedderson J, on 16 April 2025.

3. The respondent is committed to prison for a period of (30) thirty calendar days.

4. The committal order granted in paragraph 3 above is suspended for a period of five years on condition that:

4.1 The respondent complies with paragraph 5.1 below within 24 hours of service of this Order upon him by way of email; and

4.2 The respondent, during the period of suspension:

4.2.1 Does not post, spread, publish or make known to the public on any social media platform, and TikTok in particular, any statement regarding or concerning Transnet, and/or aimed at defaming or damaging Transnet's reputation, either verbally and/or in writing in any form whatsoever, and particularly in video format; and/or

4.2.2 Is not otherwise found to be in contempt of any Court Order issued out of this Court under case number D5809/2024B.

5. The respondent is ordered, within 24 hours of service of this order upon him by way of email, to:

5.1 Remove all videos from TikTok, Facebook, and/or all other social media platforms to which such a videos have been published, that relate to Transnet;

5.2 In the event that the respondent fails, neglects, or refuses to comply with paragraph 5.1 above, the Sheriff of the High Court is immediately authorised and directed to remove all such videos that relate to Transnet, and that the respondent is ordered to:

5.2.1 Provide the Sheriff with his username and password for each relevant social media account held by the respondent, including TikTok and Facebook;

5.2.2 Provide the Sheriff with the full names, physical addresses, and contact details of the persons assisting or enabling the respondent in accessing his relevant social media accounts, including TikTok and Facebook, creating video content and/or publishing videos on social media platforms, including TikTok and Facebook; and

5.2.3 Provide any additional information that may be required so as to enable the Sheriff to access the said videos for the purpose of their deletion.

6. The respondent is directed to pay the costs of this application on an attorney and client scale, inclusive of the costs consequent to the employment of counsel, with counsel's fees to be calculated in accordance with scale B of Uniform Rule 69(7).'

[16] I shall refer to this order as 'the order of 8 August'.

[17] It is significant that when the order of 8 August was granted, the respondent was present in court and a language practitioner interpreted proceedings, and what was ordered, from English into isiZulu. Based upon my personal interaction with the respondent discussed later in this judgment, I have no doubt that he is perfectly fluent in the English language.

[18] Notwithstanding the respondent's presence in court, a copy of the order of 8 August was served upon him by the applicant's attorney by way of email on 11 August 2025, as directed by the order of 8 August.

[19] The present position thus is that the respondent has been convicted of being in contempt of court and has been sentenced to a period of imprisonment of 30 calendar days, which sentence was suspended on the conditions mentioned in Bhagwandeen AJ's order. It is those conditions that the applicant says the respondent has not observed.

Contempt of court

[20] A few words about the concept of contempt of court.

[21] Contempt of court is the wilful and mala fide refusal to comply with an order of Court.[2] The philosophy behind the necessity for the remedy of contempt of court was clearly articulated by the Constitutional Court in *Pheko v Ekurhuleni City*[3] as being the following:

'The rule of law, a foundational value of the Constitution, requires that the dignity and authority of the courts be upheld. This is crucial, as the capacity of the courts to carry out their functions depends upon it. As the Constitution commands, orders and decisions issued by a court bind all persons to whom and organs of state to which they apply, and no person or organ of state may interfere, in any manner, with the functioning of the courts. It follows from this that disobedience towards court orders or decisions risks rendering our courts impotent and judicial authority a mere mockery. The effectiveness of court orders or decisions is substantially determined by the assurance that they will be enforced.'

[22] In *Victoria Park Ratepayers' Association v Greyvenouw CC*,[4] the court observed that:

'[C]ontempt of court has obvious implications for the effectiveness and legitimacy of the legal system and the judicial arm of government. There is thus a public interest element in each

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[2] *S v Mamabolo (E TV, Business Day and Freedom of Expression Institute Intervening)* [2001] ZACC 17; 2001 (3) SA 409 (CC); 2001 (5) BCLR 449 (CC) para 13.
[3] *Pheko v Ekurhuleni City* [2015] ZACC 10; 2015 (5) SA 600 (CC); 2015 (6) BCLR 711 (CC)(*Pheko*) para 1.
[4] *Victoria Park Ratepayers' Association v Greyvenouw CC and Others* [2003] ZAECHC 19; [2004] 3 All SA 623 (SE) para 5.

and every case in which it is alleged that a party has wilfully and in bad faith ignored or otherwise failed to comply with a court order.'

[23] While we are concerned here with civil proceedings, in *Pheko* the Constitutional Court indicated that wilful disobedience of an order made in civil proceedings is a criminal offence.[5]

[24] The bringing into operation of a suspended sentence is not an unusual application in the criminal courts of this country and is frequently encountered in the lower courts. In 2019, the Supreme Court of Appeal offered the following guidance to lower courts when faced with such an application:

'…the putting into operation of a suspended sentence is an inherent element of the criminal process and where a court orders that a suspended sentence be made operational, it assumes the position of a criminal court which punishes the person who has been convicted. It has to have regard to the ordinary principles of punishment and cannot simply have a person imprisoned as would a clerk keeping a register. When the liberty of a person is at stake, grounds must exist before such liberty is taken away. In fact, the second court is nothing else but an extension of the trial court when it considers putting a suspended sentence into operation.'[6]

[25] An application to put a suspended sentence into operation is therefore not just a routine administrative function that can simply be rubberstamped, unthinkingly. The court requested to impose a suspended sentence (the sentencing court) remains cloaked with its discretionary sentencing powers and is required to consider all relevant facts and may even reconsider the original suspended sentence in order to assess for itself whether the suspended sentence originally imposed, and the conditions of suspension attached thereto, were reasonable to commence with. If the sentencing court believes that the condition or conditions of suspension imposed originally were not reasonable, it is not obliged to bring the suspended sentence into operation.[7]

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[5] Ibid para 28.
[6] *Stow v Regional Magistrate, Port Elizabeth NO and Others* 2019 (1) SACR 487 (SCA) para 45.
[7] *Moroe v Director of Public Prosecutions, Free State and Another* 2022 (1) SACR 264 (FB) para 16.

[26] On a factual level, there are a number of considerations that the sentencing court must take into account in coming to its decision. Firstly, it should consider the nature of the breach and the manner in which it came about. If the breach happened inadvertently or through a technicality, then the necessity for the imposition of the suspended sentence may not be justified. Secondly, what factually occurred after the suspended sentence was imposed should also be considered. Finally, in *S v Hendricks*,[8] the court observed that if imposing the suspended sentence would no longer serve a deterrent or reformative purpose, then the suspended sentence should not be imposed.

The issues

[27] There are only two issues before me: whether the respondent has complied with the order of 8 August and removed the posts that he made within the time frames ordered by Bhagwandeen AJ and has refrained from posting further similar material involving the applicant, and, if the answer is that he has not, whether the suspended sentence imposed upon him should therefore now be brought into operation.

Non-compliance with the order of 8 August

[28] The applicant states that the offending videos were not removed within 24 hours of the order of 8 August, as ordered, and that the respondent has not stopped posting objectionable videos. In other words, it is alleged that neither of the conditions of suspension have been observed by the respondent.

[29] Ominously, and in apparent defiance of the order of 8 August, the respondent stated in a video that was posted by him on 28 September 2025 that:

‘more videos are coming so the truth will be revealed.’

From what is discussed hereunder, it appears that this is exactly what happened.

[30] The applicant initially reported under oath that since the order of 8 August, and over the period 10 August 2025 to 16 October 2025, the respondent posted a further 25 videos on TikTok and Facebook concerning the applicant. In a

[8] *S v Hendricks* 1991 (2) SACR 341 *(C)* 346d-g.

supplementary affidavit delivered by the applicant, dated 9 February 2026, in respect of which permission to deliver it was sought, and which permission was given, the applicant's representative reported that since 12 December 2025, a further 37 posts have been posted by the respondent on TikTok and Facebook. Of these 37 posts, 17 were on TikTok and 20 were on Facebook. Those videos contain comments consonant with the contents of the earlier videos posted by the respondent which led to the granting of the order of 8 August.

[31] As the applicant's representative states, these are only the videos of which it has knowledge: there may well be others on other social media platforms of which the applicant has no knowledge.

The respondent's explanation

[32] In truth, no real explanation has been offered by the respondent to the applicant's allegations that he has not complied with the conditions of suspension. He has put up a document in answer to the applicant's founding affidavit that is comprised of only two lines of manuscript in which he states:

'I abovementioned agree about the documents assigned by [illegible].'

What is then attached to that page are several hundred pages of documents that relate to the respondent's dismissal by the applicant.

[33] The respondent has accordingly not dealt with the issue of his alleged wilful non-compliance with the conditions of suspension imposed upon him. The respondent has chosen, rather, to continue to fight the issue of his dismissal by the applicant and to call attention to the wrongs to which he has allegedly been subjected. There was a time and place when those arguments were appropriate, perhaps even necessary, but that time has long since passed. The approach that the respondent has adopted, unfortunately, does not serve him well at this stage of the proceedings.

[34] In offering that criticism, I do not lose sight of the fact that the respondent is presently representing himself. For the large part, he has waged his battle against the applicant on his own. However, he did at one stage have pro bono counsel

assigned to him by the Society of Advocates of KwaZulu-Natal, but that was apparently not a happy relationship and not one that lasted long.

[35] Which is not to say that the respondent has not knocked on every door that he possibly could in order to tell his tale of woe and to seek assistance. Far from it. Amongst others, he has contacted Legal Aid South Africa, the South African Police Service (SAPS), the Madlanga Commission of Inquiry into Alleged Criminality, Political Interference and Corruption in the Criminal Justice System, ProBono, the University of KwaZulu-Natal Law Clinic, the South African Transport and Allied Workers Union, and the Umkhonto We Sizwe political party. None of these entities have offered him any assistance.

[36] The respondent has written to the erstwhile Group Chief Executive of Transnet, Ms Portia Derby, seeking her intervention and assistance. Ms Derby personally responded to his letter, stating that she had considered his representations but was of the considered view that he had been properly dismissed.

[37] In addition, the respondent has laid a charge with the SAPS against a judge of this division, Bedderson J, the precise basis of his complaint not being clear to me. Based upon his complaint, the SAPS apparently prepared a docket and presented it to the prosecuting authority for a decision on whether a prosecution would be justified. Two different representatives of the prosecuting authority considered those allegations and declined to prosecute, stating that no criminal offence had been disclosed.

The events of 12 February 2026

[38] The applicant, firmly believing that the respondent was in breach of the conditions of suspension, set the matter down for hearing on Thursday, 12 February 2026. The respondent was in attendance, as was a sworn language practitioner, Mr Sandile Khwela (Mr Khwela), who provided language services when necessary. Much of the time, however, the respondent spoke in English.

[39] The applicant submitted to me that the respondent had not complied with the conditions of suspension and submitted that he ought to be sentenced to 30 calendar days imprisonment for that wilful breach.

[40] The respondent was invited to address the court on whether he had complied with the order of 8 August and, if he had not, whether he should be imprisoned as a consequence. What then occurred was quite unlike anything that I have ever witnessed in 40 years of appearing in, and presiding over, courts of law.

[41] The respondent, donning a full length robe half of which was green and half of which was yellow, with leopard print fabric around the shoulders, proceeded to conduct his own defence and did this by shouting, screaming, weeping, and panting while uttering scandalous comments about the proceedings, applicant's legal representatives, and the court. He shouted that the legal representatives were criminals and were guilty of fraud and demanded that I order their arrest. It was not possible for me to explain that I had no power, or inclination, to do as he requested because the respondent simply continued talking at the top of his voice and talked over me and anyone who attempted to interrupt him. He repeatedly shouted that God was observing the proceedings and that God was on his side and that the almighty had determined that he would ultimately be victorious. He wept as he shouted that the events that he had endured for eight years were as a consequence of fraud committed by virtually all concerned: by the applicant, its attorneys, its counsel and, eventually, this court.

[42] The respondent would obey no instructions to sit or remain silent and created such a disturbance that four plain clothes court security personnel stationed elsewhere in the High Court precinct hastened to the court to assist. He spoke as and when he wished and would not be silenced. The security personnel physically attempted to control the respondent, I might add without any hint of violence, but by shouted commands instructing him to sit in the chair provided for him and by instructing him to remain quiet. This, largely, did not work.

[43] It was a startling and profoundly disturbing spectacle to witness this prolonged outburst from the respondent. There was no possibility of anything

productive being achieved with the respondent in these circumstances. He would promise not to speak and immediately start speaking. He would apologise and say that he would remain silent and not speak again, only to re-commence by shouting and screaming and pointing his finger wildly. I accordingly stood the matter down for an hour and a half to permit him to calm down.

[44] After that period, I returned to the court room to find the respondent, at least initially, in a calmer frame of mind. Believing that some progress could now be made, I asked him whether he wished to take the oath and advise me of whether he was in breach of the conditions of suspension and whether he wanted to advance any facts about himself and his circumstances that might persuade the court not to invoke the suspended sentence in the event that he was found to be in breach of the conditions of suspension. Having said that he would do so, the respondent then became agitated again and began to speak loudly and then to shout abuse at the applicant's legal representatives once more. He did not spare the court from his comments. He soon relapsed into his uncontrollable conduct of earlier in the day. I seriously considered whether the respondent was suffering from a mental condition but after observing him I concluded that he knew what he was doing and that his conduct was simply designed to achieve two things: firstly, to disrupt the proceedings and secondly to play to the gallery. He had an associate with him in court, and his sister, and he appeared to be behaving as he did in order impress them. He was quite capable of controlling himself when he chose to do so.

[45] Arising out of his conduct in court I suppose that I could have immediately found him to be in contempt *in facie curiae*. But I concluded that an attempt to do this would be futile for the respondent was not listening to anything said to him and such a course of conduct might simply inflame, and worsen, what was already a volatile situation.

[46] During one of his uncontrolled outbursts, the respondent indicated that he had not removed the videos of which complaint was made by the applicant. By virtue of this concession, I decided to adjourn the matter for a short period and set strict guidelines in order to offer the respondent one final chance to avoid the suspended sentence being brought into operation.

[47] In deciding on this way forward, I had regard to the following considerations:

(a) Prison is not an attractive place to find oneself. It is a place to be avoided, if at all humanly possible, and I am naturally loath to dispatch a citizen to such a place if the issue can yet be resolved in a manner that reasserts the dignity of the court and abates the complaint.

(b) If the suspended sentence was activated but the objectionable videos remained in place on the various social media platforms, then the applicant would be no better off, as members of the wider community would still be able to access those videos and potentially form unjustified views of the applicant. The applicant would be best served, in my view, if the videos were all taken down and no further videos were posted in the future.

(c) And, finally, I was also mindful of the fact that the respondent had acted without legal guidance in presenting his case to the court. He may well not have fully comprehended how his conduct might lead him to the parlous position that he found himself in.

The order of 12 February

[48] I consequently adjourned the matter to Tuesday, 17 February 2026 in terms of the following order:

'1. The application is adjourned to Tuesday, 17 February 2026 at 09h00, to serve before Mossop J.

2. The respondent is granted a final opportunity to purge his contempt of Bhagwandeen AJ's order of 8 August 2025 by deleting all videos relating to the applicant on all social media platforms upon which they have been posted, including TikTok and Facebook.

3. The deletion of the videos is to be completed by the respondent by 18h00 on the evening of Sunday, 15 February 2026.

4. The applicant is granted permission to deliver an affidavit reporting on the compliance, or want of compliance, with this order and such affidavit is to be received by Mossop J's registrar by no later than 16h00 on Monday, 16 February 2026.

5. Today's costs are reserved.

6. The applicant is directed to ensure that the appropriate Sheriff of the High Court is in attendance at this court on Tuesday, 17 February 2026 at 09h00.'

(the order of 12 February)

Proceedings on 17 February 2026

[49] The applicant's attorney, Mr Hiresen Govender (Mr Govender) deposed to the further affidavit that I mentioned in the order of 12 February. It was delivered to me on the afternoon of 16 February 2026, within the time period mentioned in the order of 12 February. Mr Govender reported that:

(a) His firm, Venns Attorneys, had closely monitored the social media platforms favoured by the respondent;

(b) The respondent has a profile on Facebook under the name 'M[…] B[…]' and has two profiles on TikTok under the names 'M[…] M[…]' and 'M[…] M[…] […]' respectively.

(c) While some videos had been deleted from the profile of 'M[…] M[…] […]', not all had been deleted and there are still videos on that profile that relate to the applicant. Numerous videos remain on the other TikTok profile 'M[…] M[…]', as well as on the respondent's Facebook profile.

[50] While what remains on these social media platforms are older posts that have not been taken down as the respondent had been ordered to do, Mr Govender reported that over the weekend of 14 and 15 February 2026, being two days after the chaotic court appearance of 12 February 2026, the respondent posted three further videos to his TikTok profile. This did not come as a surprise to me, for the last thing that the respondent shouted at me as I left court on 12 February 2026 was that he was immediately going to post something on TikTok.

[51] The words spoken by the respondent in the three videos posted since 12 February 2026 were translated from isiZulu to English by Mr Khwela, the language practitioner:

(a) In the first of those videos, the respondent stated that 'the judge', which can only be a reference to myself despite the fact that from time to time he referred to me as being female and an Afrikaner (which I am neither), had agreed with him that he was unfairly dismissed and that I knew that the applicant was acting fraudulently. I said no such thing. The respondent acknowledged that:

'After that he issued a court order instructing me to remove the videos. I will remove them because I respect the court order, but you must understand that this is not the first time the High Court has asked me to remove videos.'

He went on to state that this made him believe that there was corruption in the High Court and that is why he 'struggles to take it seriously.' After discussing the day's proceedings, he indicated that he would delete the videos but immediately said that:

'However, there is another video that I will post after this.'

(b) In the second video, the respondent, inter alia, repeated his allegation that I had agreed that he had been unfairly dismissed and that his evidence proved this to be the case.

(c) In the final video, the respondent, inter alia, said he would delete the video posts that he had made and repeated that I had agreed with him at the previous hearing and that:

'… documents that are not valid were used and fake documents were used, so I am removing all these videos.'

[52] The respondent has not been accurate in his understanding of events on 12 February 2026. But that is not a reason to impose the suspended sentence. He is at liberty to discuss court proceedings as much as he likes. These posts are referred to simply to demonstrate the respondent's proclivity to post videos on social media.

[53] This morning, I addressed the respondent and asked him if he had complied with the order of 12 February. He said that he had. I inquired further from him if that meant that there were no videos relating to the applicant on either of TikTok or Facebook. The respondent said there were none. I asked whether I was to understand from his answer that meant that he had accessed his second profile on TikTok and removed the videos from that profile. I mentioned this because at the previous hearing he had informed me that he was unable to access one of his profiles on TikTok. He indicated that he had not been able to access that profile. I then instructed the respondent to sit with the applicant's representatives and to demonstrate to them that he had complied with the order of 12 February. The exercise took about an hour.

[54] When that exercise had been completed, I returned to court and was advised by Ms *Dredge*, who appears for the applicant, that despite what the respondent had earlier told the court, further objectionable videos had been found on both Facebook and TikTok. However, Ms *Dredge* fairly indicated that all had now been deleted, bar four videos on the TikTok profile. As regards the TikTok profile that the respondent could not access, Ms *Dredge* explained to me that the account was linked to a cellular telephone number that no longer existed. If a recovery of that account was to be effected, the activation message would be sent to the telephone number associated with it and thus would not be received as the number no longer existed. That maybe so, but I am fairly confident that the administrators of TikTok would be able to offer some assistance if approached.

[55] A draft order prepared by Ms *Dredge* was handed up and proposed that notwithstanding the deletions that had been performed this morning, the respondent still be sentenced to the period of imprisonment that was suspended. The respondent was given the opportunity to make submissions on this and on whether he should be ordered to pay the costs of the application. He used this opportunity, unsurprisingly, to allege that he had been fraudulently dismissed by the applicant.

Analysis

[56] The terms of the order of 8 August are entirely clear and certain and there could have been no confusion in the respondent's mind as to what he was required to do. He was present when that order was handed down in open court and he heard its terms being explained in the English language, which he is fully capable of both understanding and using as was demonstrated by his outbursts in that language in court on 12 February 2026, and the terms of the order were then also explained to him in his home language, isiZulu. The order of 8 August was also served upon him. I am, thus, confident that the respondent was aware of what he was required to do by the court.

[57] Despite what occurred in the courtroom this morning with the deletion of videos, there can be no doubt that the respondent had not complied with the conditions of suspension imposed in the order of 8 August or the order of 12

February. The fact that this exercise had to be performed in the courtroom this morning demonstrates that conclusion powerfully.

[58] There can be no doubt that the applicant considers himself to have been gravely wronged at the hands of the applicant. However, he is not justified in thinking that way, for the matter of his dismissal from the applicant has twice been considered by independent arbitrators who have twice found that his dismissal was fair. Rather than move on with his life, he appears to have devoted the last eight years of his life to attempting to disparage and defame the applicant, its employees, and its processes.

[59] The respondent's expressed goal is to return to his employment with the applicant. Indeed, it is fairly obvious that it is his obsession. It is not immediately clear to me how his objectionable conduct could possibly have helped him attain that goal, and it seems beyond doubt that his current conduct has ensured that whatever ultimately happens, he will never be able to return to his employment with the applicant. I venture to say that it would assist the respondent if he came to that obvious realisation. It seems clear to me that he could have spent the eight years since his dismissal from the applicant far more profitably than by continuing to rail against the applicant on social media platforms.

[60] The moment has come for the respondent to take a reality check and accept that his time as an employee of the applicant has ended and that it will never be resumed. And it is time for him to accept that he is a member of the broader community to whom the rule of law applies. When the court directs him to desist from objectionable behaviour, he is duty bound to obey that instruction, even if he does not agree with it, for disobedience, as with most things in life, has a consequence. The consequence of disobeying a court order is a conviction for contempt of court and, in this case, the imposition of a suspended sentence, subject to conditions. The consequence of a failure to comply with the conditions of suspension of an imposed sentence is the prospect of that suspended sentence being brought into operation.

[61] I am, however, mindful of the fact that the initial imposition of a suspended sentence is not intended to imprison a person. Quite the opposite: it is intended to

spare the offender from incarceration. The offender is given a chance to purge his contempt by complying with the conditions of suspension and, by so doing, preserve his liberty. The order of 12 February gave the respondent a further such opportunity. However, the respondent has shown a clear and wilful disregard for all the orders granted by judges of this court, including the order of 12 February. Such defiance is plain and is uncalled for and inappropriate. It is accordingly not a difficult decision to find that the respondent has not complied with the conditions of suspension imposed upon him and he is, therefore, in breach of those conditions.

[62] The only issue that then remains is whether the respondent should now be committed to gaol for his defiant conduct. Ms *Dredge* correctly submitted that the dignity of this court has been seriously impugned by the respondent's conduct. While the court's dignity has taken a severe battering, it will survive. The respondent's disrespect for orders imposed upon him is manifest. But the harm of which the applicant has complained has largely been neutralised by the deletion of the videos. In my view, the further suspension of the suspended sentence may serve a salutary purpose and restrain the respondent from such conduct in the future. Perhaps I am being overly optimistic in thinking that way. Ms *Dredge* did mention that the respondent informed her that he would not remain silent. That seemed to imply that he would again make posts about the applicant. If that is the case, then the respondent will be the master of his own misfortune for I intend giving him a further chance to remain out of prison. As I understand the law, I am entitled to add further conditions of suspension to the already imposed suspended sentence, and I intend doing so.[9] Accordingly, in the exercise of my sentencing discretion I do not intend bringing the suspended sentence into operation but intend confirming that it remains in place for the five year period imposed by the court that issued the order of 8 August.

[63] The respondent will no doubt regard this as a victory. It is anything but. What has happened is that he has placed himself in a position where he will have little or no wriggle room if he again begins posting videos intended to defame the applicant. I

[9] See s 297(7) of the Criminal Procedure Act 51 of 1977, which provides that in criminal proceedings a court may further suspend the operation of a sentence or the payment of a fine, as the case may be, subject to any existing condition or such further conditions as could have been imposed at the time of such postponement or suspension.

have no doubt that the suspended sentence will be imposed if he again disobeys the conditions of suspension.

[64] The four videos that remain on the respondent's Facebook profile must, furthermore, be deleted as must those on the inaccessible TikTok account. The Facebook videos will be more fully identified in the order that will follow. They are to be deleted today.

Costs

[65] The applicant seeks the costs of the application from the respondent on scale B. The respondent says that the applicant should pay his costs.

[66] There will be an order in favour of the applicant on the basis proposed by it.

Order

[67] I accordingly grant the following order:

1. The applicant is granted permission to deliver a supplementary affidavit dated 9 February 2026.

2. The respondent, having been sentenced to imprisonment for a period of 30 calendar days on 8 August 2025, which sentence of imprisonment was suspended for five years on condition that:

(a) he removed, within 24 hours of the granting of that order, all videos relating to the applicant from TikTok, Facebook, and/or all other social media platforms to which such videos had been published; and

(b) he desisted from posting any further videos to those social media platforms in which he defamed the applicant,

it is declared that the respondent is in breach of the aforementioned conditions of suspension.

3. The suspended sentence of 30 calendar days imprisonment imposed upon the respondent is not brought into operation and is re-suspended for the period of five years imposed by the order of 8 August 2025 on the following terms:

(a) The respondent is to delete the following videos from his Facebook profile:

(i) Video with the number '501';

(ii) Video with the message 'I'm humbled by God Part 2';

(iii) Video with message ‘God im humbled by you’; and

(iv) Video with the message ‘To All the Judges and Magistrates’,

before the applicant’s legal representatives and the respondent leave the court this afternoon.

(b) That the respondent does not post, spread, publish or make known to the public on any social media platform, and TikTok and Facebook in particular, any statement regarding or concerning Transnet, and/or aimed at defaming or damaging Transnet’s reputation, either verbally and/or in writing in any form whatsoever, and particularly in video format; and/or

(c) Is not otherwise found to be in contempt of any court order issued out of this court under case number D5809/2024B.

4. The applicant’s attorneys, alternatively the Sheriff of this court, are authorised to approach the administrators of TikTok and request the deletion of the respondent’s profile under the name ‘M[…] M[…]’ and the videos found under that profile and to the extent that such administrators require an order for them to remove the profile and the videos, this shall be that order.

5. The respondent is directed to pay the costs of this application, which may be taxed on scale B, including the costs reserved on 12 February 2026.

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MOSSOP J

APPEARANCES

Counsel for the applicant:	Ms K Dredge
Instructed by:	Venns Attorneys Suite 12, 6 Lakeside Building Derby Downs Office Park University Road Westville Durban
Counsel for the respondent:	In person