



**High Court of South Africa  
Western Cape division**

**Judges Chambers**

**Keerom Street**

**Cape Town**

16 March 2020

Dear Judge-President

**Re Parker J**

1. We write to you in the light of Le Grange J's letter to you of 10 March 2020 and Parker J's response of 13 March 2020, both of which are in the public domain.
2. Following informal discussions among ourselves, it had been our intention to send you a letter on the afternoon of Friday 13 March 2020. As a courtesy to Parker J, a deputation called on him shortly after lunch on Friday to forewarn him of the step we intended taking. Although he did not seek to dissuade us from addressing you, he told the deputation that he intended responding to Le Grange J's letter, that his response would be made public, and that it might cause us to see matters in a different light. In the light of this development, we decided to hold back until we had read his public response. That response has only served to exacerbate our concerns, for reasons which we set out below.
3. It is common knowledge that, immediately after an alleged assault in his chambers in February 2019, Parker J asked Wille J to take down an affidavit, which Parker J there and then swore before a commissioner of oaths, the purpose of the affidavit being to support a criminal charge. Until recently, the original of that affidavit was retained by Wille J ('the Wille affidavit').

4. Le Grange J has recounted, in his letter of 10 March, his version of what Parker J told him of the alleged assault. The discussions between them, so Le Grange J tells us, took place on several occasions in the third and fourth terms last year. Le Grange J's account of what Parker J told him substantially accords with the version in the Wille affidavit. It also accords substantially with what Parker J has told other colleagues, as mentioned below.
5. In your affidavit of 7 February 2020, in response to the complaints laid against you by Goliath DJP, you deny that you assaulted Parker J (though he is not named), and you give a description of the events in his chambers which is materially at odds with the one Parker J gave under oath and subsequently recounted to several colleagues. In para 43 of your affidavit you say that Parker J was shown the part of your affidavit relating to him and agrees with it.
6. Since Parker J did not subsequently refute what you said in para 43, we felt we had no choice but to conclude that he had given two materially inconsistent versions of the alleged assault, the one directly under oath, the other indirectly so (in that he knew you would be incorporating his concurrence in your affidavit). In his letter to Le Grange J, Parker J has confirmed that he fully agrees with your account, from which we have to conclude that he claims that the version he gave under oath in the Wille affidavit was false.
7. Regrettably, Parker J has now chosen to give an even more problematic version, as is evident from the following in para 3 of his letter to Le Grange J (emphasis added by us):

“Quite simply, having reflected on the narrative with regard to the alleged assault, very soon thereafter, and without anyone having influenced me in any way whatsoever, I realised that events may not have unfolded in the way I had initially perceived. This is quite understandable, given my emotional state at the time. I therefore came to the firm but inescapable conclusion, that a complaint of any nature in this regard, will be both inappropriate and unnecessary.”
8. For present purposes, the critical averment is his claim that it was “very soon” after the alleged assault (25 February 2019) that he came to the realisation that events may not have unfolded in the way he initially perceived. He does not plainly state precisely when he came to this realisation, but, in context, “very soon” must mean within a day or two, not within weeks or months.

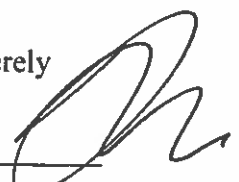


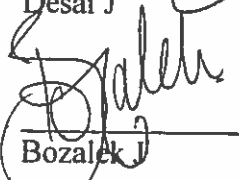
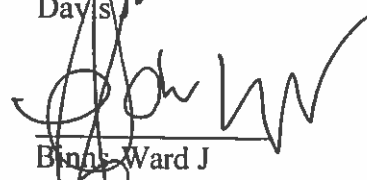


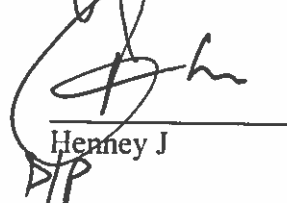
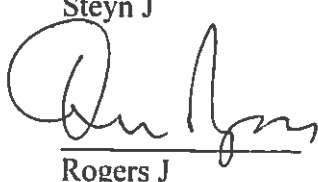


9. This is important for the following reasons:
  - (a) Parker J gave his account of the assault to Le Grange J in the third and fourth terms of 2019.
  - (b) He gave similar accounts to Sher J and Henney J in the third and/or fourth terms.
  - (c) He gave a substantially similar account to another colleague in January this year. And to yet another he gave an account, towards the end of last year, which has led the said colleague to conclude that Parker J was either not telling the truth then or is not telling the truth now. These colleagues have not agreed to be identified herein, and one of them has also declined to subscribe to this letter, but we have no doubt that both of them will confirm the facts if and when called upon by an appropriate authority to do so.
  - (d) In October 2019, some seven months after the alleged assault, Goliath DJP met with Wille J and Parker J in order to obtain confirmation of what had allegedly occurred. Wille J informs us that on that occasion he and Parker J both gave the DJP an account of the alleged assault substantially as recorded in the Wille affidavit. Parker J at no stage said that the account was incorrect or that he was unsure of its correctness.
  - (e) On any reckoning, these various accounts were given long after the expiry of what could be described as a date “very soon” after the alleged assault.
  - (f) It was only on 17 February 2020, nearly a year after making the Wille affidavit, that Parker J asked Wille J to return it. If Parker J had come to the conclusion, shortly after 25 February 2019, that his affidavit wrongly implicated you in an assault, one would have expected him to seek its return at that time and also to inform Wille J that the contents of the affidavit were incorrect. This he has never done.
10. As to what Parker J told colleagues concerning the alleged assault, you will appreciate that we are not relying solely on Le Grange J’s version of what passed between him and Parker J, but on a body of evidence which we have no reason to doubt.
11. During our deputation’s meeting with Parker J on 13 March 2020, they told him on several occasions that the best way for him to allay our concerns, and those of the public, as to his integrity would be to make the Wille affidavit available, even if he wished to redact any part of it dealing with the prelude to the events in his chambers. He declined to do so. The reason for the deputation’s request that he make the affidavit available was that such disclosure would allow us and others to determine the extent to which his version under

oath on that occasion accorded with, or differed from, your version which he has more recently affirmed. In the light of Parker J's letter of Friday, disclosure of the affidavit is very relevant for an additional reason – it would shed important light on the plausibility of his recent allegation that he now “perceives” events to have unfolded differently from what he stated in the affidavit.

12. We do not know from personal knowledge what happened between you and Parker J in his chambers. What we do know is that Parker J has given materially inconsistent accounts of the incident. We know, also, that his recent allegation that “very soon” after the alleged assault he came to realise that events may not have unfolded in the way he had perceived is diametrically at odds with what he told other colleagues many months after the incident.
13. This apparent and serious lack of integrity on Parker J's part is irreconcilable with the judicial function, the more so since we are often called upon to sit in judgment on the honesty and truthfulness of litigants and witnesses.
14. This being the case, we are not willing to sit with Parker J for the time being. The processes of the Judicial Service Commission (“JSC”) inevitably take time. Although Parker J's position must ultimately be determined through those processes, we consider that his materially inconsistent statements are manifest and are publicly known. If any of us were to sit with him, the court so constituted would inevitably be tainted, and we would individually be placed in a false position, since we would purport to be dispensing justice as members of a court characterised by honesty and integrity.
15. In terms of article 4(a) of the Judicial Code of Conduct, a judge must uphold the integrity of the judiciary and the authority of the courts. Article 5(1) states that a judge must always, and not only in the discharge of official duties, act honourably and in a manner befitting judicial office. Notes (i) and (ii) to this article provide that a judge must behave in his or her professional and private life in a manner that enhances public trust in, and a respect for, the judiciary and the judicial system; and that a judge must avoid impropriety and the appearance of impropriety in all his or her activities.
16. Article 16(3) of the Code stipulates that a judge who reasonably believes that a colleague has been acting in a manner which is unbecoming of judicial office must raise the matter with that colleague or with the head of the court.

- 17. It will be apparent that in our view Parker J has acted in a manner which is unbecoming of judicial office, particularly in relation to the provisions of articles 4 and 5 mentioned above. This letter thus also serves the purpose of raising this with you in terms of article 16(3).
  
- 18. However, and in the unusual circumstances of this case, where both you and Goliath DJP have an interest in the conflicting assertions made by Parker J, article 16(3) is, we think, inapt, and so we deem it appropriate to furnish a copy of this letter to the Chief Justice and to the secretariat of the Judicial Service Commission in order that it may be placed before the Judicial Conduct Committee.
  
- 19. We have not sought to discuss this matter with all colleagues, and will accordingly send a copy of this letter to all permanent judges, both for purposes of transparency and to afford them an opportunity, should they be so inclined, to express their own views one way or the other.

Yours sincerely

 _____ Desai J	 _____ Davis J	 _____ Meer J
 _____ Bozalek J	 _____ Binnis Ward J	 _____ Steyn J
 _____ Gamble J	 _____ Henney J	 _____ Rogers J
 _____ Sher J	 _____ PJP	