

REPORT TO THE BAR COUNCIL
COMPLAINT CONCERNING ADVOCATE A. R. BRINK

1. As the Bar Council will recall, Legal Aid South Africa laid a complaint against Advocate A. R. Brink concerning his conduct in certain litigation in which he, **inter alia**, called Mr Justice D. Mlambo a liar and claimed that the Judge had misled a select committee of parliament. The nature of the complaint is dealt with fully in the report of this committee dated 17 February 2017.
2. Advocate Brink is not a member of the Bar, but serves the State as an additional magistrate.
3. Following receipt of the complaint and its consideration by this committee, a decision was taken by the Bar Council to proceed with a striking off application against Advocate Brink.
4. When Advocate Brink was informed of this decision, he demanded a right to respond to the allegations made about him by Legal Aid South Africa. This had not been afforded him before the decision to strike off was taken.
5. The request of Advocate Brink was acceded to and he was

invited to make submissions in response to the allegations made by Legal Aid South Africa.

6. Ultimately, Advocate Brink submitted his representations. They consisted, primarily, of eight complaints that he has either submitted, or intends submitting, to the Judicial Services Commission concerning the conduct of Mr. Justice Mlambo. The eight complaints (and therefore the representations), contained in nine volumes, cover 264 pages.
7. Legal Aid South Africa were invited to reply to the answer of Advocate Brink and were sent his representations. After substantial reflection, Legal Aid South Africa decided that it would not reply in detail but contented itself with a general statement that Advocate Brink had raised nothing new in his answer but persisted in his allegations made against Mr. Justice Mlambo as well as another Judge.
8. This committee has considered the answer of Advocate Brink. He has persisted in his allegations against the Judge and has constructed the most elaborate conspiracy theory in an attempt to try and prove what he alleges. He has failed in this regard as the response is verbose and rambling but ultimately lacks substance. The committee, after a fresh consideration of the

matter, believes that the matter still warrants that a striking off application be brought.

9. The committee again comments that a striking off application will offer Advocate Brink the sort of platform (and, potentially, publicity) that he appears to relish in order to advance his theories. He has apparently made contact with international organisations seeking their support for his position and allegations and he has drawn the matter to the attention of Noseweek magazine.
10. The recommendation is therefore made to the Bar Council that the striking off application continues and that Advocate Brink be so advised, as well as Legal Aid South Africa.

Complaints Committee 2

R. G. Mossop SC

M. Sponneck

M. Manikam

14 September 2017.

Note from Mahen Manikam, member of Complaints Committee 2:

I agree with the views of Mossop SC in the report of committee 2 regarding Adv Brink. However, I raise a concern for consideration.

In terms of section 8 of the Judicial Service Commission Act 9 of 1994, the judicial conduct committee is chaired by the Chief Justice and the rest of the committee's members consist of judges. Therefore, by its nature such a disciplinary organ would be construed to be a higher forum than our committee and we would be expected to show deference to the former committee. Brink's allegations to the JSC overlap with his responses made by him to our committee. Gauging from the litigious history of the matter and noting also that Brink has made representations to the Human Rights Commission, he may consider it appropriate to take the decision of the bar council on review and he may contend that we ought to have allowed the JSC to rule on his complaints first before the bar council made a finding against him."