

# Case not closed: Cape High Court backlog showing no signs of improving

By [GroundUp Staff](#)

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Thirteen judgments in the Western Cape High Court are more than six months overdue, four of which are over a year late.



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According to the [judicial norms and standards](#), judges are expected to deliver judgments within three months of the last hearing. The latest list of reserved judgments — sent to *GroundUp* by a concerned lawyer — shows that 27 judgments are over three months late.

Nine of the 13 judgments older than six months fall under two judges. Judge Siraj Desai is responsible for four (two of which are over two years late, although for one of these, the order has been given but not the reasons for it) and Acting Judge Engers is responsible for five.

In December 2017, *GroundUp* reported that 11 judgments had been outstanding for more than six months. In June 2018 it was 16 judgments, and in September 2018 it was 17 judgments.

It is the responsibility of the Judge President of a High Court to make sure the court's judges are delivering their reserved judgments on time. It is the responsibility of the Chief Justice to make sure the Judge Presidents are doing this.

Alison Tilley, co-ordinator at Judges Matter, says the issue of following norms and standards — especially how long judgments take to deliver — is much discussed at the Judicial Services Commission.

Tilley says there are many reasons judges give for delays, such as “the complexity of the matter, how long the matter was heard for, and sometimes just issues like illness”.

“There are some courts where the pressure of work is higher, and the sheer number of cases being heard is such that it is difficult to get judgments out on time. There is no rule about how many judges there should be, but it is obvious that divisions like North and South Gauteng simply need more judges.”

*GroundUp* reported in September 2018 that the Johannesburg Division of the High Court had the most late judgments in the country. Spokesperson for the Chief Justice, Nathi Mncube, subsequently informed us that the national list of reserved judgments provided by the Office of the Chief Justice was outdated. Mncube told *GroundUp* in November 2018 that an updated list would be released “in the third week of February 2019”. It is now the last week of February and we are still waiting for this list.

According to the judicial norms, the Chief Justice is responsible for monitoring the performance of judges. *GroundUp* emailed Mncube for comment regarding the Cape High Court list days before publication. He did not respond. We also tried to call Mncube numerous times. He did not answer his cell phone.

“There is a lot of pressure on judges as it is to hand down decisions quickly, without wanting to compromise on the quality of decisions,” says Tilley. “Making the list of outstanding judgments available and allowing litigants to see which judges are often delayed would be a good first step to creating pressure for decisions to be handed down more quickly.”

A leading lawyer involved in the Cape High Court was unsympathetic to the tardy judges. He pointed out that it's almost impossible to write a judgment two years after it has been reserved, because of fading memory.

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