

HONOUR DUBE

Versus

EDWARD F REID

And

THE DEPUTY SHERIFF

IN THE HIGH COURT OF ZIMBABWE
NDOU J
BULAWAYO 13 JANUARY 2003 & 20 MAY 2004

T Khumalo for applicant
S Mazibisa for respondent

Judgment

NDOU J: The applicant is employed in the United Kingdom and resides there. At the time of the application he was in Zimbabwe for the Christmas festive season. His girlfriend is Eunice Nyoni. He was resident with the latter. The first respondent obtained a default judgment against Eunice Nyoni in the sum of \$426 689,92 in damages resulting from a road traffic accident in case number HC 2608/02. A writ of execution was issued and executed on 18 December 2002. The applicant did not institute inter-pleader proceedings claiming ownership of the goods attached at Eunice Nyoni's premises. I directed that the respondents be served with the application and the notice of set down. The applicant was unable to do so on time. By the time he was able to do so, the question of urgency, as per certificate of urgency and the founding affidavit, had fallen away. By the application, he sought to have the disputed goods for the festive season. That season had come and gone. By submissions through his legal practitioner from the bar he sought to create new grounds for urgency. With respect to Mr Khumalo, even if I accept the new

HB65/04

submissions they not make the matter urgent. A case has not been made out for proceeding under a certificate of urgency. Accordingly, the application is dismissed with costs.

James, Moyo-Majwabu & Nyoni applicant's legal practitioners
Cheda & Partners, respondent's legal practitioners