

NATIONAL PROSECUTING AUTHORITY
PRIVATE BAG 9003
2022 -09- 05
CAPE TOWN
DIRECTOR OF PUBLIC PROSECUTIONS

REGISTRAR OF THE HIGH COURT
KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG
2022 -09- 05 CR3
REPUBLIC OF SOUTH AFRICA
PRIVATE BAG X9014 PIETERMARITZBURG
GRIFFIER VAN DIE HOOGGEREGSHOF

CASE NO: CC 5072022
PIETERMARITZBURG CAS 309/10/2021

Investigating Officer: Brigadier Mbhele

HIGH COURT OF SOUTH AFRICA

(KWAZULU-NATAL DIVISION, PIETERMARITZBURG)

In the matter of:

JACOB GEDLEYIHLEKISA ZUMA

An 80-year old adult South African male citizen of KwaNxamalala Residence,
Nkandla, Kwa-Zulu-Natal

(Hereinafter referred to as 'the Private Prosecutor')

versus

1. WILLIAM JOHN DOWNER

a 65-year old adult South African male citizen of Cape Town, Western
Cape. (C/O of the National Prosecuting Authority, 115 Buitengracht Street,
Cape Town, Western cape

(Hereinafter referred to as 'Accused 1')

and

2. KARYN MAUGHAN

a 42-year old adult South African female citizen of Bryanston,
Johannesburg, Gauteng (C/O Willem De Klerk of Willem De Klerk.
Attorneys ('WDK Attorneys'), Le Val Office Park, North Block, 45 Jan
Smuts Avenue, Westcliff, Johannesburg, Gauteng).

(Hereinafter referred to as 'Accused 2')

(Hereinafter collectively referred to as 'the Accused')

SUMMONS IN A CRIMINAL CASE

STAMP
FOR HIGH AND LOWER COURTS
CAPE TOWN WEST
2022 -09- 05
N.N. NTSIBANTU
BALJU
VIR DIE HOËR EN LAERHOWE

TO THE ACCUSED:

You are hereby summoned to appear in person before the **PIETERMARITZBURG HIGH COURT** at **09H30** on the **10TH Of OCTOBER 2022** at **COURT "A"** in connection with the charges of which the particulars are mentioned in the indictment attached hereto and to remain in attendance.

TO ANY POLICE OFFICER / SHERIFF OR OTHER PERSON empowered to serve summons in criminal proceedings:

You are hereby commanded in the name of the Private Prosecutor to serve the copy of this summons on the persons (referred to as the Accused) of whom particulars appear hereunder as to summons them to appear in Court and to remain in attendance in connection with the charges of which the particulars are mentioned herein and particulars set out in the indictment. Report to the Court what you have done thereon.

PARTICULARS OF ACCUSED 1:

Name: **WILLIAM JOHN DOWNER**
 Address: **C/O of the National Prosecuting Authority, 115 Buitengracht Street, Cape Town, Western cape**
 Gender: **MALE**
 Occupation: **STATE ADVOCATE**
 Age: **65**

PARTICULARS OF ACCUSED 2:

Name: **KARYN MAUGHAN**
 Address: **C/O WILLEM DE KLERK OF WILLEM DE KLERK ATTORNEYS ('WDK ATTORNEYS'), LE VAL OFFICE PARK, NORTH BLOCK, 45 JAN SMUTS AVENUE, WESTCLIFF, JOHANNESBURG, GAUTENG**
 Gender: **FEMALE**
 Occupation: **JOURNALIST**
 Age: **42**

THE CHARGE(S):**IN RESPECT OF ACCUSED 1**

1.1 Contravening Section 41(6)(a), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of information) (Only in respect of Accused 1)

1.2 Contravening Section 41(6)(b), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of the contents of a document); (Only in respect of Accused 1)

IN RESPECT OF ACCUSED 1 AND/OR ACCUSED 2

2.1 Contravening Section 41(6)(b), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of the contents of a document); (In respect of both Accused 1 and Accused-2)

2.2 Accomplice to the breach of section 41(6)(a) and/or (b), read with section 41(7) of Act No. 32 of 1998 (Only in respect of Accused 2)

The following identity and contact details of the Private Prosecutor apply to this matter:

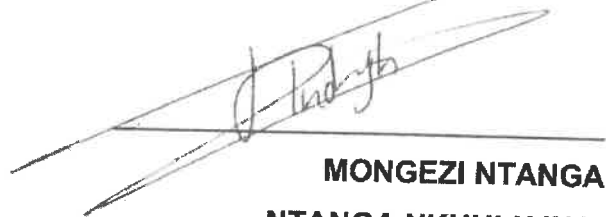
NAME: JACOB GEDLEYIHLEKISA ZUMA

OCCUPATION: FORMER PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

CONTACT ADDRESS c/o KwaNxamalala Residence, Nkandla, Kwa-Zulu-Natal

Compiled/Issued on behalf of the Private Prosecutor by

DATED AT PIETERMARITZBURG ON THIS 5TH DAY OF SEPTEMBER 2022



MONGEZI NTANGA

NTANGA NKUHLU INC.

ATTORNEYS FOR THE PRIVATE PROSECUTOR

Unit 24 Wild Fig Business Park

1492 Cranberry Street

Honeydew

TEL: (010) 595-1055

MOBILE NO.: 072 137 7104

C/O PRANESH INDRAJITH ATTORNEYS

41 Lahore Road

Pietermaritzburg

Tel: 033 3871 410

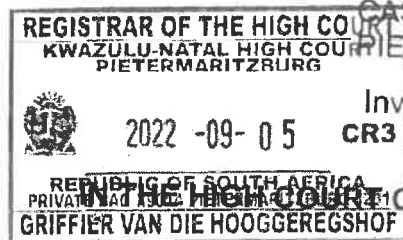
mail@pi-attorneys.co.za

reception@pi-attorneys.co.za

Ref: Pavi Indrajith




REGISTRAR OF THE HIGH COURT



CASE NO:
PIETERMARITZBURG CAS 309/10/2021

Investigating Officer: Brigadier Mbhele

IN THE HIGH COURT OF SOUTH AFRICA
(KWAZULU-NATAL DIVISION, PIETERMARITZBURG)

In the matter of:

JACOB GEDLEYIHLEKISA ZUMA

An 80-year old adult South African male citizen of KwaNxamalala Residence,
Nkandla, Kwa-Zulu-Natal

(Hereinafter referred to as '*the Private Prosecutor*')

versus

1. WILLIAM JOHN DOWNER

a 65-year old adult South African male citizen of Cape Town, Western
Cape. (C/O of the National Prosecuting Authority, 115 Buitengracht Street,
Cape Town, Western cape

(Hereinafter referred to as 'Accused 1')

and

2. KARYN MAUGHAN

a 42-year old adult South African female citizen of Bryanston,
Johannesburg, Gauteng (C/O Willem De Klerk of Willem De Klerk
Attorneys ('WDK Attorneys'), Le Val Office Park, North Block, 45 Jan
Smuts Avenue, Westcliff, Johannesburg, Gauteng).

(Hereinafter referred to as 'Accused 2')

(Hereinafter collectively referred to as 'the Accused')

INDICTMENT

The Private Prosecutor, who as such prosecutes in terms of section 7(1), read with sections 9(1)(a), 9(1)(b), 10(1) and 10(2) of the Criminal Procedure Act No. 51 of 1977 (as amended), hereby institutes and shall, with the assistance of his duly mandated legal representatives, conduct criminal proceedings to find the Accused persons cited above guilty of the following crimes of:

1. IN RESPECT OF ACCUSED 1

1.1. Contravening Section 41(6)(a), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of information) (Only in respect of Accused 1)

1.2. Contravening Section 41(6)(b), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of the contents of a document); (Only in respect of Accused 1)

2. IN RESPECT OF ACCUSED 1 AND/OR ACCUSED 2

2.1. Contravening Section 41(6)(b), read with section 41(7) of Act No. 32 of 1998.

(Unauthorised disclosure of the contents of a document); (In respect of both Accused 1 and Accused 2)

2.2. Accomplice to the breach of section 41(6)(a) and/or (b), read with section 41(7) of Act No. 32 of 1998 (Only in respect of Accused 2)

COUNT 1: (Only in respect of Accused 1)

UNAUTHORISED DISCLOSURE OF INFORMATION

1. That Accused is guilty of the crime of contravening section 41(6)(a), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.

2. IN THAT upon or about the period 9 to 10 August 2021, and at or near Pietermaritzburg and at or near places unknown to the Private Prosecutor, in the district of PIETERMARITZBURG, Accused 1, a member of the National Prosecuting Authority, did unlawfully and intentionally sanction ANDREW BREITENBACH, a duly admitted and practicing Advocate representing the National Prosecuting Authority on brief, to disclose information which came to his (i.e. Accused 1) knowledge in the performance of his functions in terms of the National Prosecuting Authority Act No. 32 of 1998 as the prosecutor in *S v Jacob Gedleyihlekisa Zuma and Thales South Africa (Pty) Ltd, KwaZulu-Natal Division, Case Number CCD 30/2018*, namely, a letter dated 8 August 2021, classified as 'MEDICAL CONFIDENTIAL' and titled, 'MEDICAL SUPPORT TO THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND FORMER PRESIDENTS', as authored by BRIGADIER GENERAL (DOCTOR) M. Z. MDUTYWA of the South African Military Health Service, Department of Defence, to Accused 2, a journalist for and on behalf of News 24.
3. WHEREAS the information was in fact disclosed to Accused 2 without the permission of the National Director of Public Prosecutions, SHAMILA BATOHI, and/or without the permission of a person authorised thereto in writing by the said National Director of Public Prosecutions.
4. NOW THEREFORE the Accused is guilty of contravening section 41(6)(a), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.

COUNT 2 (Only in respect of Accused 1), ALTERNATIVELY TO COUNT 1

UNAUTHORISED DISCLOSURE OF THE CONTENTS OF A DOCUMENT

5. That the Accused is guilty of the crime of contravening section 41(6)(b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998,

6. IN THAT upon or about the period 9 to 10 August 2021 and at or near places unknown to the Private Prosecutor, in the district of PIETERMARITZBURG, Accused 1, a member of the National Prosecuting Authority, did unlawfully and intentionally sanction ANDREW BREITENBACH SC, an Advocate representing the National Prosecuting Authority on brief, to disclose the contents of a document in the possession of the National Prosecuting Authority, namely, a letter dated 8 August 2021, classified as '*MEDICAL CONFIDENTIAL*' and titled, '*MEDICAL SUPPORT TO THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND FORMER PRESIDENTS*', as authored by BRIGADIER GENERAL (DOCTOR) M. Z. MDUTYWA of the South African Military Health Service, Department of Defence, to Accused 2, a journalist for and on behalf of News 24.
7. WHEREAS the content of the said document was in fact disclosed to Accused 2 without the permission of the National Director of Public Prosecutions, SHAMILA BATOHI, and/or without the permission of a person authorised thereto in writing by the said National Director of Public Prosecutions.
8. NOW THEREFORE the Accused are guilty of contravening section 41(6)(b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.

COUNT 3 (Only in respect of Accused 1)

UNAUTHORISED DISCLOSURE OF INFORMATION

9. That the Accused is guilty of crime of contravening section 41(6)(a), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.
10. IN THAT upon and between 4 and 13 June 2008 and at or near JOHANNESBURG Accused 1, a member of the National Prosecuting Authority, did unlawfully and intentionally disclose information which came to his knowledge in the performance of his functions in terms of the NPA Act as the

prosecutor in the then pending prosecution of the Private Prosecutor, to a Mr Sam Sole, then a journalist for and on behalf of the Mail and Guardian.

11. WHEREAS the said information was in fact disclosed to Mr Sam Sole without the permission of the National Director of Public Prosecutions and/or without the permission of a person authorised thereto in writing by the said National Director of Public Prosecutions.
12. Now THEREFORE, the Accused is guilty of contravening section 41(6)(a), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.

COUNT 4 (Only in respect of Accused 2)

UNAUTHORISED DISCLOSURE OF THE CONTENTS OF A DOCUMENT

13. That the Accused is guilty of the crime of contravening section 41(6)(b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.
14. IN THAT upon or about the period 9 to 10 August 2021, and at or near places unknown to the Private Prosecutor, in the district of PIETERMARITZBURG, Accused 2, a journalist contracted to News 24, did unlawfully and intentionally disclose the contents of a document in the possession of the National Prosecuting Authority, namely, a letter dated 8 August 2021, classified as '*MEDICAL CONFIDENTIAL*' and titled, '*MEDICAL SUPPORT TO THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND FORMER PRESIDENTS*', as authored by BRIGADIER GENERAL (DOCTOR) M. Z. MDUTYWA of the South African Military Health Service, Department of Defence, to News 24 readers and/or the general public, without the permission of the National Director of Public Prosecutions, SHAMILA BATOHI, and/or without the permission of a person authorised thereto in writing by the said National Director of Public Prosecutions.
15. NOW THEREFORE the Accused is guilty of contravening section 41(6)(b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1998.

COUNT 5: (Only in respect of Accused 2)

ACCOMPLICE TO BREACH OF SECTION 41(6)(b)

16. That Accused 2 is guilty of the crime of contravening section 41(6)(a) and/or (b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1992,
17. IN THAT upon or about the period 9 to 10 August 2021, and at or near places unknown to the Private Prosecutor, in the district of PIETERMARITZBURG, Accused 2, a journalist contracted to News 24, did unlawfully and intentionally facilitated aided and/or encouraged the commission by Accused 1 of the crimes of breaching section 41(6)(a) and/or (b), read with section 41(7) of the National Prosecuting Authority Act No. 32 of 1992, thereby facilitating, aiding and/or abetting Accused 1 in the commission of the crimes referred to in Counts 1 and/or 2 above.
18. In case of conviction, the said Private Prosecutor prays for sentence according to law, against the Accused.
19. The Private Prosecutor further confirms that this matter will be handled in accordance with the provisions of applicable legislation.

ATTACHMENTS


20. This document must be read with the attached Summary of Facts and Witness List.

DETAILS OF THE PRIVATE PROSECUTOR:

The following identity and contact details of the Private Prosecutor apply to this matter:

NAME: JACOB GEDLEYIHLEKISA ZUMA
OCCUPATION: FORMER PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
CONTACT ADDRESS c/o KwaNxamalala Residence, Nkandla, Kwa-Zulu-Natal

Compiled/Issued on behalf of the Private Prosecutor by



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C/O PRANESH INDRAJITH ATTORNEYS
41 LAHORE ROAD
PIETERMARITZBURG
(REF: PAVI INDRAJITH)

TO: THE SHERIFF

AND TO: THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
PIETERMARITZBURG

AND TO: MR WILLIAM JOHN DOWNER
c/o THE NATINAL PROSECUTING AUTHORITY

115 BUITENGRACHT STREET
CAPE TOWN

SERVICE BY SHERIFF

AND TO: MS KARYN MAUGHAN
c/o MR WILLEM DE KLERK
WDK ATTORNEYS
LE VAL OFFICE PARK
NORTH BLOCK
45 JAN SMUTS AVENUE
WESCLIFF
JOHANNESBURG

SERVICE BY SHERIFF

CASE NO:
PIETERMARITZBURG CAS 309/10/2021

Investigating Officer: Brigadier Mbhele

**IN THE HIGH COURT OF SOUTH AFRICA
(KWAZULU-NATAL DIVISION, PIETERMARITZBURG)**

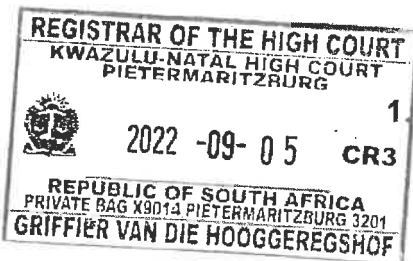
In the matter of:

JACOB GEDLEYIHLEKISA ZUMA

[Private Prosecutor,

in terms of section 7(1), read with sections 9(1)(a), 9(1)(b), 10(1) and 10(2) of Act No. 51 of 1977, as amended

versus



1. **WILLIAM JOHN DOWNER (Accused 1)**

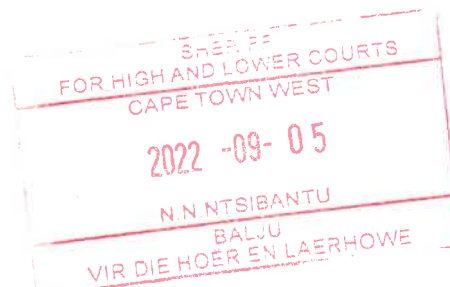
and

2. **KARYN MAUGHAN (Accused 2)**

**SUMMARY OF SUBSTANTIAL FACTS IN TERMS OF SECTION 144(3)(a) OF
ACT 51 OF 1977**

INTRODUCTION

1. The National Prosecuting Authority ('NPA'), foreshadowed in section 179 of the Constitution of the Republic of South Africa Act No. 108 of 1996 ('the Constitution'), and which is established by the National Prosecuting Authority Act No. 32 of 1998 ('NPA Act') is enjoined to exercise its functions without fear, favour or prejudice.



2. Section 22(1) of the NPA Act clothes the National Director of Public Prosecutions ('National Director') as head of the NPA, with the authority over the exercising of the powers, and the performance of all the duties and functions conferred or imposed on or assigned to any member of the NPA.
3. Section 32(1) of the NPA Act obligates members of the NPA to serve impartially and to exercise, carry out or perform their powers, duties and functions in good faith and without fear, favour or prejudice, subject only to the Constitution and the Rule of Law.
4. The NPA and its members are further required to observe and prescribe to the objectives, guidelines and standards of the International Association of Prosecutors ('IAP').
5. In this regard, Article 1 of the IAP's Constitution, delineates the objects of the IAP, which, *inter alia*, include:
 - (i) Promoting effective, fair, impartial and efficient prosecution of criminal offences;
 - (ii) Respecting and seeking to protect human rights as contained in the United Nations' Universal Declaration of Human Rights; and
 - (iii) Promoting high standards and principles, generally recognised internationally as necessary and corollary in the proper and independent prosecution of offences.
6. The Guidelines on the Role of Prosecutors, determined at the Eighth United Nations ('UN') Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August 20 7 September 1990, requires of prosecutors to, *inter alia*:
 - (i) Perform their duties fairly, consistently and expeditiously, with respect to and in protecting human dignity and to uphold human rights in ensuring due process in the functioning of the criminal justice system;

- (ii) Carry out their functions impartially and avoid, inter alia, political, social, racial and any other kinds of discrimination;
 - (iii) Protect the public interest, act with objectivity and take proper account of the position of the suspect and the victim;
 - (iv) Keep matters in their possession confidential, subject to the performance of their duty or the needs of justice requiring otherwise; and
 - (v) In ensuring fairness and effectiveness of prosecution, strive to cooperate with the police, the courts, the legal profession, public defenders and other government agencies and institutions.
7. The Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, adopted by the IAP on 23 April 1999, require prosecutors to, inter alia:
- (i) Respect, protect and uphold the concept of human dignity and human rights;
 - (ii) At all times protect an accused's right to a fair trial;
 - (iii) Always remain unaffected by individual or sectional interests and public or media pressures and have only regard to public interest;
 - (iv) Strive to be, and be seen to be, consistent, independent, impartial and always act with objectivity.
 - (v) Exercise the highest standards of integrity and care at all times;
 - (vi) Always maintain the honour and dignity of their profession; and
 - (vii) At all times conduct themselves professionally, in accordance with the law and the rules of ethics of their profession.

8. The Code of Conduct of Members of the National Prosecuting Authority requires, *inter alia*, the values of accountability, credibility, integrity and professionalism on the part of member of the National Prosecuting Authority.
9. It is, *inter alia*, against the above background and prescripts that section 41(6), read with section 41(7) of the NPA Act criminalises the disclosure of certain information and documents which are in the possession of the prosecuting authority, without the permission of the NDPP.

BACKGROUND

10. The Private Prosecutor and complainant herein is a former President of Republic of South Africa ('South Africa'), having served in that position from 9 May 2009 to 14 February 2018; a former Deputy President of South Africa, having served in that position from 14 June 1999 to 14 June 2005; a former President of the African National Congress ('ANC'), a political party registered in accordance with the laws of South Africa, having served in that position from 18 December 2007 to 18 December 2017; and the first accused in ***S v Jacob Gedleyihlekisa Zuma and Thales South Africa (Pty) Ltd, KwaZulu-Natal Division, Pietermaritzburg Case Number CCD 30/2018***, presently pending before this Court, the Honourable Mr Justice P. A. Koen presiding.
11. Accused 1, a duly admitted advocate of the High Court of South Africa and a Senior Counsel, was at all material times an employee of the National Prosecuting Authority ('NPA') as a Deputy Director of Public Prosecutions ('DDPP') in terms of section 15 of the National Prosecuting Authority Act No. 32 of 1998 ('NPA Act') and the designated prosecutor in ***S v Jacob Gedleyihlekisa Zuma and Thales South Africa (Pty) Ltd, KwaZulu-Natal Division, supra***, presently pending before this Honourable Court.
12. Accused 2 was at all material times a journalist for and on behalf of News 24, an online news website and a subsidiary of Media 24, a media company, which is further a subsidiary of Naspers Limited, a multinational internet, technology and

multimedia holding company. The said companies are all registered in accordance with the laws of the Republic of South Africa.

13. Andrew Breitenbach SC, a duly admitted advocate of the High Court of South Africa and Senior Counsel, was at all material times one of the private advocates on brief for and on behalf of the NPA, *inter alia*, in relation to interlocutory proceedings emanating from ***S v Jacob Gedleyihlekisa Zuma and Thales South Africa (Pty) Ltd, supra.***
14. The Private Prosecutor was initially indicted on various counts of fraud, corruption and money laundering on or about 20 June 2005 in this Division.
15. However, prior to being indicted, on or about 23 August 2003, then National Director, Bulelani Ngcuka ('Mr Ngcuka'), at a press conference publicly stated, whilst there was a *prima facie* of corruption against the Private Prosecutor, the NPA had decided not to prosecute him as it was uncertain that the prospects of success were strong enough for a winnable case.
16. Mr Ngcuka's public utterance garnered strong criticism from then Public Protector, Lawrence Mushwana, labelling it as '*...most unusual and contentious. It opened the floodgates for varied speculations by several sectors of society, particular the media and some parliamentarians, about the involvement of the Deputy President [i.e. the Private Prosecutor] in criminal conduct, which was unjustified and not in the public interest.*'
17. On 5 September 2006 the Honourable Mr Justice Msimang struck that prosecution off the roll as the State was not ready to proceed with the prosecution.
18. On 28 December 2007 the Private Prosecutor was again indicted. This time only charges of corruption and money laundering were preferred against him.
19. In February 2009 the Private Prosecutor made representations to the then Acting National Director, Mokotedi Mpshe SC ('Mpshe SC').

20. On or about 1 April 2009, the then Acting National Director, Mokotedi Mpshe SC ('Mpshe SC') decided to discontinue the prosecution against the Private Prosecutor, which decision was made public on or about 6 April 2009.
21. The decision to discontinue the prosecution against the Private Prosecutor, was in the main as a direct result of then Deputy National Director of Public Prosecutions, Leonard McCarthy ('Mr McCarthy'), who was also Head of the Directorate of Special Operation ('DSO' and/or 'Scorpions') and responsible for the investigation and prosecution of the Private Prosecutor, having used the illegal processes against the Private Prosecutor to accomplish a purpose for which it was not designed in abuse of the criminal justice system; having subjected the Private Prosecutor to abuse of process which offended against one's sense of justice and that of the administration of justice in relation to the timing of the charges which had been influenced politically by former National Director, Mr Ngcuka.
22. The political interference is exacerbated by the telephone recordings interceptions and meetings Mr McCarthy had engaged in with numerous people, including Mr Ngcuka who, for sometime, was no longer the National Director and Ronnie Kasrils (Mr Kasrils'), the then Minister of Intelligence, Faiek Davids, Mzi Khumalo and Andre Pienaar.
23. It was Mr McCarthy, the day after scheduling an engagement with Mr Kasrils, on 21 December 2007 who telephoned Accused 1, and instructed him to amend the indictment and to proceed with the prosecution of the Private Prosecutor.
24. Between 4 and 13 June 2008, Accused 1 engaged in numerous telephonic discussions with Sam Sole ('Mr Sole'), a journalist for and or behalf of the Mail & Guardian, during which Accused 1 disclosed information in relation to self-same prosecution of the Private Prosecutor which had come to his attention during the course and scope of the performance of his duties and functions as a member of the NPA, without the authority of the National Director.

25. In this regard, Accused 1 specifically divulged to Mr Sole sensitive and/or confidential information, acquired in his capacity as prosecutor, without any written authorisation of the National Director.
26. A further consideration was the authoring of the Browse Mole Report by former journalist and NPA employee, Ivor Powell ('Mr Powell') under the direction of Mr McCarthy, which involved an information and intelligence gathering exercise to be used to discredit the Private Prosecutor by leaking same to the media to thwart the Private Prosecutor's prospects of being elected President of the ANC, and ultimately President of South Africa.
27. Accused 1 was at all relevant times the lead prosecutor in the various indictments preferred against the Private Prosecutor.
28. The Democratic Alliance ('DA'), another political party registered in accordance with the laws of South Africa, subsequently successfully instituted review proceedings in the Gauteng Provincial Division of the High Court against Mpshe SC's decision to discontinue the prosecution against the Private Prosecutor.
29. Both the Private Prosecutor and the NPA appealed the decision of the Gauteng High Court.
30. The Supreme Court of Appeal dismissed the appeal.
31. The Private Prosecutor submitted representations to the then National Director, Shaun Abrahams ('Mr Abrahams'), not to prosecute him.
32. Mr Abrahams subsequently rejected the representations and authorised the prosecution of the Private Prosecutor on or about 16 March 2018 on charges of inter alia, racketeering, corruption and money laundering.
33. As a result of all the above, the Private Prosecutor is currently facing various charges in this Honourable Court, with Accused 1 as the lead prosecutor.
34. The Private Prosecutor subsequently instituted numerous legal challenges culminating in him raising a special plea in terms of section 106(1)(h) of the Criminal Procedure Act No. 51 of 1977 before the trial Court.

35. In July 2021 the Constitutional Court convicted and sentenced the Private Prosecutor to a period of 15 months direct imprisonment, resulting in his detention at the Estcourt Correctional Centre in respect of an unrelated offence of contempt of court.
36. The trial Court subsequently adjourned the matter to the period 10 to 13 August 2021 for the adjudication of the special plea raised by the Private Prosecutor.
37. On 4 August 2021 the trial Court issued a directive for the hearing of the special plea to be argued in open court.
38. Whilst incarcerated at the Estcourt Correctional Centre, the Private Prosecutor was at all times under medical care and was later admitted into a private hospital in Pretoria under care of the Presidential Medical Unit of the South African National Defence Force ('SANDF') on 6 August 2021.
39. On 8 August 2021, Accused 1, the Director of Public Prosecutions: KwaZulu-Natal, Elaine Zungu ('Ms Zungu') and another colleague, Deneshree Naicker ('Ms Naicker') a Deputy Director of Public Prosecutions in Ms Zungu's office, received an email communication from Ms Radebe, of the Estcourt Correctional Centre, which included an attachment namely, a letter dated 8 August 2021, classified as '*MEDICAL CONFIDENTIAL*' and titled, '*MEDICAL SUPPORT TO THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND FORMER PRESIDENTS*', as authored by BRIGADIER GENERAL (DOCTOR) M. Z. MDUTYWA of the South African Military Health Service, Department of Defence
40. On 9 August 2021, the trial Court issued a directive in relation to the proceedings scheduled for 10 August 2021, which resulted in an expected postponement of the matter subject to the application for same by the Private Prosecutor's Counsel.
41. During the late afternoon of 9 August 2021, Breitenbach SC provided Accused 2 with a copy of the letter dated 8 August 2021, classified as '*MEDICAL CONFIDENTIAL*' and titled, '*MEDICAL SUPPORT TO THE PRESIDENT OF*

THE REPUBLIC OF SOUTH AFRICA AND FORMER PRESIDENTS, which disclosure was specifically sanctioned and authorised by Accused 1.

42. Accused 1 did not have the authorisation of the National Director for the said letter or its contents to be disclosed to Accused 2 or anyone else for that matter, nor did he have the authorisation of any person so duly authorised by the National Director.
43. The next day Accused 2 published a media article in relation to the Private Prosecutor's trial and his medical condition based on the content of the *MEDICAL CONFIDENTIAL* classified letter received from Breytenbach SC as sanctioned by Accused 1.
44. Now therefore, both Accused unlawfully and intentionally, without the authority of the National Director or such person designated by the National Director, respectively, authorised the disclosure and disclosed the information and/or content of the document referenced herein, which document was in the possession of the NPA and obtained by it as the prosecuting authority.
45. At all material times Accused 2 aided and abetted the commission of the alleged crime by Accused 1, rendering herself as an accomplice thereto.
46. As a result, the Private Prosecutor subsequently instructed his legal representatives in October 2021 to seek the NPA to remove Accused 1 as the prosecutor in his matter and subsequently laid a complaint with the President of the Republic in relation to the conduct of Accused 1 and the NPA, inter alia, in relation to the manner in which Accused 1 caused confidential information in relation to the Private Prosecutor as disclosed to Accused 2, in violation of the Private Prosecutor's fair trial rights and in failing to maintain the requisite confidentiality
47. The Private Prosecutor has, as a direct result of the conduct of the accused, personally and individually suffered injury in that his right to confidentiality, dignity and fair trial rights have been prejudiced.

48. The Private Prosecutor also laid criminal charges as a direct result of the disclosure of the confidential medical letter and/or the content thereof. In support thereof the Public Prosecutor submitted an affidavit in which it was specifically indicated that the charges were targetted at Accused 1 plus "*any other person --* --."
49. In a letter dated 11 April 2022 the Private Prosecutor's legal representative requested the NPA to provide it with a *Nolle Prosequi* certificate, which was only forthcoming on or about 6 June 2022.
50. As evinced herein above, the Private Prosecutor has demonstrated that he has a substantial and peculiar interest in the trial with reasonable prospects of a successful prosecution in the trial.
51. On 5 September 2022, the Private Prosecutor paid into the Court the requisite security in demonstration of the ability, willingness and readiness to prosecute the charges to conclusion and without delay and in security of the costs the Accused may incur in defence of the charges preferred against them.
52. The Private Prosecutor intends to call the witnesses indicated in the attached Witness List in support of his case.

CASE NO:
PIETERMARITZBURG CAS 309/10/2021

Investigating Officer: Brigadier Mbhele

**IN THE HIGH COURT OF SOUTH AFRICA
(KWAZULU-NATAL DIVISION, PIETERMARITZBURG)**

In the matter of:

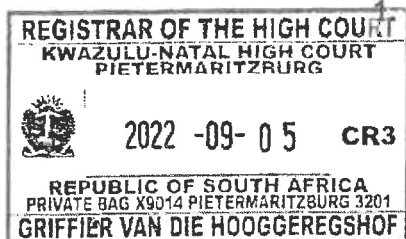
JACOB GEDLEYIHLEKISA ZUMA

[Private Prosecutor]

in terms of section 7(1), read with sections 9(1)(a), 9(1)(b), 10(1) and 10(2) of Act No. 51 of 1977 (as amended)]

versus

WILLIAM JOHN DOWNER (Accused 1)



and

2. KARYN MAUGHAN (Accused 2)

LIST OF WITNESSES IN TERMS OF SECTION 144(3)(a) OF ACT 51 OF 1977

1. His Excellency, President Jacob Gedleyihlekisa Zuma
Former President of the Republic of South Africa
Kwanxamala Residence
Nkandla
KwaZulu-Natal
2. His Excellency, President Matamela Cyril Ramaphosa
President of the Republic of South Africa
Union Buildings
Government Avenue
Pretoria

3. Ronald Lamola
Minister of Justice and Correctional Services
SALU Building
316 Thabo Sehume Street
Pretoria
4. Andrew Breitenbach SC
56 Keerom Street
Cape Town
5. Advocate Shamila Batohi
National Director of Public Prosecutions
National Prosecuting Authority
123 Westlake Avenue
Weavind Park
Silverton
Pretoria
6. Brigadier General (Dr.) M. Z. Mdutywa
Area Military Health Formation
South African Military Health Service
Department of Defence
Pretoria
7. Dr. Zola Dabula
Surgeon-General
South African National Defence Force
Pretoria
8. Mr. Bethuel Mondli Thusini
BM Thusini Inc.
134 Mark Street
Vryheid
9. Mr Singabakho Nxumalo
Media Spokesperson
Department of Correctional Services
Pretoria
10. Commissioner K. Mthombeni
Acting Regional Commissioner
Department of Correctional Services
Pietermaritzburg

KwaZulu-Natal

11. Ms. E. Griffin
Registrar to the Honourable Mr Justice P. Koen
KwaZulu-Natal Provincial Division of the High Court
301 Church Street
Pietermaritzburg
12. Ms. Nompumelelo Radebe
Estcourt Correctional Facility
Department of Correctional Services
Estcourt
13. Advocate Elaine Zungu
Director of Public Prosecutions
National Prosecuting Authority
286 Pietermaritz Street
Pietermaritzburg
14. Advocate Deneshree Naicker
Deputy Director of Public Prosecutions
National Prosecuting Authority
286 Pietermaritz Street
Pietermaritzburg
15. Mr. William (Willie) Andrew Hofmeyr
Former Deputy National Director of Public Prosecutions
I/C of the Investigating Officer
Brigadier Mbhele
16. Mokotedi Mpshe SC
Former Acting National Director of Public Prosecutions
I/C of the Investigating Officer
Brigadier Mbhele
17. Mr. Lawrence Mushwana
Former Public Protector
I/C of the Investigating Officer
Brigadier Mbhele
18. Ambassador Thembisile Majola
Director-General
State Security Agency
Musanda Complex

Delmas Road
Pretoria

19. Warrant Officer Phindile Nurse Manzini
Directorate for Priority Crimes Investigations
Pretoria
20. Advocate Jane Sarah Blomkamp
56 Keerom Street
Cape Town
21. Captain Jayson N. Naidoo
Community Service Centre
Durban Central Police Station
South African Police Service
Durban
22. Mr. Roy Tresco Horatio Hart
118 A High Street
Grahamstown
23. Mr. Daniel Joseph Witz
1st Floor, The Conservatory
13 Baker Street
Rosebank
Johannesburg