

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO:45997/21

In the matter between:

THE DEMOCRATIC ALLIANCE

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent

FILING NOTICE

FILED HEREWITH: **APPLICANT'S SUPPLEMENTARY FOUNDING AFFIDAVIT**

Dated at Cape Town this Wednesday, 13 October 2021.

MINDE SCHAPIRO AND SMITH INC

Elzanne Jonker

021 918 9000; elzanne@mindes.co.za; ronie@kebd.co.za

Elzanne Jonker

MINDE SCHAPIRO AND SMITH INC.

Applicant's attorneys

elzanne@mindes.co.za

c/o: Klagsbruin Edelstein

BOSMAN DU PLESSIS INC.

220 Lange Street

Nieuw Muckleneuk

Tel: 012 452 8984

Ref: Ronie Nyama

TO THE REGISTRAR OF THE ABOVE COURT

AND TO STATE ATTORNEY

Attorney for First Respondent

Per email: reubensekgobela@gmail.com

NTANGA NKUHLU INC. ATTORNEYS

Attorney for the Third respondent

Per email: mongezi@ntanga.co.za

**THE SECRETARY OF THE JUDICIAL COMMISSION OF
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION, AND FRAUD IN THE PUBLIC SECTOR,
INCLUDING ORGANS OF STATE**

Fourth respondent

Hillside House, 17 Empire Road, Parktown, Johannesburg.

Care of State Attorney, Johannesburg

Per email: JohVanSchalkwyk@justice.gov.za

10th Floor, North State Building

95 Albertina Sisulu, Cnr Kruis Street

Johannesburg

THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Fifth respondent

124 WF Nkomo Street (Corner WF Nkomo & Sophie De Bruyn
Streets)

Poyntons Building (West Block)

Pretoria

Copy to: State Attorney, Isaac Chowe

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case number: 45997/21

In the matter between:

THE DEMOCRATIC ALLIANCE

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent


SUPPLEMENTARY FOUNDING AFFIDAVIT

I, **JOHN HENRY STEENHUISEN**, declare under oath:

1. I am an adult male member of Parliament and member of the applicant (the Democratic Alliance, hereafter '**the DA**'). I am the DA's Federal Leader and the Leader of the Opposition in the National Assembly in terms of section 57(2)(d) of the Constitution. I am duly authorised to depose to this affidavit on the DA's behalf.



2. The facts contained in this affidavit are to the best of my belief both true and correct. They fall within my personal knowledge or are apparent from documentation under my control (including the contents of the limited Rule 53 record provided), except where the context indicates otherwise. Where I rely on information provided to me by others, I have obtained confirmatory affidavits, where possible.
3. Where I make legal submissions, I do so on the basis of legal advice received from my legal representatives, which I believe to be correct.
4. This is the DA's supplementary founding affidavit, filed in terms of Rule 53(4). Where a term is defined in the initial founding affidavit, those definitions are reused here.
5. The DA is not filing a supplementary notice of motion. It continues to seek the relief sought in its initial notice of motion, except that it is now seeking a punitive costs order against the Commissioner and Mr Zuma.
6. I structure the remainder of this affidavit as follows:
 - 6.1. first, I briefly explain the similar review applications that have followed this one;
 - 6.2. secondly, I set out the efforts of the applicants to obtain the full Rule 53 record and the Commissioner's unlawful refusal to provide it;
 - 6.3. thirdly, I go through the limited record that has been provided;

 2 MP

- 6.4. fourthly, I explain how even the limited record shows how the parole decision is unlawful, and how it further justifies the relief sought in the notice of motion; and
- 6.5. finally, I deal with the question of remedy and costs.

EVENTS SINCE THE LAUNCH OF THIS APPLICATION

7. This application was launched on an urgent basis on Friday, 10 September 2021. Since then, similar urgent applications have been launched by other parties, also seeking to review and set aside the parole decision:
- 7.1. one by the Helen Suzman Foundation under case number 46468/2021 (launched on 13 September 2021) (**'the HSF application'**); and
- 7.2. the other by AfriForum NPC under case number 46701/2021 (launched on 15 September 2021) (**'the AfriForum application'**).
8. The parties have agreed that the three applications will be heard together, which I refer to together as **'the review applications'**. I refer to the DA, the HSF, and AfriForum together as **'the applicants'**.
9. The review applications are all being opposed by the Commissioner and by Mr Zuma.

THE RULE 53 RECORD

Introduction

10. The Commissioner has failed to file the full Rule 53 record. Instead, he has filed only what has come to be called *'the non-controversial record'*, and which I call

'the limited record'. Portions of documents, apparently containing Mr Zuma's confidential medical information, have been redacted, and some documents may have been excluded from the record entirely (I say *'may'* because the Commissioner has refused to provide a list of documents excluded entirely from the record, despite numerous requests from the applicants).

11. The Commissioner claims that he is unable to file the full record for two reasons:

11.1. The first is that Mr Zuma has objected to the disclosure of what he says is his confidential medical information, and the Commissioner has taken the position that he is precluded from disclosing this information without Mr Zuma's consent.

11.2. Secondly, the Commissioner has claimed that some of the documents are in the possession of the South African Military Health Service (**'SAMHS'**) and that SAMHS has, to date, refused to hand them over.

12. I am advised that this is unlawful. Mr Zuma does not have a veto over the disclosure of parts of the Rule 53 record because he feels those parts are confidential. The Commissioner is the decision-maker and he must disclose the full record – even if the subject of the decision does not like it, and even if that subject is the former President of the Republic.

13. Mr Zuma's refusal to agree to the disclosure of the full record is, moreover, unreasonable. Both the DA and the HSF have proposed a robust confidentiality regime in terms of which only the judge and the parties' lawyers would have access to the full record, and not the parties themselves or anyone else. Mr Zuma has point-blank rejected this proposal, without explanation.

14. In particular, Mr Zuma's refusal is unreasonable for the following reasons:
 - 14.1. A lawyers-only confidentiality regime cannot prejudice him, because no member of the public and no member of the applicants will see the information he claims is sensitive.
 - 14.2. Confidential information is routinely disclosed in Rule 53 records subject to confidentiality regimes. Mr Zuma is ably legally advised. He knows this. He seeks special treatment.
 - 14.3. Mr Zuma takes the view that he is entitled to medical parole based on his medical information, but then maintains that anyone who wishes to interrogate the lawfulness of that decision is not entitled to see that information. This is self-serving and unreasonable.

15. Classification and the fact that another party may have some of the items in the record are equally not bases for failing to provide them:
 - 15.1. Classification may be a justification for a confidentiality regime. It can never be a justification to refuse to provide the record even to the Court and the parties' legal representatives.
 - 15.2. It is difficult to understand how the Commissioner does not have copies of documents he relied on to take the decision. If SAMHS documents were before him when he decided to grant Mr Zuma medical parole, he should have copies. But even if he does not, mechanisms exist in the rules to obtain copies.



16. It is difficult to escape the conclusion that Mr Zuma, aided by the Commissioner, wishes to draw the applicants into protracted interlocutory battles regarding the disclosure of the record in order to delay the hearing of the main review application.
17. The DA will not take the bait. While the DA objects to the Commissioner's failure to file the full record, and places on record its concern that the Commissioner appears to value the wishes of Mr Zuma over his obligation to comply with the rules, even the limited record shows that the parole decision is patently unlawful. The DA has elected to proceed with the review on the basis of the limited record only, as it is permitted to do. The other applicants have elected to do the same.

Efforts to obtain the full record

18. The Commissioner's failure to file the full record is not for want of trying on the part of the DA and the other applicants. In this section, I describe those efforts.
19. The notice of motion (filed on Friday, 10 September 2021) required the Rule 53 record to be filed a week later, by Friday, 17 September. The Commissioner failed to file anything by this deadline.
20. On Monday, 20 September 2021, the DA launched an urgent interlocutory application to compel the filing of the record. The following day, on Tuesday, 21 September 2021, Mr Zuma filed a notice of intention to oppose.
21. The DA set its interlocutory application down on Tuesday, 28 September 2021, the same day that the HSF and AfriForum had set down the Part As of their applications, which also sought to compel production of the record.



22. On Wednesday, 22 September 2021, the Commissioner's attorneys wrote to the applicants' attorneys —

22.1. stating that they *'[held] instructions not to oppose part A in all three matters and comply with your request for reasons in terms of Rule 53'*;

22.2. stating that they *'[were] in the process of compiling the report and also taking instructions on the status of some of the documents that should be included in the record'*;

22.3. explaining that the Commissioner had been unable to comply with the deadlines set by the applicants for the production of the record on account of various administrative issues;

22.4. promising that *'the record as called upon by all the Applicants in terms of Rule 53 [would] be ready by Tuesday the 28th September 2021, and shall be made available to the parties subject to any directives that may be sought by [the Commissioner] and issued by the Deputy Judge President'*; and

22.5. proposing that the parties seek a hearing with the Deputy Judge President (**'the DJP'**) *'for a directive on how this matter should proceed and to further request a special allocation, if the parties so wish'* and proposed that the meeting be held on 28 September 2021.

23. A copy of the Commissioner's letter is annexed marked **'DA1'**.

24. The following day, on Thursday, 23 September 2021, the DA's attorneys wrote to the DJP, copying in the parties in the three applications —




- 24.1. explaining background of the three matters;
 - 24.2. proposing a case-management meeting; and
 - 24.3. stating that the DA would not enrol its urgent interlocutory application on 28 September, given the Commissioner's commitment to providing the Rule 53 record on that day.
25. A copy of this letter is annexed marked **'DA2'**.
26. But later on Thursday, 23 September 2021, the Commissioner's attorneys wrote to the parties, stating that *'some of the information in our possession is subject to confidentiality and classification protocol and may very well need a ruling by the DJP/ADJP on how it is handled'* and that after meeting with the DJP on 28 September, *'subject to the directives and/or ruling by the DJP/ADJP, then the record will be dealt with accordingly'*. A copy of this letter is annexed marked **'DA3'**.
27. This constituted a departure from the Commissioner's promise in his letter of 22 September 2021, which was that the record would be provided on 28 September. Now, *'directions'* would be sought from the DJP on that day, only after which the record would be provided.
28. On Sunday, 26 September 2021, the DA's attorneys wrote to the Commissioner, demanding that the entire record be produced on 28 September, failing which demanding that the Commissioner indicate by 12h00 on Monday, 27 September 2021, the directions it would seek from the DJP and in respect of which portions of the record. I annex a copy of the letter, together with a copy of the letter from



the HSF's attorneys to which the DA's letter refers (without annexures), marked 'DA4'. The Commissioner did not respond to this letter or the HSF's letter.

29. On 27 September 2021 Mr Zuma's attorneys sent a letter to the Minister and the Commissioner, copied to the Applicants (attached marked 'DA5'). The letter demanded '*that the Minister and/or National Commissioner should furnish us with an undertaking that, unless ordered to do so by a competent court of law ... no confidential information which belongs to our client will be released without his consent, which is hereby specifically withheld.*'
30. Tuesday, 28 September 2021 came and went, and the Commissioner failed to provide the record in any form. The parties scheduled a case-management meeting with the DJP at 10h00 on Thursday, 30 September 2021.
31. On 29 September 2021, the DA's attorneys wrote to the other parties, proposing a timeline for the further conduct of the matter in anticipation of the case-management meeting scheduled for the following day. A copy of this letter is annexed marked 'DA6'. The DA proposed *inter alia* that '[t]he dispute concerning the provision of the Rule 53 record' be resolved at the following day's case-management meeting and that the record be provided on 1 October 2021.
32. At 9h25 on Thursday, 30 September 2021 (i.e., half an hour before the case-management meeting was to begin) Mr Zuma's attorneys wrote to the parties, stating that Mr Zuma '*feels very strongly that the dispute about the disclosure of his private and confidential medical information cannot simply be decided by the Honourable DJP in chambers*' and that the dispute '*will have to be referred to proper adjudication in court*'. A copy of this letter is annexed marked 'DA7'.

33. At 10h00 on Thursday, 30 September 2021, counsel representing the applicants, the Commissioner, and Mr Zuma met with the DJP over Microsoft Teams. I annex a copy of the minutes of the meeting marked 'DA8'. Ms Elzanne Mureen Jonker, the attorney in charge of this matter for the DA, was in attendance and will depose to a confirmatory affidavit confirming the accuracy of the minute. The other applicants have expressly confirmed the accuracy of the minute, and the respondents have failed to object.
34. The minute of the meeting speaks for itself. Of note:
- 34.1. The Commissioner admitted that he was obliged to disclose the Rule 53 record, but stated that it contains confidential medical information, classified information, and information that is in the possession of the South African Military Health Service ('SAMHS').
- 34.2. The Commissioner committed to providing the portions of the record that did not contain the above sensitive information by Monday, 4 October 2021.
- 34.3. Mr Zuma's counsel stated that Mr Zuma does not consent to the release of any of his medical information. The DA enquired whether Mr Zuma would consent to the release of his medical information under a confidentiality regime under which only the parties' lawyers and the judge would have access. Mr Zuma's counsel immediately responded and said that he would not.


10 MP

- 34.4. The HSF stated that Mr Zuma cannot reasonably reject any and all confidentiality regimes without even considering proposals from the applicants.
- 34.5. Mr Zuma's counsel requested that the Commissioner consult with him as to the content of the limited Rule 53 record before disclosing it, and the Commissioner's counsel agreed. The DA objected to this.
- 34.6. The DJP directed that the Commissioner file the sanitised Rule 53 record by Monday, 4 October 2021, and that the parties attempt to reach agreement in respect of the confidentiality of the remaining portions of the record.
35. At 11h16 on Monday, 4 October 2021, the Commissioner's attorneys circulated the limited record via email. Portions apparently containing Mr Zuma's medical information have been redacted. The limited record also contains the Commissioner's reasons, which are not redacted. I deal with the contents of the limited record, and the reviews grounds it generates, below.
36. On Tuesday, 5 October 2021, in accordance with the DJP's directive, the DA's attorneys proposed a robust lawyers-only confidentiality regime for the remainder of the record, in terms of which only the parties' lawyers and the judge would have access. The DA's attorneys sought a response by the following morning, failing which the DA would assume that no further portion of the record would be forthcoming under any conditions. I annex a copy of the relevant letter marked '**DA9**'.



37. On Wednesday, 6 October 2021, the Commissioner responded. I annex a copy of the letter marked 'DA10' He made it clear that he considered that Mr Zuma had a veto over the disclosure, in any form, of information he considered sensitive. I quote the relevant portions of the letter:

'We need to record that we have been served with a letter dated the 27th September 2021, where all the parties were copied, wherein the legal representatives of [Mr Zuma] explicitly put it on record that they are denying us consent to divulge the medical reports and/or records of their client without his consent. It was made clear that we can only do that through a court order. In that regard, we are hamstrung and constrained by the refusal of the Former President and his legal representatives to give us consent to divulge the medical reports and/or records.

The other issue that impedes our disclosure of the whole record is the fact that we have been informed by [SAMHS] that they are the custodian of the medical records of the Former President as they have been entrusted with the responsibility of providing health care services to all Presidents, and Former and current Presidents of the Republic of South Africa. We were informed by SAHMS that those documents are classified as top secret and therefore they cannot just be disclosed.

We are, as the legal representatives of the National Commissioner, in principle, in agreement with the confidentiality regime as proposed by both the legal representatives of the HSF and the DA but we are of the view that presently it will not assist us as the legal representatives of the Former President have denied us consent to produce those medical records without a court order.'

38. On Thursday, 7 October 2021, the DA's attorneys emailed the attorneys for the other parties, responding to the Commissioner's letter of the previous day, reserving the DA's rights, and proposing that a case-management meeting be held the following day. A copy of the email is annexed marked 'DA11'.

39. On Friday, 8 October 2021, a second case-management meeting was held over Microsoft Teams. I annex a copy of the draft minutes of the meeting marked 'DA12'. The Minute was prepared by the Applicant's Junior Counsel and circulated to all Counsel. Only the Counsel for the Applicants reverted with regards to their acceptance of the Minute. Ms Jonker was present and she will confirm the accuracy of the minute in her confirmatory affidavit. Of note:

39.1. The minutes of the meeting of 30 September (a copy of which is annexed above marked 'DA7') were accepted without objection, subject to Mr Zuma's counsel stating that it omitted some information but without specifying the nature of the information. I deny that the minute omitted any material information.

39.2. The Commissioner's counsel confirmed that, absent a court order, he would not be able to disclose the remainder of the record, given Mr Zuma's failure to consent and given that some documentation was in the possession of SAMHS.

39.3. The applicants all confirmed that they intend to proceed with their review applications on the basis of the limited record, and that they would not seek disclosure of any additional portion of the record.

39.4. Both the Commissioner's counsel and Mr Zuma's counsel admitted that the applicants were permitted to proceed to their reviews on the basis of the limited record.

39.5. The DJP, with the agreement of the parties, handed down directions pertaining to the exchange of papers and the hearing date.

Conclusion

40. The Commissioner's conduct sets a dangerous precedent. When taken on review, a decision-maker can refuse to provide sensitive portions of the Rule 53 record because the subject of the decision unreasonably refuses to consent to disclosure, even under a robust confidentiality regime that cannot possibly prejudice him. In order to obtain the full record, the applicant must then go to court to force disclosure.
41. This makes it all too easy for decision-makers to insulate their decisions from review – as appears to be the intention of Mr Zuma in this case, aided by a supine Commissioner.
42. I am advised that the correct position is that it is unlawful for a decision-maker to refuse to disclose any portion of a Rule 53 record only because the subject of the decision refuses to consent. A decision-maker must always disclose the entire Rule 53 record – if necessary, under a confidentiality regime – over the objection of the subject of the decision, unless the subject of the decision obtains a court order directing otherwise. It is for the subject of the decision to go to court to prevent disclosure. It is not for the applicant to go to court to obtain disclosure. This is the correct interpretation of Rule 53, in light of the constitutional rights of access to courts and administrative justice.

WHAT THE RULE 53 RECORD REVEALS

Introduction

43. Fortunately, in this case the parole decision is so patently unlawful that even the limited record significantly bolsters the DA's grounds of review and fully justifies the relief sought in the notice of motion. In this section, I traverse what the Rule 53 record shows about the chronology of the parole decision. In the following section, I analyse the additional grounds of review generated by the limited record.
44. In short, what the Rule 53 record reveals is a concerted effort by SAMHS, the Commissioner, and various officials at the Department of Correctional Services (**'the Department'**), often working over weekends, to procure medical parole for Mr Zuma – despite the fact that he did not qualify for it. This effort began from the day Mr Zuma was admitted to prison and did not let up until he obtained medical parole.
45. It goes without saying that no other prisoner receives this sort of treatment. Only Mr Zuma does.

The facts leading up to the parole decision

46. It will be remembered that Mr Zuma eventually turned himself in late on Wednesday, 7 July 2021, and that he was admitted to the Estcourt Correctional Centre as an inmate in the early hours of Thursday, 8 July.
47. This is confirmed by the admission form of the Estcourt Correctional Centre for Mr Zuma, a copy of which is annexed marked **'DA13'**.

48. Mr Zuma was examined by Dr QSM Mafa on behalf of SAMHS on the day he was admitted (Thursday, 8 July 2021). In a report dated that day (a copy of which is annexed marked 'DA14'), SAMHS made the following recommendation:

'This report is hereby recommend [sic] that Mr Zuma be moved to a specialist medical facility high care unit to be assessed further to ensure his health is not jeopardised during this period. It is further recommended that a thorough specialist medical investigation be done to verify and rule out other challenges that could have been missed during the examination.

Your cooperation in this matter will be highly appreciated as this will prevent any embarrassment to the government should anything happen to Mr Zuma.'

49. Of note:

49.1. The recommendation is that Mr Zuma be moved to a high-care unit not because he has a terminal illness or because he is physically incapacitated (the medical requirements for medical parole), but for further assessment.

49.2. It cannot be emphasised enough that the very day that Mr Zuma is admitted as an inmate, SAMHS recommends that he be immediately checked out again '*to be assessed*'. Ordinary prisoners do not receive this sort of treatment.

50. But this request was not granted immediately, given that Mr Zuma appears only to have left the Estcourt Correctional Centre for the first time on 22 July 2021 to attend a funeral. This is confirmed by the admission form annexed above as 'DA13'.



51. On Friday, 9 July 2021, SAMHS wrote to the head of the Estcourt Correctional Centre. A copy of the letter is annexed marked '**DA15**'. SAMHS requested that Mr GM Moloisi, a paramedic, be '*granted permission to monitor him on a daily basis and alert the doctors and specialists immediately of any changes should there be any during this period while he is in your facility*'. We invite the Commissioner to confirm whether (a) permission was granted, and (b) whether Mr Zuma was examined on a daily basis by Mr Moloisi.
52. Almost two weeks passed. On Thursday, 22 July 2021, Mr Zuma was permitted to leave the Estcourt Correctional Centre to attend a funeral and returned the same day. This is confirmed by the admission form annexed above as '*DA12*'.
53. The following Wednesday, 28 July 2021, SAMHS drafted a further medical report relating to Mr Zuma. A copy is annexed marked '**DA16**' Its conclusions were as follows:

'Taking the abovementioned medical conditions into consideration, there is a fear that [Mr Zuma's] condition may further deteriorate if intervention is delayed. As a result of this report, it is hereby recommended that Mr Zuma be moved to a specialist medical facility to be assessed further by specialists under presidential medical team [sic] for proper investigations and to optimise therapy for better outcome [sic].

...

This is not a final report; the comprehensive medical report will follow once all the investigations have been conducted by the specialist. The specialists will also determine other investigations as necessary. The final report by the Specialist Medical Panel will assist towards further interventions; prognosis and application for Medical Parole.'

54. Once again, there is no indication in this report that Mr Zuma suffers from a terminal illness or is physically incapacitated.

55. On the same day (i.e., Wednesday, 28 July 2021), Dr Mafa applied for medical parole on behalf of Mr Zuma. A copy of the application is annexed marked **'DA17'**. Of note:

55.1. While this is not completely clear from the limited record, it appears that only the SAMHS medical report of 8 July 2021 (a copy of which is annexed above marked **'DA14'**) was annexed to the application.

55.2. The application was based solely on Dr Mafa's examination of Mr Zuma of 8 July 2021. Mr Zuma was not examined by any specialist.

55.3. While Dr Mafa claimed that Mr Zuma was suffering from a terminal disease or condition which was chronic and progressive, he did not claim that it had deteriorated permanently or that it had reached an irreversible state (section 5(d)). He merely claimed that Mr Zuma's condition had progressively deteriorated since 2018 (section 5(g)).

55.4. Dr Mafa expressly stated that Mr Zuma was not physically or functionally incapacitated (section 6.1).

56. Paired with Mr Zuma's application was a consent form, signed by Mr Zuma, for the sharing of his medical information. A copy of the form is annexed marked **'DA18'**.

57. It appears that Mr Zuma's application for medical parole was submitted to the operational manager of the Estcourt Correctional Centre. On 29 July 2021, he

recommended that Mr Zuma be placed on medical parole. A copy of the recommendation is annexed marked 'DA19'. Of note:

57.1. He took note of the report from SAMHS of 28 July 2021, which *'suggested that Mr Zuma be urgently transferred to Military hospital in Pretoria [sic]'*.

57.2. His recommendation that Mr Zuma be placed on medical parole was based on the following:

'The report written by his medical team stating that Mr Zuma has number of comorbidities including [REDACTED] [sic].

[REDACTED]

Mr Zuma needs tertiary health care services that Correctional Services is not providing.

His conditions need to be closely monitored by Specialist, and should his condition complicate during the night it will take time for him to access relevant health services.'

57.3. It bears emphasis that this recommendation is not on the basis that Mr Zuma has a terminal illness or is physically incapacitated. It is on the basis that he has a *'number of comorbidities'*, that he needs *'tertiary health care services that Correctional Services is not providing'*, and it is possible that his condition might *'complicate during the night'*.

58. A week later, on Thursday, 5 August 2021, SAMHS addressed a further medical report to the Commissioner. A copy is annexed marked 'DA20'. Of note:


19 MP

58.1. Mr Zuma had been examined by a *'medical team'* after Mr Zuma *'complained of chest pains and coughing'*, which had begun at noon that day *'while sitting'*.

58.2. SAMHS requested that Mr Zuma be moved to *'a military medical facility the latest on the 06 August 2021'* on the following basis:


'Taking the abovementioned medical conditions into consideration, there is a fear that his condition is deteriorating. As a result of this, it is hereby recommended that Mr Zuma be moved to a specialist medical facility as matter of urgency to be assessed and managed further by specialists under presidential medical team in order to avert a crisis looming if his medical condition is attended to. Proper investigations are urgently required to determine the therapy required for better management and outcome.'

58.3. Once again, no mention is made of a terminal medical condition or physical incapacity – merely to a *'fear'* that Mr Zuma's *'condition'* might be *'deteriorating'*.

59. This request was acceded to. Mr Zuma's admission form (already annexed above as *'DA13'*) confirms that he was permitted to leave the Estcourt Correctional Centre on Thursday, 5 August to go to hospital. Other documents indicate that Mr Zuma went to the private Mediclinic Heart Hospital in Pretoria.

60. A week later, on Friday 13 August 2021, Mr Zuma was examined by Mr Moloisi and two medical officers, Dr Motene and Dr Mduywa.

61. The following day, on Saturday, 14 August 2021, Mr Zuma underwent a surgical procedure.


20 MP

62. On Tuesday, 17 August 2021, Mr Zuma was examined by a surgeon, Mr Moloisi and Dr Motene.

63. On Monday, 23 August 2021, Dr LJ Mphatswe, a member of the Medical Parole Advisory Board (defined in the initial founding affidavit as '**the Board**' and referred to in various documents as the '**MPAB**'), recommended to the Board that Mr Zuma be released on medical parole after examining him. A copy of the recommendation is annexed marked '**DA21**'. Of note:

63.1. Dr Mphatswe referred to the two examinations of Mr Zuma that took place on 14 and 17 August 2021.

63.2. He recommended the granting of medical parole on the following basis:

'The Applicant being Mr JG Zuma, 79 years of age present as stated herein above a complex medical condition which predispose him to unpredictable medical fallouts or events of high-risk clinical picture. He is of old age and generally looks unwell and lethargic. The total outlook of his complex medical conditions and associated factors in an environment limited to support his optimum care is of extreme concern. More worrisome is the unpredictability of his plausible life threatening cardiac and neurological events. The risk for potential surgery has become in my assessment a personal one albeit a potentially development of a malignant condition arising from a high grade ileocecal and colon lesion exists. In the main and primarily in summation of the total clinical assessment motivated by high risk factors. I wish to recommend that the applicant be released on Medical Parole with immediate effect, because his clinical picture presents unpredictable health conditions constituting a continuum of clinical conditions. Sufficient evidence has also arisen from the

detailed clinical reports submitted by the treating Specialists to support the above-stated recommendation.'

- 63.3. It bears emphasis, once again, that this recommendation does not assert that Mr Zuma is terminally ill or that he is incapacitated. The concern, rather, seems to be that he might suddenly need medical attention that the Estcourt Correctional Centre cannot itself provide.
64. On Thursday, 26 August 2021, the Board met, considered Mr Zuma's application for medical parole and decided not to recommend the granting of parole on the basis that it *'did not have sufficient information to reach a decision'*. It requested additional information. A copy of its recommendation is annexed marked '**DA22**'.
65. On Saturday, 28 August 2021, the Board met again, considering Mr Zuma's application in the light of additional information received, and again decided not to recommend the granting of medical parole, again on the basis that it still *'did not have sufficient information to reach a decision'*. It, once again, requested additional information. A copy of the recommendation is annexed marked '**DA23**'.
66. On Monday, 30 August 2021, the Surgeon General, on behalf of SAMHS, submitted a number of medical reports (presumably to the Board), together with the following statement in a covering letter:

'It is the view of the Surgeon General that these reports taken individually may paint a picture of a patient whose condition is under control but all together reflect a precarious medical situation especially for optimisation of each one of them.

We will remember that the patient was fairly optimised prior to his incarceration and it took only four weeks for his condition to deteriorate such that his glucose, blood pressure and kidney function went completely out of

kilter. The Surgeon General believes that the patient will be better managed and optimised under different circumstances than presently prevailing.'

67. A copy of the covering letter is annexed marked '**DA24**'. Of note, once again, the absence of any reference to a terminal illness or incapacity. Rather, the Surgeon General concedes that Mr Zuma's '*condition is under control*'. He thinks his condition '*will be better managed and optimised*' outside of prison. The concern is not that Mr Zuma is terminally ill. The concern is that he can obtain better care out of prison.
68. On Thursday, 2 September 2021, the Board met and decided to recommend against the granting of medical parole. A copy of the second page of the recommendation is annexed marked '**DA25**' (the first page was withheld). I quote the recommendation in full:

DECISION

Recommended / Not recommended based on the following:

The MPAB appreciates the assistance from all specialists with provision of the requested reports. The board also notes and appreciates the use of aliases and has treated all submitted reports as those pertaining to the applicant. From the information received, the applicant suffers from multiple comorbidities. His treatment has been optimised and all conditions have been brought under control. From the available information in the reports the conclusion reached by the MPAB is that the applicant is stable and does not qualify for medical parole according to the Act. The MPAB is open to consider other information, should it become available. The MPAB can only make its recommendations based on the Act.'

69. On the same day (2 September 2021), a '*social work suitability report*' was submitted to the Estcourt Correctional Centre. A copy is annexed marked '**DA26**'.

70. On Saturday, 4 September 2021, the KwaZulu-Natal Regional Commissioner of Correctional Services and the Head of the Estcourt Correctional Services met with the Commissioner and expressed their concern that the Board had recommended against the granting of medical parole.
71. As a result of this engagement, the Commissioner requested the documents relevant to Mr Zuma's application for medical parole. The following documents were presented to him:
- 71.1. the three medical reports of SAMHS dated 8 July, 28 July, and 5 August 2021 (copies of which are annexed above marked 'DA13', 'DA14', and 'DA15');
 - 71.2. the report by Dr Mphatswe dated 23 August 2021 (a copy of which is annexed above marked 'DA20');
 - 71.3. the Board's recommendation against granting medical parole to Mr Zuma (a copy of which is annexed above marked 'DA24').
72. Up to this point, the power to grant medical parole in respect of a prisoner serving a sentence of less than 24 months had been delegated to the head of the relevant correctional centre. In this regard, I annex a copy of the system of delegations marked **DA27**.
73. On Sunday, 5 September 2021, the Commissioner rescinded the delegation referred to in the previous paragraph and decided to grant medical parole to Mr Zuma for the remainder of his sentence. A copy of the reasons for the decision, together with the instrument containing the decision itself, is annexed marked **DA28**. Of note:

- 73.1. The Commissioner's reasons (which have not been redacted) indicate that he did not grant medical parole on the basis that Mr Zuma suffers from a terminal disease or that he is physically incapacitated (apart from a perfunctory reference to *'the criteria in section 79(1) to be placed on medical parole'* towards the end of the reasons). The Commissioner acknowledged that Mr Zuma's treatment had been optimised and that his *'condition'* had been brought under control.
- 73.2. Rather, he granted medical parole on the basis that Mr Zuma suffers from *'numerous comorbidities'* that (apparently) require *'tertiary health care'* and which cannot be treated to his satisfaction at the hospital facility in the Estcourt Correctional Centre.
- 73.3. Mr Zuma would not, however, be released into a tertiary hospital. He would be released to his residence in Nkandla in rural KwaZulu-Natal, to be cared for by one of his wives, Ms Gloria Bongekile Ngema, a businesswoman with no medical training (assisted by SAMHS). His release was not made subject to any medical treatment plan.
- 73.4. Mr Zuma was not placed under house arrest. He merely must be monitored by the Community Corrections office closest to his residence, and is precluded from leaving the magisterial district without *'prior arrangements'*.
- 73.5. The Commissioner appears to have taken the stance that Mr Zuma deserved a degree of special treatment by virtue of having been President. In the Commissioner's words:

[T]his situation occasioned a unique moment within the history of Correctional Services, where a former Head of State of the Republic of South Africa is incarcerated whilst still entitled to privileges as bestowed by the Constitution.'

Conclusion

74. It seems that Mr Zuma did not spend a day in a prison cell. On his admission on 8 July 2021, he was immediately admitted to the Estcourt Correctional Centre's medical facility, where he stayed until he was released to go to hospital less than a month later on 5 August 2021 (except for the day he was permitted out of the prison to attend a funeral). He did not return to Estcourt thereafter. If I am incorrect, I invite the Commissioner to specify in what respects.
75. Officials began to agitate for Mr Zuma's release for medical reasons literally from the day that he was incarcerated – before he even formally applied for medical parole.
76. Mr Zuma fell ill while he was incarcerated, but he received treatment and his condition has been stabilised. There is no indication anywhere in the limited record that Mr Zuma satisfies the requirement for medical parole set out in section 79(1)(a) of the Correctional Services Act, viz that he is '*suffering from a terminal disease or condition*', or has been '*rendered physically incapacitated as a result of injury, disease or illness so as to severely limit daily activity or inmate self-care*'. The Commissioner's reasons make it clear that he did not grant medical parole on this basis.

ADDITIONAL GROUNDS OF REVIEW

77. The Rule 53 record, in the first instance, confirms the ground of review in the DA's initial founding affidavit: that the Commissioner granted to Mr Zuma medical parole against the recommendation of the Board. This renders the parole decision unlawful for the reasons in paragraphs 75 and 76 of that affidavit.

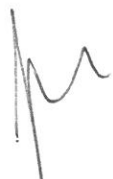
78. It also generates the following additional grounds of review.

Mr Zuma does not satisfy section 79(1)(a) of the Correctional Services Act

79. The record makes it clear that Mr Zuma does not satisfy section 79(1)(a) of the Correctional Services Act: he does not suffer from a terminal disease or condition; nor is he physically incapacitated as a result of injury, disease, or illness so as to limit daily activity or self-care.

80. I begin with the second disjunctive requirement – physical incapacity:

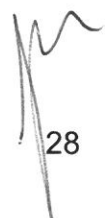
80.1. Mr Zuma did not claim in his application for medical parole that he is physically incapacitated. In section 5(f) of his application (a copy of which is annexed above as 'DA16'), it is asked '*[i]s the offender able / unable to perform activities of daily living and self care due to the above mentioned? (If unable, please attach Occupational Therapist's report)*'. In response, Mr Zuma did not assert that he is so unable, nor did he attach an occupational therapist's report. Rather, it was merely stated that '*patient is under full time comprehensive medical care of medical team*'.


27 MP

- 80.2. Similarly, in section 6.1 of his application, Mr Zuma expressly states that he is not functionally or physically incapacitated.
- 80.3. The Commissioner did not grant medical parole to Mr Zuma on this basis.
81. Mr Zuma also does not satisfy the first disjunctive requirement – a terminal disease or condition:
- 81.1. In the Board's final recommendation, it found that Mr Zuma '*does not qualify for medical parole according to the Act*'. While he suffers from '*comorbidities*', his '*conditions have been brought under control*' and he is '*stable*'.
- 81.2. Even the recommendations of Dr Mphatswe and the Surgeon General do not state that Mr Zuma suffered from a terminal illness. Both merely expressed concerns about his general state of health and the quality of care he would receive at Estcourt.
- 81.3. The Commissioner did not grant Mr Zuma medical parole based on him having a terminal illness.
82. As such, the parole decision is reviewable under sections 6(2)(a)(i), 6(2)(b), and 6(2)(f)(i) of PAJA, *alternatively* the principle of legality.

Irrational / unreasonable

83. It appears that the primary reason for the parole decision was that Mr Zuma needs (or may need) tertiary medical care that cannot be provided by the Department or the hospital wing at the Estcourt Correctional Centre.


28

MP

84. I have already explained why this is an illegitimate reason. But regardless of whether it is legitimate or not, it renders the decision irrational and unreasonable.
85. This is because Mr Zuma was sent *further away* from tertiary medical care, not closer to it. Mr Zuma has been sent to his residence in Nkandla, a place that is around a two-hour drive away from the closest tertiary hospital, Ngwelezana Hospital in Empangeni. Nkandla is almost three hours away from another tertiary hospital, Grey's in Pietermaritzburg.
86. By contrast, on his incarceration, Mr Zuma was in the Estcourt Correctional Centre, a new prison with a state-of-the-art hospital wing. He was then permitted to go to an outside hospital – apparently the private Mediclinic Heart Hospital in Pretoria.
87. If the Commissioner genuinely wished for Mr Zuma to be closer to the best quality medical care, he would have transferred him to a prison in Johannesburg, Pretoria, Durban, or Cape Town – not to his residence in rural KwaZulu-Natal, where his primary caregiver is his businesswoman wife and where he is hours away from the closest tertiary hospital.
88. The DA has no objection to Mr Zuma receiving the medical care that he requires. All prisoners should receive the care they need. But they should receive it while remaining prisoners. Medical parole exists for a very narrow category of inmate, not for every inmate who might need to be hospitalised.
89. As such, the parole decision is reviewable under section 6(2)(f)(ii)(cc) of PAJA (for not being rationally connected to the information before the administrator), section 6(2)(f)(ii)(dd) of PAJA (for not being rationally connected to the reasons

given by the administrator), and section 6(2)(h) of PAJA (for being unreasonable), *alternatively* for being irrational under the principle of legality.

Ulterior purpose / irrelevant circumstances

90. The Commissioner's reasons assert that he granted Mr Zuma medical parole not because he is terminally ill or physically incapacitated, but because —

90.1. he is *'79 years old and undeniably a frail old person'*;

90.2. he has *'multiple comorbidities'* that require specialised tertiary health care that the Department cannot provide;

90.3. he might suddenly fall ill and require medical care that the Department cannot provide.

91. But none of these are legitimate reasons to grant medical parole. I am advised that the purpose of medical parole is to allow an inmate to die with dignity outside of prison, or to prevent the indignity of living in prison while being utterly incapacitated. It is not to permit *'frail'* old people to leave prison, or to allow them to receive premium healthcare that the prison system cannot provide. Nor does it apply to inmates who are ill, but not terminally ill. They must be treated while remaining inmates.

92. And this is if one believes the reasons given by the Commissioner. The parole decision is not consistent with the motivation that Mr Zuma be closer to better medical care because, as set out above, he has been sent to a place that is far away from tertiary medical care. The facts generate the inference that the real motivation for the parole decision was nothing more than to permit Mr Zuma to

leave prison and to go home. This is, of course, an irrelevant and illegitimate motive.

93. As such, the parole decision is reviewable under section 6(2)(e)(ii) of PAJA (for being subject to an ulterior purpose or motive), and section 6(2)(e)(iii) of PAJA (for taking into account irrelevant considerations), *alternatively* the principle of legality.

Bias

94. The facts generate an inference of bias or at least a reasonable suspicion of bias – that Mr Zuma obtained special treatment because he is the politically powerful former state President and former president of the African National Congress:

94.1. The facts show numerous state bodies agitating from the day that Mr Zuma was admitted to prison to secure his release for medical reasons.

94.2. When he was granted medical parole, it was for flimsy reasons patently not permitted by the empowering statute. The decision to send Mr Zuma to Nkandla is moreover inconsistent with the proposition that he was released to obtain speciality medical care.

94.3. The Commissioner granted Mr Zuma medical parole against the recommendation of the Board. We invite the Commissioner to indicate whether, since the creation of the Board, any other prisoner has ever received medical parole against the Board's recommendation.

94.4. The Commissioner all but admitted in his reasons that Mr Zuma received special treatment: he acknowledged that Mr Zuma's situation was a

'unique moment within the history of Correctional Services, where a former Head of State of the Republic of South Africa is incarcerated whilst still entitled to privileges as bestowed by the Constitution'.

95. As such, the parole decision is reviewable under section 6(2)(a)(iii) of PAJA, alternatively the principle of legality.

REMEDY

96. Substitution remains an appropriate remedy. As I stated in the initial founding affidavit, Mr Zuma does not qualify for medical parole as a matter of law. As such, the correct decision is a foregone conclusion, and this Court is in as good a position as the decision-maker to make it.

97. We emphasise that, if this Court reviews and sets aside the parole decision, substitutes it with one refusing medical parole, and sends Mr Zuma back to prison, this would not preclude Mr Zuma from applying for medical parole at a later stage, if he does develop a terminal illness or becomes incapacitated. It will merely result in the rejection of *this* application for medical parole.

COSTS


98. In paragraph 94 of the initial founding affidavit, I warned the Commissioner that the DA would seek a punitive costs order against him if he failed timeously to disclose the full Rule 53 record. Unfortunately, this is exactly what occurred. He initially failed to disclose the record at all (after acknowledging his obligation to do so and promising to do so). Only when faced with various applications to compel and a directive from the DJP did he file the limited record.



99. The DA will seek a punitive costs order against Mr Zuma as well. He is opposing this application and has, wholly unreasonably, refused to consent to the disclosure of his medical information, even under a robust confidentiality regime that cannot possibly harm his interests. His obstructionism has resulted in the Commissioner refusing to disclose the full record.

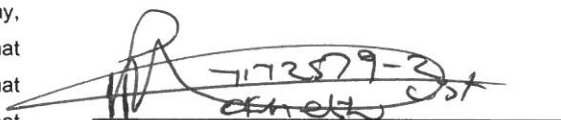
100. This Court should, with respect, transmit a warning to administrators and the subjects of their decisions that – if they work together to prevent the disclosure of the full Rule 53 record, even under a reasonable confidentiality regime, they will face a punitive costs order.

WHEREFORE I pray for the order sought in the notice of motion, including a costs order on an attorney-client scale, jointly and severally against the Commissioner and Mr Zuma.



JOHN HENRY STEENHUISEN

Signed and sworn before me at Cape Town on Wednesday, 13 October 2021, the deponent having acknowledged that he knows and understands the contents of the affidavit, that he has no objection to taking the prescribed oath and that he considers it binding on his conscience.



COMMISSIONER OF OATHS



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case number: 45997/21

In the matter between:

THE DEMOCRATIC ALLIANCE

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent

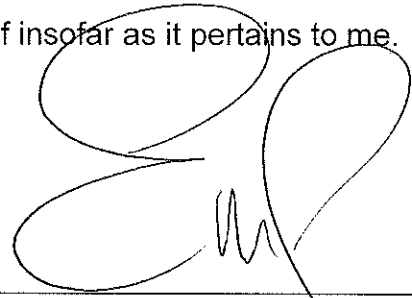
CONFIRMATORY AFFIDAVIT

I, **ELZANNE MUREEN JONKER**, declare under oath:

1. I am an adult female attorney for practising as Director at Minde Schapiro & Smith Inc, Tygervalley Office Park II, Cnr Old Oak & Willie van Schoor Rds, Tygervalley, Bellville. I am the attorney of record for the Applicant herein.
2. The facts contained in this affidavit are to the best of my belief both true and correct. They fall within my personal knowledge.

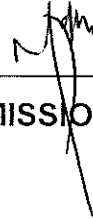


3. I have read the Supplementary Founding Affidavit deposed to by John Steenhuisen and confirm the correctness thereof insofar as it pertains to me.



ELZANNE MUREEN JONKER

Signed and sworn before me at Cape Town on Wednesday, 13 October 2021, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no objection to taking the prescribed oath and that she considers it binding on her conscience.



COMMISSIONER OF OATHS

<p>COMMISSIONER OF OATHS</p> <p>Marlene Botha CA (SA) SAICA Membership No 08039462</p> <p>Tyger Valley Office Park No 2 Cnr. Willie van Schoor Avenue & Old Oak Road, Bellville, 7530</p>

OFFICE OF THE STATE ATTORNEY: PRETORIA

Salu Building

316 Thabo Sehume Str

Tel: 012 309 1576

Email: Rsekgebela@justice.gov.za/

reubensekgobela@gmail.com

Our ref: 2822/21/Z59

TO: MINDE SCHAPIRO AND SMITH ATTORNEYS

Ref: R Nyama / MD / HM001035

AND TO: HURTER SPIES INC

Ref: WD Spies / MAT4215

AND TO: WEBBER WENTZEL REF: V Moshovich /P Dela / D Cron / D Rafferty / D

Qolohle 3050264

IN RE: THE DEMOCRATIC ALLIANCE // THE NATIONAL COMMISSIONER OF

CORRECTIONAL SERVICES AND 4 OTHERS

AFRIFORUM NPC // THE NATIONAL COMMISSIONER OF

CORRECTIONAL SERVICES AND 5 OTHERS

HELEN SUZMAN FOUNDATION // NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES AND 3 OTHERS

SIR/MADAM

1. The above matters refer. We act on behalf of the National Commissioner of Correctional Services ("the First Respondent") in all the three matters.
2. Our instructions are to approach the court and request that all three matters be heard by the same Judge on the same day.
3. We also hold instructions not to oppose part A in all three matters and comply with your request for reasons in terms of Rule 53. We are, in this regard, in the process of compiling the report and also taking instructions on the status of some of the documents that should be included in the record.
4. We are acutely aware that in the Democratic Alliance // The National Commissioner of Correctional Services and 4 Others we were required to dispatch, on the 17th September 2021, to both the Registrar of the High Court and the Applicant's Attorneys the record of the parole decision, including all recommendations, correspondence, reports, memoranda, minutes of meetings, documents, evidence, transcripts of recorded proceedings and other information before our client when the decision was made.

5. We were unable to comply with that directive as the Legal team was only briefed on Tuesday afternoon and due to the unfortunate incidence regarding the IT systems of the State Attorney, documents could not be sent to the Legal team. Documents were sent straight from client to Legal team only during the late afternoon of Tuesday.
6. The parties will appreciate that at this time the State Attorney had already received three (3) applications and other requests that are related to the same matters but not relevant to this letter. The Legal Team had to hastily read through all three applications in preparation for a consultation.
7. On Wednesday morning, Legal team started arranging for a consultation, which consultation called for the inclusion of officials from Escourt Correctional Services Center in Kwa Zulu Natal and all other role players. The officials could only avail themselves on Saturday the 18th September 2021. A consultation was subsequently conducted on Saturday the 18th of September 2021.
8. Subsequent to the consultation, a decision was made to compile the necessary record with a view of providing same to the different parties.
9. Two of the Applicants, the AFRIFORUM NPC and the HELEN SUZMAN FOUNDATION have set their applications down for the hearing of Part A on Tuesday the 28th September 2021 for an order directing the First Respondent to file the record in terms of Rule 53 of the Uniform Rules of Court within seven and three days of the court order respectively.

10. We hold instructions that the record as called upon by all the Applicants in terms of Rule 53 will be ready by Tuesday the 28th September 2021, and shall be made available to the parties subject to any directives that may be sought by the First Respondent and issued by the Deputy Judge President. All the parties involved are aware and appreciate the nature of the information to be produced which includes but not limited to, confidentiality, classified information and the protocol applicable to the disclosure of such information. Notwithstanding the aforementioned factors, the First Respondent is prepared to comply with the request to file the necessary record, but within the confines of the law.
11. We therefore propose that the Legal Representatives of the parties should seek a hearing with the Deputy Judge President for a directive on how this matter should proceed and to further request a special allocation, if the parties so wish.
12. We propose that such meeting should be requested for the 28th September 2021, with the concurrence of all parties involved and subject to the Deputy Judge President's availability.

We await a positive and expeditious response.

Sincerely

SGD: R SEKGOBELA

RN SEKGOBELA

ASSISTANT STATE ATTORNEY: PRETORIA

Mindes

MINDE SCHAPIRO & SMITH

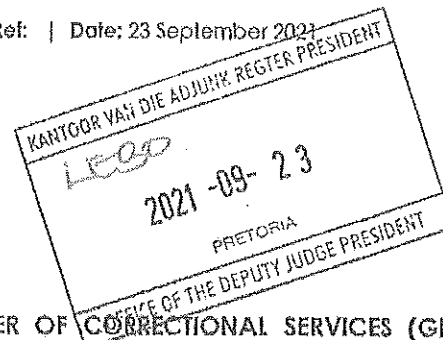
DA2

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Wille van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 086 613 1061 (Direct Fax)

E: elzanne@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0786/ELZANNE JONKER/ks | Your Ref: | Date: 23 September 2021

THE REGISTRAR
HONOURABLE ACTING DEPUTY JUDGE PRESIDENT
PER EMAIL / HAND



Dear Sir/Madam

DEMOCRATIC ALLIANCE V NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES (GP 45997/21) – REQUEST FOR URGENT CASE-MANAGEMENT MEETING

1. The above matter refers. We act for the applicant, the Democratic Alliance ('the DA')
2. This purpose of this letter is to request a meeting with the Honourable ADJP to obtain a special allocation and directives as to the further conduct of this urgent matter. As is explained below, the first respondent, the National Commissioner of Correctional Services ('the Commissioner'), is in broad agreement that this is appropriate.
3. The background of the matter is, briefly, as follows. On 29 June 2021, the Constitutional Court sentenced the former President of the Republic, Mr Jacob Gedleyihlekisa Zuma, to 15 months' imprisonment for contempt of court. On or about 5 September 2021, the Commissioner granted Mr Zuma medical parole ('the parole decision').
4. On Friday, 10 September 2021, the DA launched an urgent application to review and set aside that decision – the matter at issue.
5. Since then, two similar urgent applications have been launched in this Court by other parties, also seeking to review and set aside the parole decision:
 - 5.1. one by the Helen Suzman Foundation ('the HSF') under case number 46468/2021 (launched on 13 September 2021) ('the HSF application'); and
 - 5.2. the other by AfriForum NPC ('AfriForum') under case number 46701/2021 (launched on 15 September 2021) ('the AfriForum application').

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2019/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Laurens PPSA BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marlanno Olivier B Comm LLB LLM | Marais Hoon BA LLB

Vat registration number: 4580257428 | *Al Greenacres, Gqeberha (previously Port Elizabeth)



MINDE SCHAPIRO & SMITH

6. In terms of its notice of motion, the DA required the Commissioner to furnish the Rule 53 record by Friday, 17 September 2021. This deadline has passed and the Commissioner has failed to provide the record.
7. So, on Monday, 20 September 2021, the DA launched an urgent interlocutory application to compel the production of the Rule 53 record, setting it down on Tuesday, 28 September 2021.
8. Both the HSF and the AfriForum applications include an urgent Part A seeking an order compelling the production of the Rule 53 record, and both Part As are set down on Tuesday, 28 September 2021.
9. There are thus currently three separate matters set down on 28 September in this Court seeking near-identical relief – an order compelling production of the Rule 53 record for the parole decision.
10. On Tuesday, 21 September 2021, the Commissioner's attorneys wrote to the DA, the HSF, and AfriForum, stating the following:
 - 10.1. that the Commissioner's attorneys are in the process of compiling the Rule 53 record;
 - 10.2. that the record will be made available on Tuesday, 28 September 2021;
 - 10.3. that the disclosure of the record may be subject to 'confidentiality, classified information and the protocol applicable to the disclosure of such information'; and
 - 10.4. that the Commissioner's attorneys proposed that the parties in the three matters 'should seek a hearing with the Deputy Judge President for a directive on how this matter should proceed and to further request a special allocation' and that this hearing should be requested for 28 September 2021.
11. A copy of the letter is annexed marked 'A'.
12. On Wednesday, 22 September 2021, and in response to the Commissioner's letter, the HSF's attorneys wrote to the office of the Judge President and the Acting Deputy Judge President, also proposing that the parties hold a case-management meeting with the ADJP on 28 September 2021 to discuss the further conduct of the three matters, should this be convenient to the ADJP. A copy of this letter is annexed marked 'B'.
13. The DA is in broad agreement with this proposal, with one suggested modification:

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourans FPPSA@BA LLB | Andie van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Lewis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Val registration number: 4580257428 | *At Greenacres, Gqeberha (previously Port Elizabeth)

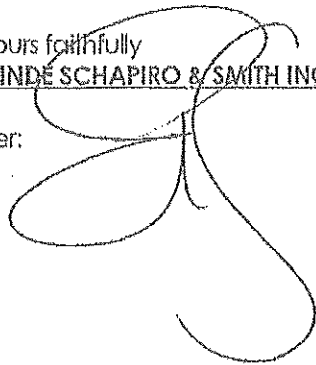
Minde

MINDE SCHAPIRO & SMITH

- 13.1. The DA is concerned, given the qualification contained in the Commissioner's letter quoted in paragraph 10.3 above, that the Rule 53 record the Commissioner has committed to providing on 28 September 2021 will be incomplete.
- 13.2. The DA thus suggests that the case-management meeting rather be held on Thursday, 30 September 2021 (should the ADJP be available). This will give the parties time to peruse the Rule 53 record after receiving it on 28 September. If it is incomplete, this can be raised at the case-management meeting two days later and the proper provision of the Rule 53 record can then form part of the ADJP's directions for the further conduct of the three matters, should the ADJP be amenable thereto.
14. The DA requests that any case-management meeting be held virtually.
15. If 30 September 2021 is not convenient, the DA requests that the meeting be convened as soon as possible thereafter, given the urgency of the three applications.
16. Given the Commissioner's commitment to providing the Rule 53 record, the DA will not enrol its urgent interlocutory application for hearing on 28 September. It reserves the right to re-enrol it on an urgent basis should this be necessary.
17. The legal representatives for all the parties in the three matters have been copied in on this letter.
18. We thank the honourable ADJP for their consideration of this letter, and respectfully look forward to their urgent response.

Yours faithfully
MINDE SCHAPIRO & SMITH INC.

per:



Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1927 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Eizonne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourens FPSA® BA LLB | Andie van Breda B Comm LLB

Associates: Jharé Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Vat registration number: 4580267428 | *At Greenacres, Gqeberha (previously Port Elizabeth)

OFFICE OF THE STATE ATTORNEY: PRETORIA

Salu Building

316 Thabo Sehume Str

Tel: 012 309 1576

Email: Rsekqobela@justice.gov.za/

reubensekqobela@gmail.com

Our ref: 2822/21/Z59

23 September 2021

TO: MINDE SCHAPIRO AND SMITH ATTORNEYS

Ref: R Nyama / MD / HM001035

AND TO: HURTER SPIES INC

Ref: WD Spies / MAT4215

AND TO: WEBBER WENTZEL REF: V Moshovich / P Dela / D Cron / D Rafferty / D

Qolohle 3050264

IN RE: THE DEMOCRATIC ALLIANCE // THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES AND 4 OTHERS

AFRIFORUM NPC // THE NATIONAL COMMISSIONER OF CORRECTIONAL
SERVICES AND 5 OTHERS

HELEN SUZMAN FOUNDATION // NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES AND 3 OTHERS

SIR/MADAM

Your responses to our letter dated the 21 September 2021 and your letters dated the 22nd and 23rd September 2021 addressed to the DJP/ADJP respectively bear reference.

1. We thank you for your prompt response and note that in general, all parties are in agreement on the conduct of this matter.
2. However, the DA response postulates that we file the record on the 28th September 2021 and only thereafter see the DJP/ADJP on the 30th. This arrangement might cause a problem as we have already indicated that some of the information in our possession is subject to confidentiality and classification protocol and may very well need a ruling by the DJP/ADJP on how it is handled. We therefore request that we see the DJP/ADJP on the 28th September 2021 and subject to the directives and/or ruling by the DJP/ADJP, then the record will be dealt with accordingly.
3. We re-iterate our commitment to file the whole record subject to paragraph 2 above.
4. Kindly note that we will also write a letter to the DJP/ADJP advising on the same proposal and also confirming that we agree to a meeting on the 28th September 2021 as proposed.

We hope this will assist in taking the matter forward.

Sincerely

SGD: R SEKGOBELA

RN SEKGOBELA

ASSISTANT STATE ATTORNEY: PRETORIA

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 086 613 1061 (Direct Fax)

E: elzanne@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0786/ELZANNE JONKER/ks | Your Ref: 2822/21/Z59 | Date: 26 September 2021

STATE ATTORNEY
PER EMAIL: reubensekgobela@gmail.com

Dear Sir

NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES AND OTHERS - CASE NUMBER 45997/21

1. As you know, we act for the Democratic Alliance ('the DA') in the above proceedings.
2. The DA shares the concerns and issues raised in the letter of the Helen Suzman Foundation dated 25 September 2021 ('the HSF letter'), mutatis mutandis.
3. The DA makes the same demands:
 - 3.1. that your client produces the entire record on 28 September 2021; and
 - 3.2. without detracting from the above, in the event that directions will be sought by your client, that your client provides the DA with the same information sought in paragraph 11 inclusive of the HSF letter, namely, that your client, by no later than 12h00 on Monday, 27 September 2021 —
 - 3.2.1. indicate what directions it will seek;
 - 3.2.2. in respect of which material; and
 - 3.2.3. on what legal basis, with specific reference to any applicable legislative provisions if appropriate.
4. The DA's rights are reserved, including the urgent enrolment of the DA's interlocutory application to compel production of the full record.

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per:



Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourens FPSA® BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Val registration number: 4580257428 | *At Greenacres, Gqeberha (previously Port Elizabeth)

WEBBER WENTZEL

in alliance with > Linklaters

**The Honourable Maumela J
C/o Ms Y Maja**

By email: YMaja@judiciary.org.za

90 Rivonia Road, Sandton
Johannesburg, 2196
PO Box 61771, Marshalltown
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T +27 11 530 5000
F +27 11 530 5111

www.webberwentzel.com

Your reference

2822/21/Z59

GP case no 2021/46468

Our reference

V Movshovich / P Dela / D Cron /
D Rafferty / D Qolohle / B Lotter
3050264

Date

25 September 2021

Dear Sir / Madam

**Helen Suzman Foundation // National Commissioner of Correctional Services and others
(GP case no 2021/46468) ("the proceedings")**

1. We represent the Helen Suzman Foundation ("HSF" or "our client") in case no. 2021/46468. We note that the matter is enrolled before Your Lordship on 28 September 2021, albeit that Your Lordship's registrar has indicated that "[t]he Judge would have loved to hear these matters on Monday. Please make arrangements."
2. There has been a flurry of correspondence exchanged amongst the parties, such that the matter may, potentially, not need to proceed on 28 September 2021, depending on development which are anticipated only to occur on 27 September 2021.
3. Our client, the Democratic Alliance and Afriforum NPC have all instituted litigation seeking to review and set aside the decision by the National Commissioner of Correctional Services ("the Commissioner") to grant medical parole to ex-president Mr JG Zuma.
4. Part A of our client's litigation was to secure the Rule 53 record and to secure an expedited, judicially ordered timetable for the hearing of the review proper.
5. Regarding the Record, at least our client and the Democratic Alliance particularised the minimum components which the Commissioner was to provide under Rule 53 (see, simply

Senior Partner: JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Bellings AE Bennett AP Blair DHL Booysen AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Fekelis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealy S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Hofeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlal M Moloi N Moodley LE Mostert VN Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjattan GI Rapson K Rew SA Ritchie NJA Robb J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeull LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tihavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmali JE Veeran B Versfeld NG Versfeld TA Versfeld DM Visagie EME Warmington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaker

Chief Operating Officer: SA Boyd

by way of example, paragraph 4 of our client's founding affidavit and paragraph 89 of the Democratic Alliance's affidavit).

6. On 21 September 2021, the State Attorney, representing the National Commissioner, addressed the representatives of our client, the Democratic Alliance and AfriForum, recording, *inter alia*, that:
 - 6.1 they "*hold instructions not to oppose part A in all three matters and comply with your request for reasons in terms of Rule 53*";
 - 6.2 "*a decision was made to compile the necessary record with a view of providing same to the different parties*";
 - 6.3 "*[n]otwithstanding the aforementioned factors [confidentiality, classified information and the protocol applicable to the disclosure of such information], the First Respondent is prepared to comply with the request to file the necessary record*"; and
 - 6.4 "*the record as called upon by all the Applicants in terms of Rule 53 will be ready by Tuesday the 28th September 2021, and shall be made available to the parties subject to any directives that may be sought by the First Respondent and issued by the Deputy Judge President*" (emphasis added).
7. As such, it was represented and undertaken that all the material requested would be provided (this was so despite various alleged concerns of the Commissioner), and that the record would be available on 28 September 2021.
8. A copy of that letter is annexed marked "A".
9. It was also suggested that the 28 September 2021 be used to have a meeting with the Honourable Deputy Judge President to determine the progress of the reviews, which, it was suggested, be consolidated.
10. The parties exchanged further correspondence and the Honourable Acting DJP was addressed to confirm such a meeting (with the Democratic Alliance suggesting a meeting on 30 September 2021, after the Record has been received on the 28th and considered, lest further actions were required). Copies of the relevant correspondence are annexed marked "B".

11. On 23 September 2021, however – the day before Heritage Day – the Commissioner's representatives wrote a strange letter, indicating that the Record would not in fact be provided on the 28th and that the meeting was being requested to discuss the Record itself, and to secure directions in this regard (*"We therefore request that we see the DJP/ADJP on the 28th September 2021 and subject to the directives and/or ruling by the DJP/ADJP, then the record will be dealt with accordingly"*).
12. This is not what the Commissioner initially represented and undertook. The entire record was to be delivered by 28 September 2021, as per the Commissioner's previous correspondence, which was made in the face of court proceedings to compel the delivery of the entire record.
13. It is in any event entirely unclear what directions may be sought; whether the subject matter of these can competently be made by way of direction by the Acting DJP; and what these directions are intended to cater for or to apply to.
14. A copy of the 23 September letter is annexed marked "C".
15. Our client urgently addressed the Commissioner, citing its concerns that the contents of the record was now seemingly to be negotiated when this had already been conceded in correspondence. Our client requested the Commissioner to provide the entire record on 28 September 2021.
16. Without detracting from the above, it was also requested of the Commissioner, if he intended seeking any directions, to inform our client, by no later than 12:00 on 27 September 2021:
 - 16.1 indicating what directions he would seek;
 - 16.2 in respect of what material; and
 - 16.3 on what legal basis.
17. Our client expressly reserved its rights to continue with Part A if necessary. A copy of our client's letter is annexed marked "D".
18. As it stands, Part A was initially understood to be settled, as the Commissioner had indicated that he would be providing the Record (and knew what was required in this regard). Only on 23 September 2021 was this aspect clouded. It is now unclear whether

any record will be produced by 28 September 2021, and – if produced – whether it will be complete.

19. Unfortunately, our client is not in a position to know what the Commissioner will actually do. Our client should be better placed to know where the matter may be heading on 27 September 2021 if the Commissioner responds, and on 28 September 2021 if the Commissioner provides any record.
20. In the circumstances, the matter is not ripe for hearing on 27 September 2021. Our client respectfully requests that the matter be stood down until 29 September 2021, and undertakes to alert Your Lordship as to any developments in the interim which may determine whether the matter will proceed (and, if so, when).
21. The respondents' legal representatives are copied hereon.

Yours faithfully

pp 

WEBBER WENTZEL

Pooja Dela

Partner

Direct tel: +27 11 530 5422

Direct fax: +27115306422

Email: pooja.dela@webberwentzel.com*Letter sent electronically*

- C: *Mr Reuben Sekgobela*
By email: RSekgobela@justice.gov.za; reubensekgobela@gmail.com
- Cc: *Ntanga Nkhulu Incorporated*
By email: mongezi@ntanga.co.za
- Cc: *Minde Schapiro and Smith Attorneys*
By email: elzanne@mindes.co.za
Ref: R Nyama/MD/HM001035
- Cc: *Hurter Spies Attorneys*
By email: spies@hurterspies.co.za
Ref: WD Spies/MAT4215

Your Ref:
Our Ref: M.Ntanga/Z0018/21

27 September 2021

The Minister of Justice and Correctional Services
C/O State Attorney
Pretoria
Per Email: Rsekgobela@justice.gov.za/
reubensekgobela@gmail.com

And

The National Commissioner of Correctional Services
C/O State Attorney
Pretoria
Per Email: Rsekgobela@justice.gov.za/
reubensekgobela@gmail.com

Dear Sirs

**LITIGATION BROUGHT IN THE GAUTENG DIVISION OF THE HIGH COURT
(CASE NOS 45997/21, 46468/21 AND 46701/21): URGENT DEMAND FOR AN
UNDERTAKING**

1. We act on behalf of former President JG Zuma ("our client").
2. As you are aware, three private parties or entities, namely the Democratic Alliance, the Helen Suzman Foundation and Afriforum, have instituted urgent motion court proceedings under the above case numbers, respectively. In all of the matters, our



Directors:
Mongazi Ntanga B. Procc (SA), H Dip Tax (RAU), P Dip Drafting & Interpretation
of Contracts (UJ), LLM (UP)

Contact:
Tel: +27 10 595 1055
Fax: +27 86 538 8718

Physical Address:
Wild Fig Business Park
Unit 24, 1492 Cranberry Street
Honeydew

Postal Address:
PO Box 1838, North Riding, 2162

client is cited as the respondent and he has filed opposition notices.

3. Although instituted separately, there is ample evidence pointing to the fact that the three applications have been clearly synchronised among the three like-minded private bodies or persons.
4. One of the common features of the applications is that each of the applicant organisations demand that the National Commissioner must furnish them with a record, which must include medical reports pertaining to the health conditions which affect our client. We note and support the State Attorney's promise to furnish the Rule 53 record within the confines of the law and bearing in mind the limiting issues of confidentiality privacy and classified information.
5. In our considered view, none of the aforesaid private parties has any legal entitlement to the confidential medical information which relates to and belongs to our client. Furthermore, given the official status of our client as a former Head of State, there are additional security concerns on his part which operate against the release of his private information.
6. In dealing with the applications, it is our express instruction to dispute the alleged and claimed legal standing of all three applicant organisations to institute the relevant proceedings.
7. In any event and even if they have the requisite *locus standi*, which is denied, they certainly hold no entitlement to the private and confidential information regarding the medical status and health information of our client. Neither does the Department or Commissioner of Correctional Services have any right, legal or duty to release such sensitive information to private third parties.
8. In that regard, we specifically refer you to what was said by our superior courts, the decisions of which and relevant dicta are binding on the High Court:
 - 8.1. The Supreme Court of Appeal, in *Cape Town City v SA National Roads Agency* 2015 (3) 386 (SCA); per Ponnar JA, said at 416G-H:



Directors:
Mongazi Ntanga B. Procc (SA), H Dip Tax (RAL), P Dip Drafting & Interpretation
of Contracts (UJ), LL.M (UP)

Contact:
Tel: +27 10 595 1055
Fax: +27 86 538 8718

Physical Address:
Wild Fig Business Park
Unit 24, 1492 Cranberry Street
Honeydew

Postal Address:
PO Box 1838, North Riding, 2162

"(A)s Rule 53 will only ever apply to the disclosure of documents by public bodies, I entertain some doubt as to whether such a body can invoke the right to privacy to protect from disclosure documents relied upon by it to make its decision. That does not mean that public bodies never have a claim to keep documents confidential. But any claim of confidentiality arises from other interests such as security or even the privacy rights of persons mentioned in the documents, but not from its right to privacy".

- 8.2. The Constitutional Court, in *Helen Suzman Foundation v Judicial Service Commission* 2018 (4) SA 1, subsequently affirmed the view that absolute non-disclosure may be justified in exceptional circumstances. It is our view that the present circumstances are truly exceptional. The Constitutional Court went on to say, per Madlanga J at paragraph [70]:

"Where absolute non-disclosure is not justified, the information at issue may – in the court's exercise of discretion, be disclosed, or not disclosed or disclosed subject to a confidentiality regime. The court will weigh up the interests that favour the disclosure against the asserted confidentiality interests. The outcome of that exercise of discretion will depend on the circumstances of each case".

9. In view of the above, the purpose of this letter is accordingly to demand, as we are instructed and hereby do, that the Minister and/or National Commissioner should furnish us with an undertaking that, unless ordered to do so by a competent court of law, after hearing the parties and considering the circumstances of this matter, no confidential information which belongs to our client will be released without his consent, which is hereby specifically withheld. For the avoidance of any doubt, our client's claims of privacy and confidentiality will be maintained until a competent court rules otherwise.

10. We are further instructed to demand that the aforesaid undertaking must be furnished to us as soon as possible but by no later than 17h00 on Wednesday 29 September 2021, failing which, we hold instructions to approach the courts on an urgent basis to obtain the necessary prohibitory order without giving any further notice to you.
11. Kindly revert to us as a matter of extreme urgency and before the deadline mentioned in the preceding paragraph. A copy of this letter is duly copied to all the three private applicant parties.
12. Incidentally, we are in full support of your proposal for the consolidation of the three applications and for the holding of a meeting between the Acting DJP and the parties, with a view to seeking and obtaining directions as to the further conduct of the individual consolidated application(s), more particularly in view of the sensitivities and national security implications of the issues raised above. Accordingly, for ease of reference at the envisaged case management meeting, this letter is also copied to the office of the Acting DJP.

Yours truly,



MONGZI NTANGA

CC WEBBER WENTZEL

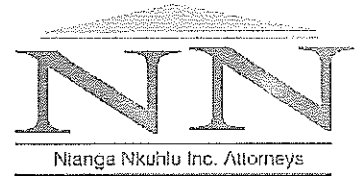
Per email: pooja.dela@webberwentzel.com

CC: MINDE SHAPIRO AND SMITH ATTORNEYS

Per email: elzanne@mindes.co.za

CC: HURTER SPIES INC

Per email: spies@hurterspies.co.za



CC: STATE ATTORNEY JOHANNESBURG

Per email: johannesv@discoverymail.co.za

The Acting DJP Molopa-Sethosa

C/O Registrar

Per Email: Omolopa@judiciary.org.za

opulentmolopa@gmail.com

SSidesha@judiciary.org.za



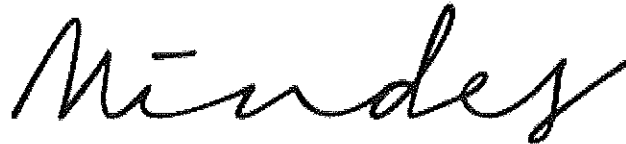
Directors:
Mongezi Ntanga B. Procc (SA), H Dip Tax (RAU), P Dip Drafting & Interpretation
of Contracts (UJ), LLM (UP)

Contact:
Tel: +27 10 595 1055
Fax: +27 86 538 8718

Physical Address:
Wild Flg Business Park
Unit 24, 1492 Cranberry Street
Honeydew

Postal Address:
PO Box 1838, North Riding, 2162

www.ntanga.co.za



MINDE SCHAPIRO & SMITH

DA6

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 086 613 1061 (Direct Fax)

E: elzanne@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0786/ELZANNE JONKER/ks | Your Ref: 2822/21/759 | Date: 29 September 2021

ALL APPLICANTS AND RESPONDENTS
PER EMAIL

Dear Sirs and Madams,

**DA, HSF & AFRIFORUM NPC v THE COMMISSIONER OF CORRECTIONAL SERVICES & OTHERS -
CASE NUMBERS 45997/21; 46468/21; 46701/21**

1. We write to seek agreement for the future conduct of this matter.
2. As appears from the notice of motion, our client has set the matter down for Tuesday 26 October 2021, and set timelines for the exchange of pleadings. The National Commissioner's failure to file the Rule 53 Record by the time stipulated in the notice of motion or at all, make those timelines, and the proposed hearing date, no longer viable.
3. In order to move the matter forward, our client proposes the following timeline for the further conduct of the matter:
 - 3.1. The dispute concerning the provision of the Rule 53 record is resolved by the Deputy Judge President at the meeting of 30 September 2021;
 - 3.2. The National Commissioner provides the record, in terms of whatever directions are issued by the DJP, on **1 October 2021**;
 - 3.3. The applicants file their supplementary founding affidavits by 8 October 2021;
 - 3.4. The Respondents file answering affidavits by **22 October 2021**;
 - 3.5. The Applicants file their replying affidavits by **29 October 2021**;
 - 3.6. The Applicants file heads of argument on **5 November 2021**;
 - 3.7. The Respondents file heads of argument on **12 November 2021**; and

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourens FPSA® BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Val registration number: 4580257428 | *At Greenacres, Gqeberha (previously Port Elizabeth)



- 3.8. The matter is heard on any two days between **22-24 November 2021**.
4. Kindly let us know by **8:30** tomorrow morning today whether your client agrees to this proposed timetable.

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per:



Your Ref:
Our Ref: M.Ntanga/Z0018/21

30 September 2021

Minde Shapiro and Smith Attorneys
Cape Town

Per email: elzanne@mindes.co.za

Dear Sirs

**LITIGATION BROUGHT IN THE GAUTENG DIVISION OF THE HIGH COURT
(CASE NOS 45997/21, 46468/21 AND 46701/21): URGENT DEMAND FOR AN
UNDERTAKING**

1. We refer to the letter received from Minde Shapiro Attorneys yesterday and the proposals contained therein. We are instructed to respond as stated below.
2. In principle we are in support of and take no issue with the proposed expedited hearing dates for the merits of the application being 22 and 23 November 2021
3. However and as previously indicated our client feels very strongly that the dispute about the disclosure of his private and confidential medical information cannot simply be decided by the Honourable DJP in chambers as proposed by the DA. It will have to be referred to proper adjudication in court.
4. In that regard, our counterproposal is that the original set down date of 26 October be retained for the hearing of the dispute pertaining to the record and, depending on the outcome thereof the matter may be scheduled for a hearing on the merits on the November dates or at any other agreed time

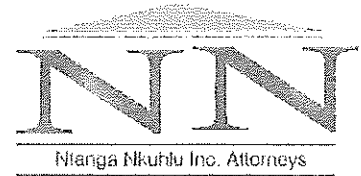


Directors:
Mongezi Ntanga B Proc (SA), H Dip Tax (RAU), P Dip Drafting & Interpretation
of Contracts (UJ), LL.M (UP)

Contact:
Tel: +27 10 595 1055
Fax: +27 86 538 8718

Physical Address:
W&F Fig Business Park
Unit 24, 1492 Cranberry Street
Honeydew

Postal Address:
PO Box 1638, North Riding, 2162



5. Subject to the above the parties can attempt to find agreement as to the exchange of papers by 10h00 tomorrow morning failing which the DJP may impose directives by no later than 14h00 tomorrow, i.e. on 1 October 2021.
6. Kindly respond as soon as possible

Yours truly,

P.P


MONGZI NTANGA

CC WEBBER WENTZEL

Per email: pooja.dela@webberwentzel.com

CC: State Attorney

Pretoria

Per Email: Rsekgobela@justice.gov.za

reubensekgobela@gmail.com

CC: HURTER SPIES INC

Per email: spies@hurterspies.co.za

CC: STATE ATTORNEY

JOHANNESBURG

Per email: johannesv@discoverymail.co.za

The Acting DJP Molopa-Sethosa

C/O Registrar

Per Email: SSidesha@judiciary.org.za



Directors:
Mongezi Ntanga B. Procc (SA), H Dip Tax (RAU), P Dip Drafting & Interpretation
of Contracts (UJ), LLUM (UP)

Contact:
Tel: +27 10 565 1055
Fax: +27 86 538 8718

Physical Address:
W&F Fig Business Park
Unit 24, 1492 Cranberry Street
Honeydew

Postal Address:
PO Box 1838, North Riding, 2162

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case number: 45997/21

In the matter between:

THE DEMOCRATIC ALLIANCE Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES** First respondent

THE MEDICAL PAROLE ADVISORY BOARD Second respondent

JACOB GEDLEYIHLEKISA ZUMA Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE** Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES** Fifth respondent

and

Case number: 46468/2021

In the matter between:

HELEN SUZMAN FOUNDATION Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES** First respondent

**DEPARTMENT OF JUSTICE AND
CORRECTIONAL SERVICES** Second respondent

MEDICAL PAROLE ADVISORY BOARD

Third respondent

JACOB GEDLEYIHLEKISA ZUMA

Fourth respondent

and

Case number: 46701/21

In the matter between:

AFRIFORUM NPC

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Sixth respondent

**MINUTE OF CASE-MANAGEMENT MEETING
HELD ON 30 SEPTEMBER 2021 AT 10h00**

1. Participants:

- 1.1. the honourable Deputy Judge President Ledwaba;

- 1.2. Ismail Jamie SC for the Democratic Alliance (**'the DA'**);
 - 1.3. Max du Plessis SC for the Helen Suzman Foundation (**'the HSF'**);
 - 1.4. FJ Labuschagne for AfriForum NPC (**'AfriForum'**);
 - 1.5. Sy Mphahlele SC and Elizabeth Baloyi-Mere SC for the National Commissioner of Correctional Services (**'the Commissioner'**); and
 - 1.6. Dali Mpofu SC for Mr Jacob Gedleyihlekisa Zuma (**'Mr Zuma'**).
2. The DA initially proposed the following timeline for the further conduct of the matter:
- 2.1. the Rule-53 record is provided on Monday, 4 October 2021;
 - 2.2. applicants file supplementary founding affidavits by 8 October 2021;
 - 2.3. respondents file answering affidavits by 22 October 2021;
 - 2.4. applicants file replying affidavits by 29 October 2021;
 - 2.5. applicants file heads of argument on 5 November 2021;
 - 2.6. respondents file heads of argument on 12 November 2021; and
 - 2.7. the matter is heard on any two days between 22-24 November 2021.
3. None of the parties expressed any objection to this timetable (on the assumption that no further interlocutory proceedings took place in relation to the Rule-53 record).

4. The Commissioner admitted he was obliged to disclose the Rule-53 record in all three matters.
5. However, the Commissioner stated that some of the information in the Rule-53 record —
 - 5.1. contains confidential medical information;
 - 5.2. contains information that is classified; and
 - 5.3. contains information that is in the possession of South African Military Health Service ('SAMHS');together '**allegedly sensitive information**'.
6. The Commissioner committed to filing the portion of the record in his possession that does not contain any allegedly sensitive information by Monday, 4 October 2021 ('**the non-controversial record**'). This includes the Commissioner's reasons, the reasons of the Medical Advisory Parole Board, and records from area commissioners.
7. The Commissioner stated that he may bring an urgent application against SAMHS to obtain the information in the possession of SAMHS in order to be able to disclose the relevant information to the applicants, if SAMHS is not willing to transmit the information to the Commissioner.
8. The Commissioner stated that he would prefer to defend the three applications on the merits with the benefit of the full Rule-53 record.

9. Mr Zuma's counsel asserted that the question of if and how the Rule-53 record is to be provided is a matter that must be decided in open court, not in a case-management meeting.
10. Mr Zuma does not consent to the release of any of his medical information.
11. The DA enquired whether Mr Zuma would consent to the release of his medical information under a confidentiality regime that permitted only the judge, and the parties' lawyers after having signed formal confidentiality agreements, access to them. Mr Zuma's counsel rejected the proposal.
12. The HSF—
 - 12.1. stated that Mr Zuma cannot reasonably oppose any confidentiality regime without having considered proposals from the applicants; and
 - 12.2. requested that where the Commissioner refuses to disclose information in the Rule-53 record on Monday, 4 October, that he provides reasons for each refusal.
13. Mr Zuma's counsel requested that the Commissioner's counsel consult with him as to the content of the non-controversial record before disclosing it, and the Commissioner's counsel stated that he would do so.
14. The DA objected to this.
15. Mr Zuma's counsel stated that Mr Zuma would bring an urgent application interdicting the disclosure of Mr Zuma's confidential medical information if it appeared that the Commissioner intended to do so.

16. The DJP made the following directives for the further conduct of the matter:
 - 16.1. the Commissioner shall file the non-controversial portion of the record by Monday, 4 October 2021;
 - 16.2. within 48 hours after receiving the non-controversial portion of the record, the parties shall have a meaningful discussion to determine whether they can reach an agreement in respect of the confidentiality of the other documents in the record that have not been provided; and
 - 16.3. another case-management meeting will be held on Thursday, 7 October or Friday, 8 October, at a time agreed between the parties and convenient to the DJP, to obtain further directives as to the further conduct of the matter.



MINDE SCHAPIRO & SMITH

DA9

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9012 (Direct Line) | F: 021 918 9070 (General) | 021 918 9070 (Direct Fax)

E: karin@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0786/E JONKER/ks | Your Ref: | Date: 5 October 2021

THE STATE ATTORNEY
PER EMAIL: reubensekgobela@gmail.com;

NTANGA NKUHLU INC. ATTORNEYS
PER EMAIL: mongezi@ntanga.co.za

Dear Sirs / Madams

DA v NATIONAL COMMISSIONER: CORRECTIONAL SERVICES (45997/21)

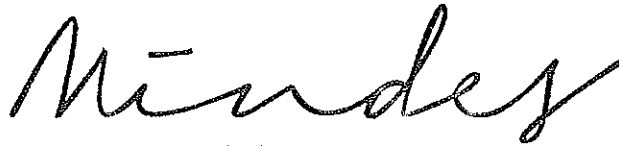
1. The above matter refers, as well as the so-called 'non-controversial' portion of the Rule-53 record emailed to us at 11h16 yesterday morning. As you know, we act for the applicant, the Democratic Alliance ('the DA').
2. At the case-management meeting held on Thursday, 30 September 2021, the Deputy Judge President directed that the parties hold a meaningful discussion within 48 hours of the dissemination of the non-controversial portion of the record to attempt to reach agreement in respect of the confidentiality of the remaining portions of the record.
3. In this regard, the DA proposes the following confidentiality regime in respect of the remaining portions of the record:
 - 3.1. Only the DA's counsel (namely, Ismail Jaimie SC, Michael Bishop, and Piet Olivier), one attorney at the DA's firm of record (namely, Elzanne Jonker of Minde Schapiro & Smith), and the legal practitioners nominated by the respondents (hereafter 'the parties' lawyers'), as well as the judge(s) hearing the review application, will be permitted access to the remaining portions of the record (i.e., unredacted versions of the documents that are redacted in the non-controversial portion of the record, as well as unredacted versions of any other documents that were entirely left out of the non-controversial portion of the record).
 - 3.2. No other person, including for the avoidance of doubt the DA, any of its members, and any member of Minde Schapiro & Smith other than Ms Jonker, shall be permitted access to the remaining portions of the record.

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB
Senior Associates: Gerhard Lourens FPSA@BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB
Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Val registration number: 4580257428 | *Al Greenacres, Gqeberha (previously Port Elizabeth)



MINDE SCHAPIRO & SMITH

- 3.3. The lawyers shall not publish any part of the remaining portion of the record to any person other than the parties' lawyers or the judge(s) hearing the review application.
- 3.4. Access will be granted in accordance with the above by noon on Thursday, 7 October 2021.
- 3.5. Any remaining affidavits filed by the parties, as well as heads of argument, will comprise two sections: a confidential section containing information from the remaining portion of the record and a non-confidential section containing no such information. Only the parties' lawyers and the judge(s) hearing the matter will have access to the former section.
- 3.6. The remaining portions of the record shall not be placed in the court file, and neither shall the confidential sections of the affidavits and the heads of argument. They shall be transmitted directly to the parties' lawyers and the judge(s) hearing the review application.
- 3.7. At the hearing of the review application, the parties' counsel will refrain from referring to the confidential sections of the parties' affidavits and heads. Should reference become necessary, the relevant portion of the hearing will be held in camera.
- 3.8. The DA reserves the right to argue that the remaining portions of the record are not confidential at the hearing of the review application. If the judge(s) rule(s) in the DA's favour in this regard, the parties will be permitted to deal with the remaining portions of the record in accordance with the ruling.
4. The DA proposes that the other two review applications be subject to similar confidentiality regimes, mutatis mutandis.
5. Kindly let us know whether your client accedes to the above proposal by 9h00 on Wednesday, 6 October 2021.
6. Should you fail to respond to us by this time, or should your client accede to the above proposal but then fail to provide the remaining portions of the record as set out in paragraph 3.4 above, the DA will assume that your client will not provide any further portion of the record under any conditions, and reserves its rights to respond as it is permitted under law.
7. We have not received any comments to our proposed minutes of the Meeting held before the DJP on 30 September 2021. Should we not receive any response from you by close of business today we intend filing same with the office of the DJP.

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourens FPSA@ BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marcis Hoon BA LLB

Val registration number: 4580257428 | *At Greeracres, Gqeberha (previously Port Elizabeth)

Mindes

MINDE SCHAPIRO & SMITH

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per

CC: Webber Wentzel

Per email: movshovich@webberwentzel.com;
pooja.dela@webberwentzel.com;
Daniel.Rafferty@webberwentzel.com;
Dee-dee.Qolohie@webberwentzel.com;
Bernadette.Lotter@webberwentzel.com

CC: Hurter Spies

Per email: spies@hurterspies.co.za

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/026182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

Senior Associates: Gerhard Lourens FPSA@BA LLB | Andre van Breda B Comm LLB

Associates: Jhané Bezuidenhout LLB | Lauren Jacobs LLB

Consultants: Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Morais Hoon BA LLB

Vat registration number: 4580257428 | *Al Greenacres, Gqeberha (previously Port Elizabeth)



Office of the State Attorney Pretoria

DA10

Private Bag X 91
PRETORIA
0001

SALU BUILDING
316 Thabo Sehume Street
Francis Baard Street
Entrance Thabo Sehume Street

Tel: (Switchboard): (012) 309 1500
(Direct Line): (012) 309 1576
(Secretary): (012) 309 1530

Fax (General): (012) 309 649/50

06 October 2021

Enquires: RN SEKGOBELA /BM MAKHAFOLA
Email: RSekgobela@justice.gov.za or
reubensekgobela@gmail.com

My ref: 2822/2021/Z59
Your ref:

TO: MINDE SCHAPIRO AND SMITH ATTORNEYS
Ref: R Nyama / MD / HM001035

AND TO: HURTER SPIES INC
Ref: WD Spies / MAT4215

AND TO: WEBBER WENTZEL REF: V Moshovich /P Dela / D Cron / D
Rafferty / D Qolohle 3050264

AND TO: NTANGA NKUHLU INCORPORATED ATTORNEYS REF:
M.NTANGA/Z0018/21

IN RE: THE DEMOCRATIC ALLIANCE // THE NATIONAL
COMMISSIONER OF CORRECTIONAL SERVICES AND 4
OTHERS

AFRIFORUM NPC // THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES AND 5 OTHERS

HELEN SUZMAN FOUNDATION // NATIONAL COMMISSIONER
OF CORRECTIONAL SERVICES AND 3 OTHERS

SIR/MADAM

Your letters dated the 05th October 2021 and the 30th September 2021 respectively
bear reference.

1. As you are aware, we act for the National Commissioner of Correctional Services in all three applications. This letter is meant to respond to the proposals by the Helen Suzman Foundation (“HSF”), the Democratic Alliance (“DA”) and Ntanga Nkuhlu Incorporated acting for the Third Respondent in both the DA and the Afriforum matter and as the Fourth Respondent in the HSF matter.

2. We need to record that we have been served with a letter dated the 27th September 2021, where all the parties were copied, wherein the legal representatives of the Former President JG Zuma explicitly put it on record that they are denying us consent to divulge the medical reports and/or records of their client without his consent. It was made clear that we can only do that through a court order. In that regard, we are hamstrung and constrained by the refusal of the Former President and his legal representatives to give us consent to divulge the medical reports and/or records.

3. The other issue that impedes our disclosure of the whole record is the fact that we have been informed by the South African Military Health Service (“SAMHS”) that they are the custodian of the medical records of the Former President as they have been entrusted with the responsibility of providing health care services to all Presidents, and Former and current Presidents of the Republic of South Africa. We were informed by SAHMS that those documents are classified as top secret and therefore they cannot just be disclosed.

4. We are, as the legal representatives of the National Commissioner, in principle, in agreement with the confidentiality regime as proposed by both the legal representatives of the HSF and the DA but we are of the view that presently it will not assist us as the legal representatives of the Former President have denied us consent to produce those medical records without a court order.
5. We therefore agree with the legal representatives of the Former President that the set down date of the 26th October 2021 be retained for hearing on all the interlocutory disputes pertaining to the record and, depending on the outcome thereof, the matter can be scheduled for hearing on the merits in November or any other agreed date.
6. We also agree that as parties we should agree amongst ourselves on the timelines within which to file our papers as per the HSF letter in paragraph 3 where we are called upon to provide a schedule of the material not provided and the reasons why the material was not provided. We are in agreement that that should happen but we hold a different view that this should be done in the form of affidavits which can serve before a court when adjudicating on the further handling of the record. In this regard we propose that the parties should agree on the dates in which to exchange papers and for the interlocutory to be heard as soon as possible.
7. We also need to record that I, Mr Sekgobela the Attorney of the record of the National Commissioner of Correctional Services from the Pretoria State Attorney, has challenges with my work email and the use of my work computer as it is common cause that the Department of Justice had a

misfortune of having their systems down, we therefore request that all the parties should communicate with us through my personal 'gmail' account and also copy Adv Bheki Ndebele on this email address: bheki.ndebele@gkchambers.co.za.

8. It is also our understanding that the DJP had requested that we should agree amongst ourselves on the time in which to hold the next case management meeting on Friday early in the morning. We therefore propose that we give the DJP the time of 07h30 in order to manage this matter going forward.

Yours faithfully

SGD: R SEKGOBELA

RN SEKGOBELA
OFFICE OF THE STATE ATTORNEY: PRETORIA

DA11

From: Elzanne Jonker

Sent: Thursday, 07 October 2021 13:43

To: 'Reuben Sekgobela' <reubensekgobela@gmail.com>; mongezi@ntanga.co.za;
pooja.dela@webberwentzel.com; dee-dee.qolohle@webberwentzel.com; ck@hurterspies.co.za;
spies@hurterspies.co.za; 'Ronie Nyama' <ronie@kebd.co.za>; Mpho Diphagwe <mpho@kebd.co.za>;
'bheki.ndebele@gkchambers.co.za' <bheki.ndebele@gkchambers.co.za>

Cc: smphahlele@law.co.za; makhanani.mere@gmail.com; baloyi-mere@loftusadv.co.za; Bheki Ndebele
<bheki.ndebele@gkchambers.co.za>; Billy Malose Makhafola <makhafbm@gmail.com>;
Pheledi.dhla@gmail.com

Subject: DEM16/0786: DA / HSF / AFRIFORUM / National Commissioner of Correctional Services and
others (GP 45997/21, 46468/2021 AND 46701/21 - FURTHER CASE-MANAGEMENT MEETING

Dear Mr Sekgobela

Your letter of 6 October refers. As you know, we act for the DA.

We note the contents of your letter. We do not respond to each allegation and fully reserve our clients rights.

We agree that a case-management meeting with the DJP should be held tomorrow morning. Yesterday, we transmitted to the DJP a letter proposing 8h00 and copied in all the parties. Our correspondent attorney will attempt to telephone the DJP's registrar this afternoon to determine whether he is available and whether he would prefer 7h30 or 8h00.

Regards

From: Reuben Sekgobela <reubensekgobela@gmail.com>

Sent: Wednesday, 06 October 2021 20:52

To: mongezi@ntanga.co.za; Elzanne Jonker <elzanne@mindes.co.za>; pooja.dela@webberwentzel.com; dee-dee.qolohle@webberwentzel.com; ck@hurterspies.co.za; spies@hurterspies.co.za

Cc: smphahlele@law.co.za; makhanani.mere@gmail.com; baloyi-mere@loftusadv.co.za; Bheki Ndebele <bheki.ndebele@gkchambers.co.za>; Billy Malose Makhafola <makhafbm@gmail.com>; Phefadi.dhla@gmail.com

Subject: I am sharing 'Letter to DA, HSF and Afriforum' with you

Good evening.

Kindly see the attached letter.

Kind regards,

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case number: 45997/21

In the matter between:

THE DEMOCRATIC ALLIANCE

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent

and

Case number: 46468/2021

In the matter between:

HELEN SUZMAN FOUNDATION

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

**DEPARTMENT OF JUSTICE AND
CORRECTIONAL SERVICES**

Second respondent

MEDICAL PAROLE ADVISORY BOARD

Third respondent

JACOB GEDLEYIHLEKISA ZUMA

Fourth respondent

and

Case number: 46701/21

In the matter between:

AFRIFORUM NPC

Applicant

and

**THE NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

First respondent

THE MEDICAL PAROLE ADVISORY BOARD

Second respondent

JACOB GEDLEYIHLEKISA ZUMA

Third respondent

**THE SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION, AND FRAUD IN THE
PUBLIC SECTOR, INCLUDING ORGANS OF STATE**

Fourth respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Fifth respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Sixth respondent

**AGREED MINUTE OF CASE-MANAGEMENT MEETING
HELD ON 8 OCTOBER 2021 AT 8h00**

1. Participants:

1.1. the Honourable Deputy Judge President Ledwaba;

- 1.2. Ismail Jamie SC for the Democratic Alliance (**'the DA'**);
 - 1.3. Max du Plessis SC for the Helen Suzman Foundation (**'the HSF'**);
 - 1.4. FJ Labuschagne for AfriForum NPC (**'AfriForum'**);
 - 1.5. Sy Mphahlele SC and Elizabeth Baloyi-Mere SC for the National Commissioner of Correctional Services (**'the Commissioner'**); and
 - 1.6. Dali Mpofo SC for Mr Jacob Gedleyihlekisa Zuma (**'Mr Zuma'**).
2. The minute of the case-management meeting held on 30 September 2021 at 10h00 was accepted without objection, subject to Mr Zuma's counsel stating that it omitted some information but without specifying the nature of that information.
 3. The parties confirmed that the Commissioner had filed the so-called non-controversial part of the record.
 4. The parties confirmed that the DA and the HSF had proposed a lawyers-only confidentiality regime for the remainder of the record.
 5. The Commissioner stated that he was unable to disclose the remainder of the record because (a) Mr Zuma refused to consent to the disclosure of the remainder of the record in any form, even under a confidentiality regime, and (b) parts of the record were in the possession of the South African Military Health Service (**'SAMHS'**), and SAMHS had to date refused to transfer possession to the Commissioner.

6. The DA, the HSF, and AfriForum confirmed that they intended to proceed with their review applications on the basis of the record as filed, with reservation of rights.
7. Mr Zuma's counsel stated that —
 - 7.1. Mr Zuma had no objection to the applicants proceeding with the review applications, subject to his counsel's availability; and
 - 7.2. Mr Zuma had not conceded that the matter was urgent.
8. The Commissioner reserved the right to argue that the matter was not urgent.
9. The Commissioner placed on record that his defence is compromised because the full Rule 53 record is not before the Court, but conceded that the applicants had the right to proceed with their reviews without the full record.
10. The Commissioner stated that he might bring an application in terms of the Uniform Rules to obtain the documents in the possession of SAMHS from SAMHS but if he did so he would ensure that it did not disrupt the timetable for the hearing.
11. The Commissioner stated that he does not wish to prevent the review hearing from taking place in the week of 22 November 2021.
12. With the agreement of all the parties, the DJP directed that the further conduct of the matter would be subject to the following timelines:
 - 12.1. the applicants would file any supplementary notices of motion and founding affidavits by Wednesday, 13 October 2021;

- 12.2. the respondents would file answering affidavits by Tuesday, 26 October 2021;
 - 12.3. the applicants would file replying affidavits by Tuesday, 2 November 2021;
 - 12.4. the applicants would file heads of argument by Monday, 8 November 2021;
 - 12.5. the respondents would file heads of argument by Tuesday, 16 November 2021;
 - 12.6. the hearing would occur in the week of 22 November 2021, subject to judges being available. If judges are not available, the DJP will liaise with the parties as to an alternative date.
13. Mr Zuma's counsel requested between one-and-a-half and two days for the hearing. No party objected.
 14. The Commissioner requested that the parties file hard copies of all of the papers in the court file before filing the papers on Caselines.



ESTCOURT CORRCENT

Admission Detail

DA13

Report Number : GO-D-004-D

General

PERSONAL DETAILS

Registration Number	: 221673598	ID Number	:
First Names	: JACOB GEDLEYHLEKISA	Surname	: ZUMA
Gender	: M	CR Number	:
Ethnic Group	: ZULU	Body Receipt	: 221072215550001
Denomination	: UNITED CONGREGATIONAL CHURCH	Effective Sentence Group	: > 12 - < 24 MONTHS (8)
Nationality	: SOUTH AFRICA	Effective Sentence	: /15/0000/00000
		Next of Kin	: MOLOTSI GEORGE
Place of Birth	: NKANDLA	Relationship	: SON
Marital Status	: MARRIED	Gangs	:
Maintenance	: N	Gang Rank	:
Date of Birth	: 1942/04/12 (79)	Amount Charges	:
BPA Days Served	:	Escapee	: N
		Deport./Rep.	: N Final: N
No. Warrants	: 1	Grat scl/not	: 0 /

ADDRESS

Street Address	Postal Address	Next of Kin Address
		NKANDLA AREA NKANDLA

RELEASE DATES

Type of Date	Date
MAXIMUM RELEASE DATE	2022/10/07
SENTENCE EXPIRY DATE	2022/10/07
1/2 SENTENCE PERIOD	2022/02/23
NON PAROLE PERIOD	2021/10/30
1/6 SENTENCE PERIOD	2021/09/23
1/4 SENTENCE PERIOD	2021/10/30
1/3 SENTENCE PERIOD	2021/12/07
MINIMUM DETENTION PERIOD	2021/10/30
2/3 SENTENCE PERIOD	2022/05/07
PREP SUBMISSION DATE	2021/07/30
PREP PREPARATION DATE	2021/07/08

STATUS

Date	Time	Description
2021/08/05	23:25:00	TEMP OUT : HOSPITAL
2021/07/22	15:55:00	RETURNED FROM TEMP OUTSIDE
2021/07/22	00:47:00	TEMP OUT : OCCASION
2021/07/08	00:01:00	ADM:SENTENCED

SECURITY CLASS

Date	Security Class	Total	Reason for Override / Reclassification
2021/07/08	1 MINIMUM	27	HIGH PROFILE: INTELLIGENCE AVAILABLE (INTENSE MEDIA COVERAGE, INCREASED SECURITY)

PRIVILEGE GROUP

Date	Group	Monitor
2021/07/08	B	N



ESTCOURT CORRCENT

Admission Detail

General

Report Number : GO-D-004-D

CREDITS

IC Date	Days Trans.	Credit Given	1st Date	2nd Date
---------	-------------	--------------	----------	----------

TRAINING HISTORY

Grade Passed	: 1	Trade	:
Year School Completed	:	Date of Trade Test	:
University Exemption	: No	Place of Trade Test	:
Availability as Teacher	: No	Trade Certificate No.	:
Professional Occupation	: NO OCCUPATION	Type of Qualification	: ILLITERATE
Qualification Achieved	:		
Previous Experience	:		

SENTENCED WARRANTS

Warrant Number	: 1	FP No.	:	Police	: SAPS NKANDLA
Case Number	: 20210708	Court No.	:	Status	: SENTENCED
Q	: CONSTITUTIONAL COURT	CAS No.	:	SAP62/69/Imp. War.	: N / N / N
Date Sentence	: 2021/08/29	Docket	:	Court Department	:
Magistrate District	: JOHANNESBURG			Done Status	: Not Sentenced
Warrant Type	: SECTION 276(1)(b)	DNA Number	:		
Remark	:				
Offence Description	:				

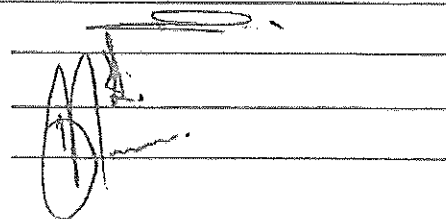
Sentence Number	: 1	Periodical Hours Done	:	Sentence	: / 15/ /
Suspend Ind.	: Normal	Periodical Hours Bal.	:	Suspended	: / / /
Status	: A	Type of Sentence	: 1- SPECIFIC SENTENCE		
Suspended Period	:				

Offence	: 1ABB - CONTEMPT OF COURT	Offence Category	: CRIMES AGAINST THE GOOD ORDER
Type	: OTHER	Amount	: 1

Signature - Clerk : _____

Checker : _____

Supervisor : _____





Disciplinary Offence Register

*** No Record Found ***

Signature - Production Worker :

Checker :

Controller :

*** End of Report ***



sa military health service

DA14

Department: Defence REPUBLIC OF SOUTH AFRICA

Telephone: (012) 671 5354 Facsimile: (012) 671 5257 SSN: 812 5354 Enquiries: Maj (Dr) Q.S.M. Mafa

Department of Defence Area Military Health Formation Private Bag X102 Lyttelton 0046 08 July 2021

MEDICAL REPORT OF FORMER PRESIDENT MR J.G ZUMA BY THE PRESIDENTIAL MEDICAL TEAM DATED 08 JULY 2021

1. The abovementioned patient was examined on the 08 July 2021. Mr Zuma is a 79 year old male

[REDACTED]

6. This report is hereby recommend that Mr Zuma be moved to a specialist medical facility high care unit to be assessed further to ensure his health is not jeopardised during this period. It is further recommended that a thorough specialist medical investigation be done to verify and rule out other challenges that could have been missed during the examination.

7. Your cooperation in this matter will be highly appreciated as this will prevent any embarrassment to the government should anything happen to Mr Zuma.

8. For your urgent attention and action.

[Signature] (M.Z. MOJIBWA)

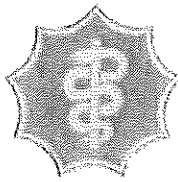
GENERAL OFFICER COMMANDING AREA MILITARY HEALTH FORMATION: BRIG GEN

DR Q.S.M MAFA MBChB (Medunsa), AME (U.P) PR0532444 MP0732788 Cell: 072 209 3842



Lefapha la Boiphemelo . Umnyango wezokuVikela . Kgoro ya Tshireletso iSebe lezoKhuselo . Department of Defence . Mufasho wa Tshireletso UmNyango WezokuVikela . Ndzwawulo ya swa Vusirheleri . Lefapha la Tshireletso Departement van Verdediging . Litiko leTekuvikela





sa military health service

Department:
Defence
REPUBLIC OF SOUTH AFRICA

DA15

Telephone: (012) 671 5354
Facsimile: (012) 671 5257
SSN: 812 5354
Enquiries: Maj (Dr) Q.S.M. Mafa

Department of Defence
Area Military Health Formation
Private Bag X102
Lyttelton
0046

09 July 2021

Head of the Center.
Escourt Correctional Center
Department of Correctional Services
Escourt

Dear Madam

REQUEST FOR DAILY CHECK UPS OF FORMER PRESIDENT MR J.G ZUMA BY THE PRESIDENTIAL MEDICAL TEAM: 98255607MC WO1 G.M. MOLOISI

1. The South African Military Health Service has the sole mandate & responsibility of assuring and giving medical support & services to Mr. JG Zuma. Based on our recent medical assessment done on him upon his arrival at the facility, we have a great concern about his current medical health status.

[REDACTED]

3. We want to manage and avoid the exposure of sensitive medical information or records to our medical counterparts from the Correctional services, as Doctor to patient confidentiality has to be adhered to at all times. However this is not limited to the critical medical reports that'll be given after every assessments done for filing purposes in Mr. JG Zuma's file while he is still in the facility.

4. Furthermore we are requesting that Mr GM Moloisi be granted permission to monitor him on a daily basis and alert the doctors and specialists immediately of any changes should there be any during this period while he is in your facility. This is based on the findings from the medical assessment that were done upon his arrival into the facility by our doctors including myself.

[REDACTED]
they're of paramount importance as time is of essence in this regard.
[REDACTED]

5. Mr GM Moloisi is one of our OECP qualified Medics to do this task of checking him daily. He has extensive experience [REDACTED] he has been with him for a period of time. It is critical that we get daily updates [REDACTED]

6. Your swift response and cooperation in this regard will be highly appreciated.

7. For your urgent attention and action.

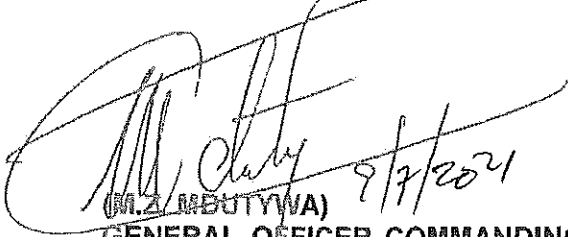


Lefapha la Boiphemelo . Umnyango wezokuVikela . Kgoro ya Tshireletso iSebe lezoKhuselo . Department of Defence Mithasho wa Tsiriledzo
UmNyango WezokuVikela . Ndzawulo ya swa Vusirheleri . Lebapha la Tshireletso Departement van Verdediging . LiTiko leTekuvikela

MEDICAL CONFIDENTIAL



REQUEST FOR DAILY CHECKUPS OF FORMER PRESIDENT MR J.G ZUMA BY THE
PRESIDENTIAL MEDICAL TEAM: 98255607MC WO1 G.M. MOLOISI


(M. Z. NDUTYWA) 9/7/2021

GENERAL OFFICER COMMANDING AREA MILITARY HEALTH FORMATION: BRIG
GEN



Telephone: (012) 671 5354
Facsimile: (012) 671 5257
SSN: 812 5354
Enquiries: Maj (Dr) Q.S.M. Mafa

Department of Defence
Area Military Health Formation
Private Bag X102
Lyttelton
0046

29 July 2021

MEDICAL REPORT OF FORMER PRESIDENT MR J.G ZUMA BY THE PRESIDENTIAL MEDICAL TEAM DATED 28 JULY 2021

1. The abovementioned patient was examined on the 08 July 2021 by a member of presidential medical team. Mr Zuma is a 79 years old male.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. Taking the abovementioned medical conditions into consideration, there is a fear that his condition may further deteriorate if intervention is delayed. As a result of this report, it is hereby recommended that Mr Zuma be moved to a specialist medical facility to be assessed further by specialists under presidential medical team for proper investigations and to optimise therapy for better outcome.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

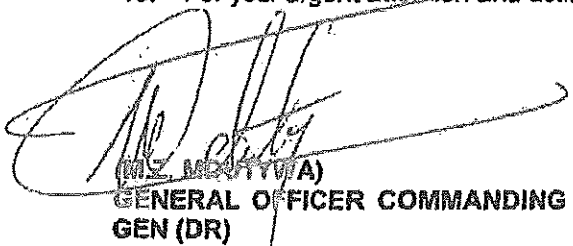
[REDACTED]

[REDACTED]

8. This is not a final report; the comprehensive medical report will follow once all the investigations have been conducted by the specialist. The specialists will also determine other investigations as necessary. The final report by the Specialist Medical Panel will assist towards further interventions; prognosis and application for Medical Parole.

9. Your cooperation in this matter will be highly appreciated.

10. For your urgent attention and action.



(M2. M2111/A)
GENERAL OFFICER COMMANDING AREA MILITARY HEALTH FORMATION: BRIG
GEN (DR)

SCHEDULE B

MEDICAL PAROLE APPLICATION IN TERMS OF SECTION 79 OF ACT 111 OF 1998 AS AMENDED

A. DETAILS OF OFFENDER

1. Registration No. 221 673 598 2. Surname and Initials ZAMA J. G
 3. Date of Birth 1942.06.12 4. Gender Male
 5. Correctional Centre at which detained Estcourt Correctional Centre

I, (Name and Surname) hereby consent to the full disclosure of my medical information to the extent necessary and to the persons necessary in order to process this application for medical parole. I also agree, that should I be granted medical parole, to undergo periodic medical examination by a medical practitioner in the event that this is required.

SIGNATURE OR RIGHT THUMB PRINT _____ SURNAME AND INITIALS AND SIGNATURE OF WITNESS _____

B. DETAILS OF APPLICANT (if different from A)

1. ID No. 8403225686081 2. Surname and Initials MUSA @ J M
 3. Date of Birth 1984/03/22 4. Relationship to Offender Doctor

C. MEDICAL REPORT – to be completed by medical practitioner

1. Name and Surname of _____ 2. Practice number: _____
 Medical Practitioner
 examined the offender on _____ at _____
 4. did did not Refer the offender for a specialist opinion.
 (if referral to specialist attached separate report)
 5. (a) Diagnosis _____

See memorandum

ADDENDUM TO THE MEDICAL PAROLE APPLICATION FORM

C. MEDICAL REPORT [to be completed by the Correctional Medical Practitioner (Regulations 29(A)(3)) REGISTERED IN TERMS OF THE HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA.

(If the space is insufficient please attach annexure/s)

- 1. Names and Surname: QABA Solomon MOREMA MAFR
- 2. Practice number: MP0732782
- 3. I examined the offender on 08 July 2021 at ESCOR Correctional.

4. I **did** **not** refer the offender for a specialist opinion.
 (if referred to a specialist, attached separate report)

5. Clinical and non-clinical information:
 [REDACTED]

(b) What is the concrete clinical evidence?

see attached medical report

(c) Medical history :

see attached medical report

(d) Is the offender suffering from a terminal disease OR condition which

Is chronic: yes

Is progressive: yes

Has deteriorated permanently or reached and irreversible state: deteriorated significantly

NB: "A terminal disease or condition is a condition or illness which is irreversible with poor prognosis and irremediable by available medical treatment but requires continuous palliative care and will lead to imminent death within a reasonable time."

ADDENDUM TO THE MEDICAL PAROLE APPLICATION FORM

If yes, please provide clinical, radiological, biochemical and any other relevant information:

See attached medical report.

(e) What is the long term prognosis?

Refer to report

(f) Is the offender able / unable to perform activities of daily living and self care due to the above mentioned?
(If unable, please attach Occupational Therapist's report)

Comments: Patient is under full time comprehensive medical care of medical team.

(g) If unable, date of onset or period he /she suffered from the condition / diseases / incapacity?

Progressive deterioration since 2018.

(h) How has the offender been managed?

i. Clinical management:

See attached report

ii. Non-clinical management: (Attach any additional report e.g. on nursing care, physiotherapy)

Patient is under full time comprehensive medical care of medical team.

~~_____~~

ADDENDUM TO THE MEDICAL PAROLE APPLICATION FORM

(i) Response to:

(i) Clinical management:

Clinical Management is recommended for further evaluation by specialist team.



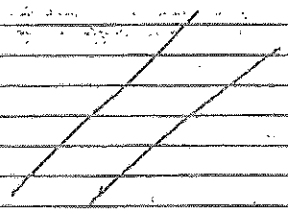
iii. (ii) Non-clinical management: (Attach any additional report e.g. on nursing care, physiotherapy)

To continue full time care by medical team

6. Medical parole should be considered OR ~~not considered~~ for the following reasons:

6.1 Medical, functional or physical incapacity:

Medical incapacity



6.2 Availability of the required health care services for the specific condition within the department:

Patient is under full time medical care of the OAMHS (DOD) with a specialist team assigned for the care

7. If paroled, the offender would require the following clinical and non-clinical health care:

ADDENDUM TO THE MEDICAL PAROLE APPLICATION FORM

Urgent Specialist Evaluation and Continue
Full time medical care.

8. Should the offender be paroled, a referral letter for the continuation of treatment will be completed.

Names and Surname : P. Sin MAF A

Signature : [Handwritten Signature]

Date : 28/07/2021.

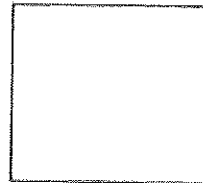


CONSENT FORM: PLACEMENT OR RELEASE ON MEDICAL GROUNDS

Name of Management Area : Glencoe Management Area
 Name of Correctional Centre : Estcourt Correctional Centre
 Address : Private Bag X8021 Estcourt 3210
 Telephone number : N/A
 Fax number : N/A

I Jacob G. Zuma registration number 221 673 598 hereby grant consent that for the purpose and processes of considering my recommendation for placement on medical grounds, hereby grant permission that my health condition and / or diagnosis be shared with any individual or person who will provide any form of administrative, economic, psycho-social, health any other form of support that will contribute positively to my health.

I hereby confirm that I was not coerced to grant the above mentioned permission/ consent.



Offender-patient's signature
 Name in Print : JACOB G. ZUMA
 Date : 28, 07, 2021

Thumb print left / right (specify)
 Time: 14:40

1. Witness
 Signature :
 Name in Print : GEORGE M. Moloi
 Capacity : MEDIC
 Date and time : 28/07/2021

Name in Print : Mphahlele Jd
 Capacity : Operational Manager
 Date and time : 28.07.21

2. Witness
 Signature :



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

32

DA19

Private Bag x02, Glencoe 2930, Bigger Street North, North Field Mine,
Tel: (034) 393 1112, Fax: (034) 393 3377

Reference:		Date:	29 JULY 2021
Enquiries:	MTSHALI J.A	Cell Number:	082 5031 369

SUBJECT: APPLICATION FOR PLACEMENT OR MEDICAL RELEASE OF MR JACOB GEDLEYIHLEKISA ZUMA REG. NO.221673598: ESCOURT CORRECTIONAL CENTRE KZN

1. Medical History:

Mr Jacob Zuma was admitted into our Correctional Facility on the 08 July 2021

[REDACTED]

Mr Zuma also came with a referral letter from his doctors from SA Military health service

[REDACTED]


On the 2021/07/28 Mr Zuma was seen by the team of his Doctors from SA Military Health Services which suggested that Mr Zuma be urgently transferred to Military hospital in Pretoria, and they made application for his medical release, see report attached and medical file.

SUBJECT:	APPLICATION FOR PLACEMENT OR MEDICAL RELEASE OF MR JACOB GEDLEYIHLEKISA ZUMA REG. NO.221673598: ESCOURT CORRECTIONAL CENTRE KZN
-----------------	--

1. **Recommendations:**

It is recommended that Mr Zuma be released on medical grounds base on the following:

- The report written by his medical team stating that Mr Zuma has number of comorbidities including [REDACTED]
[REDACTED]
[REDACTED]
- Mr Zuma needs tertiary health care services that Correctional Services is not providing.
- His conditions need to be closely monitored by Specialist, and should his condition complicate during the night it will take time for him to access relevant health services.


Operational Manager
Escourt Correctional Centre
Glencoe Management Area
Mtshali J.A.
Date: 2021.07.29



sa military health service

Department:
Defence
REPUBLIC OF SOUTH AFRICA

DA20

Telephone: (012) 671 5354
Facsimile: (012) 671 5257
SSN: 812 5354
Enquiries: Brig Gen (Dr) M.Z. Mduywa

Department of Defence
Area Military Health Formation
Private Bag X102
Lyttelton
0046
05 August 2021

The Commissioner
Department of Correctional Services
Pretoria
0001

Dear Sir

MEDICAL REPORT OF FORMER PRESIDENT MR J.G ZUMA BY THE PRESIDENTIAL MEDICAL TEAM DATED 05 AUGUST 2021

1. The abovementioned patient has been seen on the 05 August 2021 by a member of presidential medical team. Mr Zuma is a 79 years old male

[REDACTED]

3. The medical team was called in after Mr Zuma complained of chest pains and coughing. This began at noon on the 05 August 2021 while sitting.

[REDACTED]

5. Taking the abovementioned medical conditions into consideration, there is a fear that his condition is deteriorating. As a result of this, it is hereby recommended that Mr Zuma be moved to a specialist medical facility as matter of urgency to be assessed and managed further by specialists under presidential medical team in order to avert a crisis looming if his medical condition is attended to. Proper investigations are urgently required to determine the therapy required for better management and outcome.



Lefapha la Boiphemelo . Umnyango wezokuVikela . Kgoro ya Tshireletso iSebe lezoKhuselo . Department of Defence . Mntsetho wa Tsirileozo
UmNyango WezokuVikela . Ndeavulo ya swa Vusiheleri . Lefapha la Tshiretso . Departement van Verdediging . LITiko leTekuvikela

MEDICAL CONFIDENTIAL

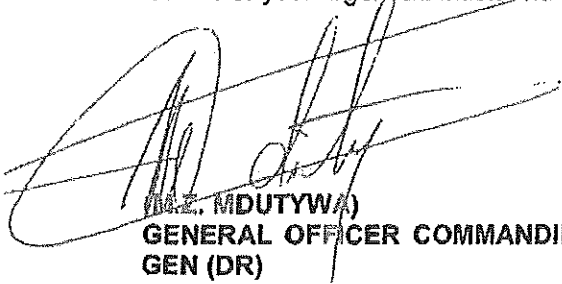


**MEDICAL REPORT OF FORMER PRESIDENT MR J.G ZUMA BY THE PRESIDENTIAL
MEDICAL TEAM DATED 05 AUGUST 2021**

6. We request that Mr Zuma be moved to a military medical facility the latest on the 06 August 2021. As a contingency we request that a military medic be with him to observe him continuously while awaiting your urgent action.

7. Your cooperation and urgent attention in this matter will be highly appreciated.

8. For your urgent attention and action.



(M.E. MDUTYWA)

**GENERAL OFFICER COMMANDING AREA MILITARY HEALTH FORMATION: BRIG
GEN (DR)**



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

MPAB REPORT
APPLICATION FOR MEDICAL PAROLE
REG. NR.: 221 673 598

A. DETAILS OF OFFENDER

Registration Number: 221 673 598

Date of Birth: 1942/04/12

Gender: Male

Region: KZN

Correctional Centre at which offender is detained: Glencoe Management Area

B. OFFENDER'S MEDICAL CONDITION

[REDACTED]

C. SUBMITTED EVIDENCE AND DOCUMENTATION

	Indicate If YES / NO
Medical Parole Application Form	Yes
Specialist Reports where applicable	Yes
Occupational Therapist's Report in case of incapacity	No
Any Clinical, Radiological, Biochemical and any other relevant information	Yes
If yes specify: Chest X-Rays	
Has the offender been consulted by any member of the MPAB?	Yes
If yes, is the Report attached	Yes



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

MPAB REPORT

APPLICATION FOR MEDICAL PAROLE

REG. NR.: 221 673 598

D. NEED BY MPAB FOR FURTHER SPECIALIST'S CONSULTATION. IF YES SPECIFY:

Yes. Independent cardiologist / surgeon / physician.

Also need histopathology.

E. DECISION

Recommended / Not recommended based on the following:

The MPAB did not have sufficient information to reach a decision. It was not clear to the MPAB whether the report written by the cardiologist on the 22/07/2021 was based on a recent consultation or from previous consultations. For the MPAB to be able to discuss the case further, we require the following reports:

- i. A recent cardiologist's report - independent
- ii. A histopathology report from the previous colonoscopy done in Cuba
- iii. A report from an surgeon
- iv. A report from an independent physician

DR. NB MGUDLWA

CHAIRPERSON: MEDICAL PAROLE ADVISORY BOARD

Date: 26 August 2021



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

MPAB REPORT
APPLICATION FOR MEDICAL PAROLE
REG. NR.: 221 673 598

A. DETAILS OF OFFENDER

Registration Number: 221 673 598

Date of Birth: 1942/04/12

Gender: Male

Region: KZN

Correctional Centre at which offender is detained: Glencoe Management Area

B. OFFENDER'S MEDICAL CONDITION



C. SUBMITTED EVIDENCE AND DOCUMENTATION

	Indicate if YES / NO
Medical Parole Application Form	Yes
Specialist Reports where applicable	Yes
Occupational Therapist's Report in case of incapacity	No
Any Clinical, Radiological, Biochemical and any other relevant information	Yes
If yes specify: Chest X-Rays	
Has the offender been consulted by any member of the MPAB?	Yes
If yes, is the Report attached	Yes



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

MPAB REPORT

APPLICATION FOR MEDICAL PAROLE

REG. NR.: 221 673 598

D. NEED BY MPAB FOR FURTHER SPECIALIST'S CONSULTATION. IF YES SPECIFY:

Yes. Recent cardiologist / surgeon / physician's reports with prognoses

E. DECISION

Recommended / Not recommended based on the following:

The MPAB did not have sufficient information to reach a decision. It was not clear to the MPAB whether the report written by the cardiologist on the 22/07/2021 was based on a recent consultation or from previous consultations. For the MPAB to be able to discuss the case further, we require the following reports:

- i. A recent SAHMS cardiologist's report with prognosis
- ii. A recent report from a SAHMS physician with prognosis
- iii. A report from the SAHMS surgical team with prognosis (if there have been further interventions).

DR. NB MGUDLWA

CHAIRPERSON: MEDICAL PAROLE ADVISORY BOARD

Date: 28 August 2021

SG/C/104/1/2

Telephone: (012) 367 9001
Facsimile: (012) 367 9002
Enquiries: Lt Gen (Dr) Z.W.S. Dabula
Email: zola.dabula@dod.mil.za



Headquarters
South African Military Health Service
Private Bag X102
Centurion
0046

30 August 2021

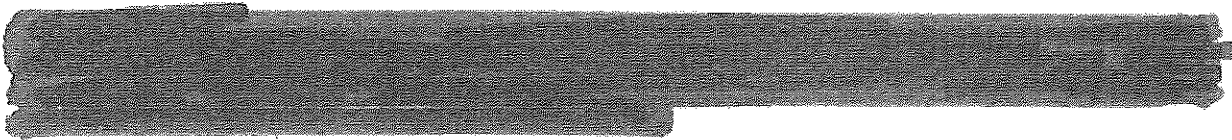
To whom it may concern.

Sir / Madam.

MEDICAL REPORT: FORMER PRESIDENT MR J.G. ZUMA

REFERANCES:

- APPENDIX A: Physicians Report
- APPENDIX B: Cardiologists Report
- APPENDIX C: Surgeons Report
- APPENDIX D: Neurologists Report
- APPENDIX E: Nephrologists Report
- APPENDIX F: Histology Report from Cuba (English Translation)
- APPENDIX G: Radiologists Report (Diagnostic Radiologists)



2. It is the view of the Surgeon General that these reports taken individually may paint a picture of a patient whose condition is under control but all together reflect a precarious medical situation especially for optimization of each one of them.

3. We will remember that the patient was fairly optimized prior to his incarceration and it took only four weeks for his condition to deteriorate such that his glucose, blood pressure and kidney function went completely out of kilter. The Surgeon General believes that the patient will be better managed and optimized under different circumstances than presently prevailing.

4. Hope that all this will be of assistance.

(Z.W.S. DABULA)
SURGEON GENERAL: LT GEN



MPAB REPORT

APPLICATION FOR MEDICAL PAROLE

REG. NR.: 221 673 598

D. **NEED BY MPAB FOR FURTHER SPECIALIST'S CONSULTATION. IF YES SPECIFY:**

Reports were received as requested (Cardiologist/Surgeon/Physician/Neurologist/Oncologist)

E. **DECISION**

Recommended / Not recommended based on the following:

The MPAB appreciates the assistance from all specialists with provision of the requested reports. The board also notes and appreciates the use of aliases and has treated all submitted reports as those pertaining to the applicant. From the information received, the applicant suffers from multiple comorbidities. His treatment has been optimised and all conditions have been brought under control. From the available information in the reports, the conclusion reached by the MPAB is that the applicant is stable and does not qualify for medical parole according to the Act. The MPAB is open to consider other information, should it become available. The MPAB can only make its recommendations based on the Act.

2
DR. NB MGUDLWA
CHAIRPERSON: MEDICAL PAROLE ADVISORY BOARD
Date: 2 September 2021



21 Mcfarlane Rd. Estcourt 3310- P/Bag X7021, Estcourt, 3310. Telephone - (036) 352 2224/0
Fax - (036) 352 7772

Enquiries: Ms. Mthonti A.

SOCIAL WORK SUITABILITY REPORT

OFFENDER

Surname and Names : Zuma Jacob Gedleyihlekisa
Registration number : 221673598
Crime : Contempt of Court
Sentence : 15 months Imprisonment

REGISTERED SOCIAL WORKER

Social Worker : Mthonti A.
SACSSP No. : 10 - 36323
Signature :

SOCIAL WORK SUPERVISOR

Supervisor : S. Naidoo
SACSSP No. : 10 - 16542
Signature :



SOCIAL WORK SUITABILITY REPORT

1. IDENTIFYING DETAILS

Surname & Name (s) : Zuma Jacob Gedleyihlekisa
Registration number : 221673598
Crime : Contempt of Court
Sentence : 15 months imprisonment
Date of birth : 1942 -04-12
Date of sentence : 2021-06-28
Home Language : IsiZulu
Marital status : Married (Polygamy)
Home Address : Ntembeni, Nkandla Homestead, 3825
Next of Kin : Zuma Sizakele & Ngema Bongekile (wives)
Contact number : 072 1833 935 / 079 1810 080

2. INTRODUCTION

The purpose of this report is to provide the Parole Board with the information regarding the offender's medical parole application in terms of Section 79 of the Correctional Services Act 111 of 1998.

The offender was housed at Estcourt Correctional Centre from the 8th of July 2021 to the 5th of August 2021. He was later transferred to a health care facility for medical attention.

3. GENERAL BACKGROUND

The offender was raised by his biological parents who were married through customary law and resided at Nkandla. He is the first born of the four siblings. Mr Zuma was brought up in a polygamous family unit that was functional and harmonious. He indicated that his father passed on when he was four years of age. According to the offender he could not attend school at his school going age due to him assuming family responsibilities of herding cattle; however, later he arranged night classes for himself and his peers within his neighbourhood. Circumstances at home moulded him to be a responsible individual despite the challenges he experienced whilst growing up. He was compelled to assume a role of a provider from an early age.

The offender shared a marriage with six wives of whom one is deceased, one is separated from and two are divorced. Currently he remains with two wives. Mr Zuma has twenty three children; one is deceased and twenty two are still alive. He shares favourable relations with his family.

In terms of his life journey, the offender was arrested in 1963 whereby he served a term of 10 years imprisonment in Robben Island. He was reintegrated into the community in 1973; two years later he went to exile. After the ban of the ruling party was lifted in 1990, Mr Zuma returned to South Africa. In 1997 he was elected as the African National Congress's Deputy President. He further served as the Deputy President of South Africa from 1999 to 2005 and the Deputy President of the country's ruling party the African National Congress from 2007 to 2017. In the year 2009, he was elected President of South Africa and was re-elected for the second term in the year 2014. Mr Zuma stepped down as the President of South Africa in the year 2018 but continued to fulfil his role within the ruling party.

4. INTERVENTION

An in-depth assessment was conducted to ascertain the offender's needs and inform the care plan, however, due to the limited period he spent at Estcourt Correctional Centre, the care plan could not be implemented. Family consultation with the support system was conducted at his home in Pretoria. An interview with Mrs Bongekile Zuma (MaNgema) was conducted and she expressed her awareness of the offender's health condition. Mrs Zuma indicated a willingness to take responsibility to accommodate the offender.

5. ACCOMMODATION

According to the offender, he has two homes at Nkandla Homestead and Pretoria where his family resides. The accommodation is sufficient to cater for the offender's needs when released.

6. SUPPORT SYSTEM

The offender receives support from his wives and children. They will be able to assist him to enlist health services when the need arises

7. FINANCIAL SUPPORT

According to the offender his family is financially secured and will be able to adequately provide for his needs.

8. EVALUATION

✓✓



The offender stems from a well functioning home that was short lived by the early loss of his father. This resulted in the disruption of the harmonious family functioning. The inability to have formal schooling from his childhood motivated him to arrange alternative ways to receive education. In spite of the hardships the offender endured, he was able to develop good qualities such as leadership, courage and diligence. This is supported by Baldwin: 2000 as he states that parents' economic and educational status, family structure, their cultural and ecological profile, values and beliefs are some of the variables that render family environment as an agent of education and influence on a child's academic performance. This is evident in the offender's determination to ensure his education. His leadership qualities are evident in him initiating adult educational classes in his neighbourhood.

The offender experienced significant losses in his life which were the death of his father, wife and son, divorces and a separation. This could have deterred him however he displayed resilience and a sense of determination. That was apparent in his upbringing because he took on diverse duties at an early age. Alder (2000:online) says that first borns tend to possess psychological characteristics related to leadership; they have more favourable personality traits including openness to new experiences, attention to detail, extroversion, friendliness and greater emotional stability. This was also evident in the leadership roles at different structures within the organization he belongs to as well as in the government leadership roles.

The assessment of the offender, his family's background and circumstances indicates that they will be able to accommodate him and to take care of his needs.

9. RECOMMENDATIONS

In view of the above information, the social worker is of the opinion that the social circumstances of the offender's family are suitable for his placement on medical parole.

	
Mthonti A. (Social Worker) Date: 2021.08.29	Naidoo S. (Social Work Supervisor) Date: 2021.09.02
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"><p>HEAD ESTCOURT PRIVATE BAG X7021</p><p>02 SEP 2021</p><p>SOCIAL WORK ESTCOURT 3310 CORRECTIONAL SERVICES</p></div>	

DEPARTMENT OF CORRECTIONAL SERVICES
NOTICE 592 OF 2020

DELEGATIONS: CORRECTIONAL SERVICES ACT AND REGULATIONS: DEPARTMENT OF CORRECTIONAL SERVICES UNDER THE POWERS VESTED IN ME IN TERMS OF SECTION 97(2) OF THE CORRECTIONAL SERVICES ACT, 1998 (ACT 111 OF 1998), I, ARTHUR FRASER, NATIONAL COMMISSIONER OF THE DEPARTMENT OF CORRECTIONAL SERVICES HEREBY DELEGATE THE UNDER MENTIONED COMPETENCIES TO THE PERSON IN THE POST INDICATED AGAINST THE APPLICABLE COMPETENCY WITH EFFECT FROM THE DATE OF PUBLICATION IN THE GOVERNMENT GAZETTE.

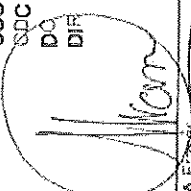
WITH REFERENCE TO THE FOLLOWING LEGISLATION AND PRESCRIPTS:-

- 1) Correctional Services Act, 1998 (Act no 111 of 1998). (The Act)
- 2) Correctional Services Regulations, 2004 as amended. (The regulations)
- 3) Collective Agreement DBC Resolution 1/2006. (Res 1 of 2006)

PROVIDED THAT:

- a) The level of delegation indicated hereunder against each competency, is the lowest level on which the competency may be exercised;
- b) Any line-functionary with an equal or higher rank is also authorized to exercise the same power.
- c) Regions all report to the National Head Office and therefore does not have jurisdiction over each other. Any delegated power that cannot be exercised for whatever reason in a region must be referred to National Head Office for a decision;
- d) The delegation indicated hereunder, remains in force should a section of the Act, including any Amendments to the competency itself, and the number of the new section is considered to be the number of the relevant provision of the Act;
- e) Any delegation does not prohibit the National Commissioner from exercising the power concerned or performing the duty concerned himself or herself (*Qui custodit originale potestate delegat*) who also may withdraw any delegation to any post (and therefore the incumbent in that post) at any time;
- f) A person who have been delegated an authority cannot delegate such authority. (*Delegatus delegare non potest*)
- g) The exercise of a delegated authority is at all times subject to the provisions of the Act and Regulations, Departmental Policies, the Departmental Orders and any directives issued in this regard; and;
- h) Levels of delegation indicated with Head Office, refer only to post structures which exist at the Correctional Services, Head Office, Pretoria.
- i) The following abbreviations may be applicable:

NC	=	National Commissioner
COC	=	Chief Operations Commissioner (Reference in any other delegated authority to COO implies the COC)
SDC	=	Chief Deputy Commissioner
DC	=	Deputy Commissioner
DIF	=	Director


A Fraser
National Commissioner, Correctional Services
Date: 2020/10/05

DELEGATIONS: CORRECTIONAL SERVICES ACT AND REGULATIONS: DEPARTMENT OF CORRECTIONAL SERVICES

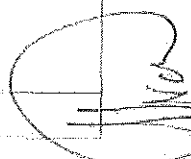
POWER OR DUTY BEING DELEGATED		PRINCIPAL FUNCTIONARY	DESIGNATION/POST LEVEL DELEGATED TO PER TIER			DELEGATION CONDITIONS AND LIMITATIONS
Section	Topic Description		Head Office	Region	Management Area	
Procedure Act, 1977 (Act No. 51 of 1977).	concerning in a particular case if it is the opinion that a change of circumstances calls for a change in the conditions.	NC	No delegation	No delegation	Head of Community Corrections	
75. Section 71 (3)	Issue a warrant in terms of section 70 (1)(c) for arrest if a person fails to appear when instructed to do so before a court, Correctional Supervision and Parole Board or other body in terms of subsection (2).	NC	No delegation	No delegation	Area Commissioner	
76. Section 72(4)	If a person is not satisfied with the response on his or her complaint or request from the Head of Community Corrections, he or she may refer the matter to the National Commissioner whose response must be communicated to the person concerned	NC	No delegation	No delegation	Up to 24 months incarceration; Head of Correctional Centre; Less than 24 months incarceration; Correctional Supervision and Parole Board	
77. Section 73(7)(b)	A person sentenced to incarceration for a period not exceeding five years as an alternative to a fine under section 287(4)(a) of the Criminal Procedure Act, may be considered for placement under correctional supervision by the National Commissioner or the Correctional Supervision and Parole Board as soon as possible after admission to a correctional centre subject to the confirmation of a suitable support system, unless the court has directed otherwise	NC	No delegation	No delegation	Regional Commissioner only with regard to section 74(2) (e).	The vice chairperson and 2 community member are not nominated by the National Commissioner and therefore not delegated
78. Section 74 (2) (e)	The National Commissioner must nominate one official of the Department to form part of the Correctional Supervision and Parole Board appointed by the Minister.	NC	No delegation	DRC	No delegation	
79. Section 74 (3)	The National Commissioner must designate the correctional official to act as secretary to the Parole Board	NC	No delegation	No delegation	No delegation	
80. Section 74 (5)	Determine on recommendation of the Department of Public Service and Administration the remuneration and allowances of a member of a Board who is not in the full-time service of the State may receive.	NC	DC: Human Resource Management	No delegation	No delegation	
81. Section 75 (1B) (e)	Identify offences for purposes of subsection (1A) with the concurrence of the National Commissioner	NC	CDC Incarceration and Corrections	No delegation	No delegation	



A. Fisher
National Commissioner: Correctional Services
Date: 5 October 2020

DELEGATIONS: CORRECTIONAL SERVICES ACT AND REGULATIONS: DEPARTMENT OF CORRECTIONAL SERVICES

POWER OR DUTY BEING DELEGATED		PRINCIPAL FUNCTIONARY	DESIGNATION/POST LEVEL DELEGATED TO PER TIER			DELEGATION CONDITIONS AND LIMITATIONS
Section	Topic Description		Head Office	Region	Management Area	
62.	Section 75(2)(a) read together with 75(2)(c)	NC	No delegation	No delegation	Area Commissioner	
63.	Section 75 (7) (a) and (b)	NC	No delegation	No delegation	Head of Correctional Centre	
64.	Section 75 (6)	NC	CDC Incarceration and Corrections	No delegation	No delegation	
65.	Section 79 read with regulation 29A(7)	NC	No delegation	No delegation	Up to 24 months incarceration Head of the Correctional Centre after receiving a report from the medical advisory board as referred to in section 79(3)(e)	Other categories provided for in the Act and not delegated
66.	Section 8A(1)	MC	No delegation	No delegation	Head of Correctional Centre Head Community Corrections (for offenders under Community Corrections)	



A. ROSSIER
National Commissioner: Correctional Services
Date: 5 October 2020



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

Decision: Application to be Released on Medical Parole: Mr JG Zuma: 221673598

1. In terms of section 75(7)(a) of the Correctional Services Act 111 of 1998, (CSA) as amended, read together with sections 79 and regulation 29A of the CSA, I, Arthur Fraser, National Commissioner: Department of Correctional Services must make a decision whether or not to approve an application for medical parole of a sentenced offender.
2. I must first hasten to indicate that as the National Commissioner, I delegated the empowering authority in terms of section 75(7)(a) to Heads of Correctional Centres as promulgated in government gazette no. 43834 dated 23 October 2020 in terms of section 97(3) of the Act. However, in the introduction of the delegation it indicates that "*any delegation does not prohibit the National Commissioner from exercising the power or duty assigned:...*"
3. Taking into consideration the events that occurred during the month of July 2021 (public unrests and destruction of property) following the incarceration of Mr JG Zuma (Mr Zuma), as well as the ongoing heightened public interest in any matter that relates to Mr Zuma, I instructed that all matters surrounding the incarceration and care of Mr Zuma where decisions are required, that such be done in consultation with myself (as the National Commissioner).
4. Prior to 06 August 2021, I was briefed by both the acting Regional Commissioner for the KwaZulu-Natal Region and the Estcourt Head of Correctional Centre on their concerns with regard to the deteriorating health and wellbeing of Mr Zuma. They informed me that his physical appearance (discolouration of his face) was a matter of concern and further thereto that he had a sudden and visible loss of weight within a short period. Such a report was of great concern to me.

5. On 4 September 2021, the KZN Regional Commissioner and Estcourt Head of Correctional Centre requested an audience indicating that they were concerned that the Medical Parole Advisory Board (MPAB) had not recommended for the placement of Mr Zuma on medical parole as he had been hospitalised for an extended period of time. A legitimate concern for the Estcourt Head of Correctional Centre was that the facility (although new), would not be able provide the type of tertiary health care required for Mr Zuma.

6. The Estcourt Correctional Centre could not risk the life of an inmate being fully aware that it has no capacity to render the required tertiary health care and such will amount to major consequences should Mr Zuma perish within our facility.

7. As a result of this engagement, I requested that relevant documents be availed for my consideration.

8. The following documents were presented to me for consideration:
 - 8.1 Three medical reports by the South African Military Health Service (SAMHS) dated 08 July 2021, 28 July 2021 and 5 August 2021.

 - 8.2 Report by Dr LJ Mphatswe, a member of the MPAB commissioned to do a physical examination of Mr Zuma and gathered evidence in support thereof.

 - 8.3 Recommendation by the MPAB on the condition of Mr Zuma.

9. I am advised by the Acting Chief Director Legal Services that the MPAB makes recommendations to the authority that must make a decision.

10. In my view, this situation occasioned a unique moment within the history of Correctional Services, where a former Head of State of the Republic of South Africa is incarcerated whilst still entitled to privileges as bestowed by the Constitution.

11. Having regard for the aforementioned and knowing that the Estcourt Head of Correctional Centre is at the level of an Assistant Director, it is within this context that I decided to rescind the delegation as confirmed in section 75(7)(a) of the Correctional Services Act 111 of 1998, as amended.

12. I therefore requested that all relevant and available information be at my disposal for consideration as the legal authority to arrive at a decision. I inter alia considered the following in coming to a decision:

12.1 Mr Zuma is 79 years old and undeniably a frail old person.

12.2 That the various reports from the SAMHS all indicated that Mr Zuma has multiple ^{comorbidities} ~~comorbidities~~ which required him to secure specialised treatment outside the Department of Correctional Services (DCS).

12.3 That Dr LJ Mphatswe (member of MPAB) in his report dated 23 August 2021 recommended that the applicant, Mr JG Zuma be released on medical parole because his "clinical health present unpredictable health conditions" and that sufficient evidence has also arisen from the detailed clinical reports submitted by the treating specialists to support the above read recommendation.

12.4 The Medical Parole Advisory Board recommendation agreed that Mr Zuma suffers from multiple comorbidities. The MPAB further stated that his treatment had been optimised and his conditions have been brought under control because of the care that he is receiving from a specialised hospital, therefore they did not recommend medical parole. It is the type of specialised care that cannot be provided by the Department of Correctional Services in any of its facilities.

12.5 As a result, there is no guarantee that when returned back to Estcourt Correctional Centre Mr Zuma's "conditions" would remain under control. It is not disputed that DCS does not have medical facilities that provide the same standard of care as that of a specialised hospital or general hospital.

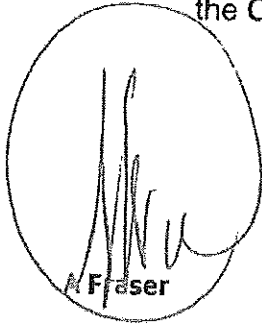
12.6 Mr Zuma's wife, Mrs Ngema, has undertaken to take care for him if released, as Mr Zuma will be aided by SAMHS as a former Head of State, providing the necessary health care and closely monitoring his condition.

13. Having considered all the relevant information, I am satisfied that Mr Zuma meets the criteria in section 79(1) to be placed on medical parole. I hereby approve his release on medical parole immediately (5 September 2021) on the following conditions:

13.1 Mr Zuma must undergo medical evaluations as required by his medical team and medical reports must be provided to the DCS monthly until expiry of his sentence.

13.2 Mr Zuma must be monitored by the Community Corrections office nearest to his residence (address as provided in the application) according to his monitoring classification.

13.3 Mr Zuma must adhere to these and any other conditions that may be set by the Community Corrections Monitoring Committee.



National Commissioner
Department of Correctional Services

Date: 2021/09/05

ESTCOURT CORRECTIONAL CENTRE : CASE MANAGEMENT COMMITTEE

Enquiries: MCHUNU BC
Tel.no.: 083 670 8450

The Chairperson
Correctional Supervision and Parole board
GLENCOE

Attached please find a G326 with regard to the possible consideration for parole / recommendation for placement under correctional supervision for the following offender.

Name of offender : JACOB GEDLEYHLEKISA ZUMA
Registration number : 221673599

1. The following documents are attached in sequence :-

No.	Document name	No of pages	Date of document
1	G326 - Profile report	1-23 (23)	2021-07-29
2	SAP 69 (c) - Record of previous convictions		
3	SAP 62 - Crime description		
4	Sentence remarks		
5	Sentence plan		
6	Sentence plan progress reports		
7	Report by Unit Manager		
8	Report by work place supervisor		
9	Confirmation of support systems	24-25 (2)	2021.08.25
10	Confirmation of employment offer		
11	Report by Social Worker	26-29 (4)	2021.08.29
12	Report by Psychologist		
13	Report by Educationalist		
14	Report by Religious Worker		
15	Medical report	30-31 (2)	2021.07.28
	Add additional reports		
16	APPLICATION FOR PLACEMENT - Medical Release	32 (1)	2021.07.29
17	16 (1)	33 (1)	2021.07.29
18	16 (1)	34 (1)	2021.07.02
19	Schedule B	35-40 (6)	2021.07.28

2. The case of the offender has / has not previously been considered by the CSPB. See detail of previous considerations :-

Date of previous decision	Decision by CSPB (Attached previous decisions : G326)
N/A	N/A

3. All documentation attached has been classified "Confidential".


CHAIRPERSON : CMC


SECRETARY : CMC

Date : 2021-07-29

Date : 2021-07-29

A. TO THE CHAIRPERSON: CORRECTIONAL SUPERVISION AND PAROLE BOARD/ HEAD CORRECTIONAL CENTER

In terms of the provisions of Section *42(2) / * 42(2) (a) / * 79 of the Correctional Services Act no. 111 of 1988, the enclosed profile report of the following offender is submitted for your consideration.

Registration Number

221673598

Surname and First Names

JACOB (T)EDLEHILEKISA ZUMA

Placement Recommendation: Parole

HEAD ESTCOURT
PRIVATE BAG X7021

29 JUL 2021
Date CMC
ESTCOURT 3310
CORRECTIONAL SERVICES

ASD

Title

Chairperson: Case Management

Committee ESTCOURT K. NAIDOO

Surname and Initials:

B. TO THE CHAIRPERSON: CASE MANAGEMENT COMMITTEE

In terms of the provisions of section 73 of the Correctional Services Act, No 111 of 1988 the recommendation submitted by the Case Management Committee is * approved /disapproved/amended as follows:-

- 1. Placement on Day Parole (category) on to
- 2. Placement on Parole on 5 SEPTEMBER 2021 to
- 3. Placement on Medical Parole on 5 SEPTEMBER 2021 to 7 OCTOBER 2021
- 4. Placement under Correctional Supervision on to
- 5. Release after total sentence has expired on
- 6. Further profile report requested on for reconsideration

+ MOTIVATED REASONS FOR DECISION IN RESPECT OF 1 TO 6 ABOVE:

SEE REASONS ATTACHED.

Title

5/9/2021

Date

Chairperson: Correctional Supervision and Parole Board / Head Correctional Center NATIONAL COMMISSIONER.

Surname and Initials: A. FRASER

Signature

05/09/2021

Date

* Delete if not applicable.
+ Should space be inadequate use a separate annexure.
Note: This form must be completed in black ink.



U

Registration Number 221673598 G326 Number: 01 Completion Date: _____
 Serial Number: _____ Distribution: 6313 Name of Correctional Centre: ESTCOURT CORRCENT

A. PERSONAL PARTICULARS

1. Name : JACOB GEEDLEYIHLAKISA ZUMA 2.* Identity Number / Date of birth : NOT AVAILABLE
 3. Gender : MALE 4. Current Age : 79
 5. Marital State : SINGLE, MARRIED 6. Qualification (s) : _____
 7. Citizenship : SOUTH AFRICA 8. Place of Birth : NKANDLA
 9. If place of birth is outside RSA, how and when was citizenship obtained? N/A
 10. If deportable, furnish full particulars : N/A
 11. Accomplice (s) : *Yes/No — If YES complete G326 (e)
 12. Representation : *Yes/No — If YES, attach previous representations and replies
 13. Security Classification : MINIMUM From: 2021.07.08
 14. Privilege Group B From: 21, 07, 08
 15. Current workplace : N/A From: / /

* Delete if not applicable

**B. CURRENT SENTENCE(S), DESCRIPTION OF CRIME(S) AND RECORD OF ESCAPE(S)
IN CHRONOLOGICAL SEQUENCE**

Case No./ Sent Date/ Warrant No.	Court and Place of sentence	Offence (s) committed and description of offence	Sentence as reflected on warrants(s)
CCT 52/11 2021/06/29 1	CONSTITUTIONAL COURT	- CONTEMPT OF COURT	- FIFTEEN (15) MONTHS IMPRISONMENT

Effective Sentence Period : - FIFTEEN (15) MONTHS IMPRISONMENT

* = Delete if not applicable

C. CALCULATIONS			
1. Maximum Release Date	2022	10	07
2. Special Remission of Sentence (Reference) Reason :	N/A		
3. Amnesty (s)	N/A		
4. Sentence Expiry Date	2022	10	07
5. 1/2 of Sentence Period	2022	02	23
6. Non Parole Period	2021	10	30
7. 1/6 of Sentence Period	2021	09	23
8. 1/4 of Sentence Period	2021	10	30
9. 1/3 of Sentence Period	2021	12	07
10. Minimum Detention Period	2021	10	30
11. 2/3 of Sentence Period	2022	05	07
12. Age 65 years, Completed 15 years	N/A		
13. Completed 25 years	N/A		
14. Profile Submission Date (3 months prior to minimum)	2021	07	30
15. Profile Preparation Date (3 months prior to Profile Submission)	2021	07	08

D. CERTIFICATION		HEAD ESTCOURT PRIVATE BAG X7021	
Sentences / Calculations certified as correct.		ASD	Official Date Stamp
Chairperson: Case Management Committee		Title	2021-10-2021
Surname and Initials : <u>M. NAIDOO</u>		NC	CMC ESTCOURT 3310 CORRECTIONAL SERVICES
Chairperson: Correctional Supervision and Parole Board Head Correctional Center		Title	Official Date Stamp
Surname and Initials : <u>FEASER</u>	<u>NATIONAL COMMISSIONER</u>		

I. PREVIOUS CONVICTIONS (SAP89c attached)

1. *On/Since _____ to _____ there were _____ previous convictions recorded against the offender.
 Exposition of counts :
 Sexual : 1
 Aggression : 1
 Escapes : 1
 Drugs : 1
 Economical : 1
 Other : 1

No SAP 69c

2. *Longest / most severe sentence served / imposed : _____ sentence

3. Number of previous correctional supervision sentence (s) _____

4. Number of previous sentences converted to correctional supervision : _____

***F. REVIEW**

1. *Time since previous placement / release to date of current crime / conditions violated : _____

2. Number of previous placements _____ G306 issued : _____

3. Occasions neglected to comply with suspension conditions: _____

*= Delete if not applicable

G. DISCIPLINARY OFFENCE(S)

Yes / No

N/A

If YES, see attached form G 363 (a)

*** H EVALUATION (Report / Progress reports must be attached) - *Yes/No**

1. Medical : ~~*Yes/No~~

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

2. Social Worker : ~~*Yes/No~~

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

3. Psychological : ~~*Yes/No~~

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

4. Educational : ~~*Yes/No~~

- a. Attitude towards participation in education /training programmes :
- b. Training / skills obtained :
- c. Qualifications obtained and date :
- d. Trade test passed (if applicable) and date :
- e. Qualification upon admission and current qualification

5. Spiritual : ~~*Yes/No~~

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

6. * Head of section : General behaviour and adaptation : Report attached / not attached .

7. * Offender's representation is attached / not attached .

8. * Input(s) from victim(s) attached / not attached .

9. * Representations by family, lawyers, etc. attached / not attached .

Recommendations: **Medical Parole**

Reasons:

Basic Information

Jacob Gedleyihlekisa Zuma is currently (79) seventy-nine years old. Offender's place of birth is in Nkandla, KwaZulu Natal. Offender is married.

Sentence particulars

The offender is currently serving a sentence of fifteen (15) months imprisonment. He was sentenced on 2021.06.29. The offender committed the following crime: Contempt of Court. The offender commenced serving his sentence on 2021.07.08

Security Classification

The offender is classified as a low-risk.

Medical Report

[REDACTED]

Social worker

The Social Worker indicated in her report (page 26 to 29), that an in-depth assessment was conducted to ascertain the offender's needs and inform the care plan, however due to limited period he spent at Estcourt Correctional Centre, the care plan could not be implemented.

The Social Worker is also of the opinion that the social circumstances of the offender's family are suitable for his placement on medical parole.


Support system

A positive support system was confirmed on 2021.08.23 (page 24 to 25). The offender will reside at Kwanxamalala Area, Nkandla.

Care

Gloria Bongekile Ngema has consented (page 34) to take care of the offender, if he is released on Medical Grounds (Annexure G16(k)).

The CMC recommends that the offender should be placed on medical parole based on the reports received and is subject to approval with the delegated authority. This placement of an offender that is suffering from a condition of which the prognosis indicated a condition listed in regulation 29A (5), of the Correctional Services Regulations 2004, Promulgated by the Government Notice No. R914 of July 2004 as amended, subject to the provision of section 79 of the Correctional Services Act.1998



Signature of Offender

05/09/2021

Date

CONDITIONS RELATED TO COMMUNITY CORRECTIONS

It is recommended in terms of the provisions of section 42 (2) (vi) or (vii) of the Act that the offender be subjected to the following conditions in terms of Section 52 of the Act read in conjunction with Section 2 and Section 50 of the Act. These conditions are subject to the approval/amendment by the Correctional Supervision and Parole Board/Head Correctional Centre

1. MONITORING (Sect. 68)

- 1.1 Low Risk / Medium Risk / High Risk
- 1.2 Conventional Monitoring OR
- 1.3 Electronic Monitoring

Motivation:

2. HOUSE DETENTION (Sect. 58 AND 59)

Will Be Determined By Head Comcor

2.1 Exceptions for the absolute minimum period: Employment, Obtaining employment, Programme attendance, Perform community service, visits to the Community Corrections office and other valid reasons as approved by the head of Community Corrections. Strict control must be exercised, e.g. proof of obtaining employment.

2.2 Hours of house detention:

2.2.1 To be stipulated by Supervision Committee

2.3 Overhaul duration of house detention:

2.3.1 Until expiration of sentence:

3. COMMUNITY SERVICE (Sect. 60)

3.1 _____ hours per month (Total number of hours _____)

3.2 Institution: _____

4. SEEKS EMPLOYMENT (Sect. 52(1) (c) and Sect. 61)

Motivation/Remarks:

N/A

5. ACCEPTS EMPLOYMENT AND REMAINS EMPLOYED (Sect. 52(1)(d) and Sect. 62)

Employer (if available):

N/A

Motivation/Remarks:

6. COMPENSATION (As determined by the court) (Sect. 52(1)(e), (2)(a) and (c) and Sect. 63)

6.1 Pays R _____ per month/once off compensation for damage to victim(s).

6.1.1 Victim(s): N/A

Motivation/Remarks: _____

7. TREATMENT, DEVELOPMENT AND SUPPORT PROGRAMMES (Sect. 52(1)(f), Sect. 52(1)(q) and Sect. 64). IN CASE OF A CHILD SEE Sect. 69(1) and (2)

7.1 Treatment Programmes: N/A

Motivation/Remarks: _____

7.2 Development Programmes: N/A

Motivation/Remarks: _____

7.3 Support Programmes: N/A

Motivation/Remarks: _____

7.4 The Supervision Committee may specify additional programmes according to need. (sect. 64/2)

8. MEDIATION WITH VICTIM(S) (Sect.52(1)(g)): N/A

Motivation/Remarks: _____

CONDITIONS RELATED TO COMMUNITY CORRECTIONS (Continued)

9. FAMILY GROUP COUNSELLING (Sect. 52(1)(g) :

N/A

Motivation/Remarks:

10. FINANCIAL CONTRIBUTION TO THE COST OF COMMUNITY CORRECTIOS (Sect. 52(1) (h)

Sect. 54 (1) (b), Sect. 65)

Motivation :

N/A

11. RESTRICTED TO MAGISTERIAL DISTRICT(S) OR PART THEREOF (Sect. 52(1) (i) :

Motivation/Remarks :

Must not leave his Magisterial District without prior arrangements.

12. FIXED RESIDENTIAL ADDRESS (Sect. 52(1)(j) and Sect. 66) :

Motivation/Remarks :

Must remain from changing his Residential Address without prior approval.

13. PROHIBITION ON THE USE OF ALCOHOL AND ILLEGAL DRUGS NOT PRESCRIBED BY A MEDICAL PRACTIONER
Sect. 52(1) (k), Sect. 57(5) and Sect. 67) :

Motivation/Remarks :

Must remain from using alcohol or drugs.

J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (Continued)

14. PROHIBITION ON COMMITTING ANY CRIMINAL OFFENCE (Sect. 52(1) (l) :

Motivation/Remarks :

Must remain from committing any criminal offence while on Medical Parole.

15. PROHIBITION ON VISITING SPECIFIC PLACES (Sect. 52(1) (m) :

N/A

Motivation/Remarks :

16. PROHIBITION ON CONTACT WITH SPECIFIC PERSONS (Sect. 52(1) (n) :

N/A

Motivation/Remarks :

17. PROHIBITION ON THREATENING / INTIMIDATING PEOPLE BY WORD OR ACTIONS

(Sect. 52(1) (o) :

Motivation/Remarks :

Must remain from threatening or intimidating people.

18. THE PARENT(S) / GUARDIAN(S) HAS/HAVE NOT BEEN INFORMED OF THE CHILD'S PROPOSED PLACEMENT IN TERMS OF SECTION 51(3).

N/A

Reasons:

Remarks by Parent(s) / Guardian(s) :

19. MEDICAL PAROLE:

1. Periodically submit to medical examination by DC5 medical practitioner as determined by the Medical Advisory Board.
2. On improved medical conditions, supervisory conditions may be supplemented.

20. ADDITIONAL CONDITIONS:

J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (Continued)

21. SUPERVISION (Sec. 57)

- 19.1 In accordance to Section 57.3, I am subjected to being searched by a correctional official.
- 19.2 In accordance to Section 57.4, I am aware of the fact that I may not threaten, abuse, obstruct or deliberately avoid a correctional official
- 19.3 In accordance to Section 57.6, I am aware of the fact that I may be required to attend and participate in meetings regarding my behaviour with supervision officials or a Supervision Committee.
In accordance to Section 117(e), I am aware of the fact that should I abscond and thereby avoid
- 19.4 being monitored, I make myself guilty of an offence and I am liable of a conviction to a fine or imprisonment for a period not exceeding ten years or to imprisonment without the option of a fine or both.

22. RECOMMENDED CONDITIONS BY CASE MANAGEMENT COMMITTEE :

ESTCOURT

In accordance with Section 42 of the Act, I concur with my recommended conditions under community corrections and understand and accept the recommended conditions applicable and undertake to give my full cooperation pending the Correctional Supervise and Parole Board's/Head Correctional Centre's final approval / disapproval.

Remarks Conditions accepted

Signature of offender: [Signature]

Date :

HEAD ESTCOURT
PRIVATE BAG X7021

OFFICIAL DATE STAMP
29 JUL 2021

CMC
ESTCOURT 3310
CORRECTIONAL SERVICES

CHAIRPERSON: CASE MANAGEMENT COMMITTEE

ASD
TITLE

SURNAME AND INITIALS:

NANBO.K

In accordance with Section 52(1) and (2) of the Act, I concur with and understand and accept the amended/approved conditions applicable and undertake to give my full cooperation and further understand that should I violate any condition I may be returned to a Correctional Centre to serve the remainder of my sentence.

Remarks :

Signature of offender: [Signature]

Date :

05/09/2021

Date :

05/09/2021

* CHAIRPERSON: CORRECTIONAL SUPERVISION AND PAROLE BOARD.

* HEAD CORRECTIONAL CENTRE NATIONAL COMMISSIONER

SURNAME AND INITIALS

FRASER A

K. COMMUNICATION PLAN

- 1. + _____ Communication plan attached - well-known newsworthy case.
- 2. + _____ Communication plan not attached- unknown case.
- 3. + _____ Communication plan attached - newsworthy case. The fact that *his/her conversion of sentence to *correctional supervision / reference to court a quo / placement / release considered and not approved by you, should be disclosed .

* Delete if not applicable
+ Indicate which is applicable