

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CASE NO: CCT52/21**

In the matter between:

**JACOB GEDLEYIHLEKISA ZUMA**

Applicant

And

**SECRETARY**

**COMMISSION OF INQUIRY INTO STATE  
CAPTURE, FRAUD & CORRUPTION IN  
THE PUBLIC SECTOR, INCLUDING  
ORGANS OF STATE**

First Respondent

**RAYMOND MNYAMEZELI ZONDO N O**

Second Respondent

**THE MINISTER OF POLICE**

Third Respondent

**THE MINISTER OF JUSTICE &  
CORRECTIONAL SERVICES**

Fourth Respondent

**HELEN SUZMAN FOUNDATION**

Fifth Respondent

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**ANSWERING AFFIDAVIT**



I the undersigned

**PROFESSOR ITUMELENG MOSALA**

Do hereby state under oath that:

1. I am an adult male and employed as the Secretary of the First Respondent, the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("**Commission**"). The Commission's main place of business situated at Hillside House, 17 Empire Road, Parktown, Johannesburg. I am duly mandated to depose to this affidavit on behalf of the First and Second Respondents.
2. The facts set out in this affidavit are, to the best of my knowledge and belief both true and correct. To the extent that the statements do not fall within my personal knowledge and belief, confirmatory affidavits shall be obtained from the relevant persons.
3. I have read the founding affidavit of **Mr Jacob Gedleyihlekisa Zuma** ("**Mr Zuma**"). The Commission opposes Mr Zuma's application, for reasons that I provide hereunder.

**BASIS FOR OPPOSITION**

4. The application does not meet the legal requirements for the rescission of an order or judgment of this Court under Rule 42 of the Uniform Rules of Court ("**Uniform Rules**"), read with Rule 29 of the Rules of the Constitutional Court ("**Rules of this Court**").



5. Mr Zuma's affidavit is riddled with falsehoods, factual misrepresentations and distortions of the law. These will be set out below and each of them is answered.
6. Mr Zuma is in aggravated contempt of court. He has not purged the contempt and has no intention of doing so. No litigant can approach the doors of court with dirty hands. Mr Zuma lacks standing to bring any application before this Court while he remains in contempt of it.
7. The application is brought under Rule 42(1)(a) of the Uniform Rules, read with Rule 29 of the Rules of this Court. Rule 42(1)(a) empowers the Court to rescind or vary "*an order erroneously ... granted in the absence of any party affected thereby.*"
8. An applicant for rescission under this rule must show that the order sought to be rescinded was granted in their absence and that it was erroneously granted or sought. Mr Zuma cannot show that the order sought was granted in his absence. Nor can he show that it was erroneously sought or granted. Mr Zuma was a party to the proceedings that resulted in the order he now seeks to rescind. He was duly served with all court papers and he chose not to participate in those proceedings.
9. There are no errors in the granting of the order. The fact that Mr Zuma did not file answering affidavits does not mean that the order was granted in his absence. He intentionally chose not to file the answering

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affidavits. He was not a bewildered litigant, but a former President with access to legal representation, including two Senior Counsel.

10. In paragraph 37 of his founding affidavit, Mr Zuma blames his previous advocates and attorneys for not telling him that he should apply for an interdict against the summons issued compelling him to appear before the Commission. Mr Zuma chose the lawyers who advised him. He cannot shift the blame to them at this stage. But in any event, this is irrelevant to Mr Zuma's rescission application.
11. In paragraph 36 of the founding affidavit, Mr Zuma gives two reasons for not opposing the applications brought by the Commission before this Court. Firstly, he alleges that he did not have sufficient funds to engage lawyers to focus on the matter. Secondly, he claims that he put his *"trust in the clearly mistaken view that I could not be forced to appear before a Judge whose recusal was the subject matter of an ongoing court processes. I was clearly wrong in this belief, which I held in good faith."*
12. The first reason is false, and is denied. Mr Zuma's non-participation in the proceedings before this Honourable Court is a continuation of his non-participation in the proceedings of the Commission. When he walked out of the Commission on 19 November 2020, he never returned to the Commission thereafter and he adopted a defiant attitude against both the Commission and this Honourable Court. The public statements he issued since 19 November 2020 to date do not

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anywhere say that his non-participation was due to lack of funds. They all give other reasons including that he had no faith or confidence that this Honourable Court would adjudicate the matter impartially. Mr Zuma was legally represented until the contempt application was argued and judgment reserved. He responded to the directions of this Court on the issue of possible sentence via his attorneys. The second reason, in effect, blames the advice that he received. That is irrelevant. The important fact is that Mr Zuma acted intentionally when he did not file opposing papers. He says he absconded from proceedings before this Court for conscientious reasons.

13. A litigant who deliberately elects not to submit opposing papers cannot complain after the event. That is an abuse of the rescission procedure. A rescission is aimed at a litigant who was unaware of the proceedings affecting them. Mr Zuma's explanations – which range from blaming the legal advice he received to criticizing the majority of the Constitutional Court – do not constitute good grounds for rescission.
14. Mr Zuma cannot show any error in the judgment. The Court was fully cognizant of his failure to file answering papers and his reasons for doing so. There was no error relating to his "*absence from Court*". Mr Zuma cannot bring a "*defence*" after the event. Even if he were in default – which is denied – he would not be entitled to a rescission merely by disclosing a defence after a judgment against him.

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15. If the Commission was entitled to judgment there is no error merely because Mr Zuma believes he has a defence, which was not disclosed at the time of the judgment. The judgment – in a default scenario of which this is not – is granted on the basis that a respondent has been notified of the application. The existence or non-existence of a defence on the merits is an irrelevant consideration and, if subsequently disclosed, cannot transform a validly obtained judgment into an erroneous judgment. In this case, there is no defence at all.
16. Mr Zuma has explicitly stated that he does not intend ever to comply with the judgment. His protestations about a denial of his fair trial rights are a mere pretext.
17. He also perempted his rights to rescission. He explicitly and intentionally decided not to oppose. The application must be dismissed for this reasons also.

## **MATERIAL FACTS**

18. Mr Zuma's application comprises deliberate distortions of the facts. It is necessary to set the correct facts hereunder. Some of these facts have been considered by this Court before. Their repetition, however, is warranted to expose the falsehoods that underpin Mr Zuma's application.
19. Mr Zuma was the President of the Republic of South Africa between 2009 and 2018. During that period, the then Public Protector, Advocate



Thuli Madonsela, produced a report after an investigation into allegations of what she termed “*state of capture*”. The report detailed serious allegations of potential criminal behaviour by *inter alia*, Mr Zuma himself. Adv Madonsela did not make binding findings. Instead, she ordered the establishment of a Judicial Commission of Inquiry. As Mr Zuma was personally conflicted, the Public Protector prescribed in her remedial action that the Chief Justice, Mogoeng Mogoeng should select the Judge who will chair the inquiry.

20. Mr Zuma resisted the remedial action and brought a review application in that regard. A Full Court of the Gauteng Division dismissed the review application and awarded punitive costs against him. The Supreme Court of Appeal has recently confirmed the correctness of the punitive costs order.
21. Deputy Chief Justice, RMM Zondo was selected by the Chief Justice. Mr Zuma, as President, assented and duly appointed Justice Zondo.
22. During the evidence led before the Commission since its commencement, more than 30 witnesses have implicated Mr Zuma in allegations of potential criminal behaviour, abuse of State resources, maladministration and advancing the interests of his family, and those of his friends, the Gupta family.
23. Mr Zuma was called to appear before the Commission to answer to these allegations. In July 2019, he in fact appeared before the Commission. In those two days he prevaricated and did not give any



meaningful replies to pertinent questions about his involvement in the allegations of misuse of public office.

24. The Commission required Mr Zuma to return and appear before it again. After attempts to secure his co-operation and attendance voluntarily had failed, the Commission issued a summons compelling him to do so. He attended the Commission but only to object to the Chairperson continuing to preside, on grounds of perception of bias. His recusal application was dismissed.
25. On 19 November 2020, Mr Zuma, who had been represented by two Senior Counsel walked out of the proceedings. Prior to doing so his advocate had made it clear that they would be "*excusing themselves*". They did not ask for permission. No permission was granted. One of his arguments was that the Chairperson is biased, had sat on a matter where he was also a witness, and there was some sort of personal animosity between them. Now, in these papers, Mr Zuma claims that he had intended to return, at a later stage. This is a bald -faced lie. Mr Zuma made it clear on several occasions that he would not appear before Justice Zondo, as Chairperson under any circumstances.
26. I must also mention that Mr Zuma filed an application in the Kwa-Zulu Natal division of the High Court (Pietermaritzburg), where he seeks an order staying the operation of this Court's order that he be committed to prison for a period of 15 months. In that application, Mr Zuma alleges (in paragraph 27 of his founding affidavit in those proceedings)

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that he and his legal team walked out of the Commission on 19 November 2020 because “[we] understanding that we were entitled to do so given the position that we had taken in relation to the [Chairperson of the Commission]’ruling.”

27. Subsequently, a review application was launched. It was, however, not pursued. Mr Zuma says that he decided to focus on his criminal cases, rather than the review. That may be so. But that is a choice that he made. He is bound by that election. The fact is that there was no interdict brought to prevent the continuation of the Commission while the review proceedings ran their course.
28. As no interdict was in place, the summons remained binding and effectual. Mr Zuma was obligated to comply with the summons at law. He refused to do so.
29. The Commission instituted proceedings before this Court to enforce the summons. Those papers were served on Mr Zuma personally and via his Attorney at the time, Mr Eric Mabuza. I attach a copy of the issued notice of motion, with proof of service, as annexure “PIM1”.
30. Mr Zuma did not oppose the Application. In fact on 14 December 2020, he wrote a letter through his attorney in which he stated that he would not participate in the Constitutional Court proceedings, “at all”. I attach a copy of the letter issued by Mr Mabuza in this regard, as annexure “PIM2”.



31. The directions for the hearing of the matter were served on Mr Mabuza, as per annexure **"PIM3"**.
32. As such, the application which (was decided by this Court on 28 January 2021), was served on Mr Zuma. He intentionally elected not to file opposing papers. He told his attorneys as much.
33. The Commission issued fresh summons against Mr Zuma, directing him to appear on 18 to 22 January 2021 and 15 to 19 February 2021 (see annexures **"PIM4"** and **"PIM5"**). He did not appear on those dates either.
34. On 15 January 2021, Mr Zuma's attorneys addressed a letter to the Commission, recording that Mr Zuma would not be appearing between 18 and 22 January 2021. Two reasons were given for this: (a) that *"President Zuma can only be legally obliged to appear after his review application has been determined"*; and (b) that *"the Commission must await the decision of the Constitutional Court which has a bearing on President Zuma's appearance"*. A copy of that letter is attached as **"PIM6"**.
35. The application to declare Mr Zuma's conduct as contempt was also served on Mr Zuma, personally and through his then attorney. The notice of motion indicating service is attached as annexure **"PIM7"**.
36. Mr Zuma neither opposed the contempt of court application, nor filed any notice indicating his decision on the matter.



37. After the oral submissions, the Constitutional Court, on its own accord, invited Mr Zuma to file an affidavit, dealing with what he thought would be an appropriate sanction, in the event that he is held to be in contempt of Court. The directions were served on Mr Zuma's then attorney.
38. Mr Zuma did not file an affidavit as directed. Instead, he responded via his attorney, who enclosed a letter from him. The letter is attached ("PIM8") and states as follows:

*"I received your directions dated 9 April 2021 in which you direct me to "file an affidavit of no longer than 15 pages on or before Wednesday, 14 April 2021" to address two theoretical questions relating to sanction.*

...

*I have thought long and hard about the request in your directives. I have also been advised that addressing a letter of this nature to the court is unprecedented as a response to a directive to file an affidavit. However, given the unprecedented nature of my impending imprisonment by the Constitutional Court, we are indeed in unprecedented terrain.*

*The purpose of this letter is two-fold. First, although I am directed to address in 15 pages and within three court days my submissions on sanction in the event, I am found guilty of contempt of court and "in the event that this court deems committal to be appropriate, the nature and magnitude of the sentence supported by reasons.", I wish to advise you that I will not depose to an affidavit as presently directed. Second, I wish to advise that my stance in this regard is not out of any disrespect for you or the Court, but stems from my conscientious objection to the manner in which I have been treated.*



*Accordingly, I set out in this letter my reasons for not participating and deem it prudent, for the record, to appraise you of my objections.*

*At the outset, I must state that I did not participate in the proceedings before the Constitutional Court and view the directives as nothing but a stratagem to clothe its decision with some legitimacy. Further, in directing me to depose to an affidavit, the Chairperson of the Commission, as the applicant, and some politically interested groups styled as amicus curie are given the right of rebuttal. That is in my view not a fair procedure in circumstances where my rights under sections 10, 11 and 12 of the Constitution are implicated. I am resigned to being a prisoner of the Constitutional Court because it is clear to me that the Constitutional Court considers the Zondo Commission to be central to our national life and the search for the national truth on the state of governance during my presidency. It has also become clear to me that even though the Constitutional Court has no jurisdiction Deputy Chief Justice Zondo was determined to place the matter before judges who serve as his subordinates in order to obtain the order he wants*

*...*

*The directions took me by surprise in their breadth and scope. I understand them to be your attempt at giving me a right to hearing only on the question of sanction in the alleged theoretical or hypothetical basis that I am found guilty of contempt of court. That is of significant concern to me firstly because the Court would have known that I had decided not to participate in the proceedings of the Court. I did not ask for this right to hearing and since it is an invention of the Chief Justice I would have expected the Chief Justice to have been concerned about the motive of seeking my participation in mitigating by speculating about a decision concealed from me.*



...

*It is a matter of record that I filed no notice to oppose. Nor did I file an answering affidavit or written submissions. I also did not request or brief Counsel to appear on my behalf to address the Court on the issues raised by Chairperson Zondo on matters arising from the Commission of Inquiry. I was content to leave the determination of the issues in the mighty hands of the Court. If the Court is of the view, as it does, that it can impose a sanction of incarceration without hearing the "accused" I still leave the matter squarely in its capable hands.*

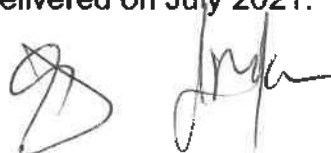
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*My decision not to participate in the contempt of court proceedings was based on my belief that my participation would not change the atmosphere of judicial hostility and humiliation reflected in its judgment against me. It is my view or my feeling that the judges of the Constitutional Court do not intend to ensure that they address disputes involving me in a manner that accords with the independence, impartiality, dignity, accessibility, and effectiveness of the Court.*

...

*Your directive, Chief Justice provides that I must answer the questions in a 15- page affidavit within 3 days. Regrettably, if I accede to your request, I purge my conscientious objection for having not participated in the proceedings of the Constitutional Court. So, please accept this letter as the only manner in terms of which I am able to convey my conscientious objection to the manner in which your Constitutional Court Justices have abused their power to take away rights accorded to me by the Constitution. I invite you to share this letter with them as it is relevant to the directions that you have issued . . ." [Underlining added].*

39. The judgment of this Court in respect of the contempt, which is the subject matter of this application was delivered on July 2021.



40. Plainly, Mr Zuma intentionally elected not to oppose the applications instituted by the Commission before this Court.

40.1 He received the founding papers in both applications.

40.2 The papers set out the procedure for opposition, which he ignored.

40.3 Mr Eric Mabuza, on Mr Zuma's instructions told this Court and the Commission on three separate occasions that Mr Zuma would not participate either at the Commission or before this Court. Mr Zuma himself told this Court that he would not respond to the directions on mitigation.

41. In his application before this Court, Mr Zuma gives no explanation about the statements made on his behalf by his attorney, either before this Court or before the Commission. His attorney, alternatively Mr Zuma himself, told this Court twice that Mr Zuma would not participate in the proceedings. That included ignoring the directives of the Chief Justice.

42. Mr Zuma also told the Commission, through his attorney that he would not be attending the Commission, despite the existence of a Court order, which compelled him to do so.

43. In these circumstances, there can be no doubt that Mr Zuma's conduct was deliberate and calculated. In addition, he has brought rescission grounds which are vexatious, as I demonstrate below.

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## VEXATIOUS RESCISSION GROUNDS

44. In his application for the rescission, Mr Zuma relies on a combination of factual falsifications, distortions of evidence and untenable legal submissions. I deal with these below and demonstrate why every one of them is not made *bona fide*. Mr Zuma's grounds appear from paragraph 73 to 100 of the founding affidavit (pages 29 to 35).

### The "Error" Pertaining to Choice of Remedy (para 73-78)

45. Mr Zuma asserts that it was an error for the Commission to seek an order of his direct incarceration, rather than an order first seeking compliance. This argument is factually false and legally untenable. In its application before the Constitutional Court, the Commission explicitly stated that Mr Zuma could indicate if he intended complying with the order of the Constitutional Court. Mr Zuma simply ignored this.

46. There is no error in any event. The notice of motion, the founding affidavit and the heads of argument submitted by the Commission made it clear that the Commission would be seeking an order of incarceration. This is a fact that was disclosed up front. Mr Zuma knew of it. When he exercised his election not to file opposing papers, he did so fully cognizant of the consequences of an adverse order. He had a chance to resist this, which he could have by tendering to attend the Commission hearings and to give evidence. He rejected it, intentionally.



47. Mr Zuma apparently includes in his definition of an “error” an unconstitutional or reviewable error of law (para 71). This is an astounding proposition. It suggests that this Court’s decision is “unconstitutional” and “reviewable” or that it constitutes an “error of law”.
48. It appears that Mr Zuma refuses to accept the binding authority of the decisions of this Court. There is no error pertaining to the relief as sought by the Commission.

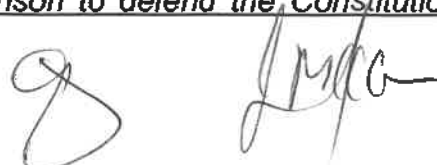
**Admission of “Hearsay” Evidence (para 79-81)**

49. Mr Zuma claims that this Court relied on hearsay evidence. This is just false. Mr Zuma issued a statement in his own name on 1 February 2021 in which he stated that he would defy the Court. He also stated that he was prepared to be arrested and serve time in prison. He stated:

*“I therefore state in advance that the Commission Into Allegations of State Capture can expect no further co-operation from me in any of their processes going forward. If this stance is considered to be a violation of their law, then let their law take its course.*

*I do not fear being arrested, I do not fear being convicted nor do I fear being incarcerated...*

*In the circumstances, I am left with no other alternative but to be defiant against injustice as I did against the apartheid government. I am again prepared to go to prison to defend the Constitutional*





rights that I personally fought for and to serve whatever sentence that this democratically elected government deems appropriate as part of the special and different laws for Zuma agenda.

JG Zuma

1 February 2021" [Underlining added].

50. These statements that were issued by the JG Zuma Foundation were also relevant. The Foundation speaks on his behalf. He is the patron of the Foundation. The statements clearly carried his endorsement. Mr Zuma knew about the statements. It was alleged specifically in the papers of the Commission that the statements were made with his knowledge, on his behalf and with his endorsement. He had ample opportunity to refute these allegations but elected not to. Therefore, the allegations were rightly attributed to Mr Zuma.
51. Importantly, however, when Mr Zuma finally spoke directly on his own not via his own attorney, he repeated the fact that he would not cooperate. The statement that he made in his own name through his own attorney Mr Mabuza, has been extensively quoted above. It carries statements that are vexatious and contemptuous of this Court.
52. For the purposes of rescission, however, the statements were fully debated by both the majority and minority judgments. Their status was known to the Court. It matters not that Mr Zuma believes the majority judgment to have been wrong. That is not a ground for rescission.

**Complaints about section 34 of the Constitution (para 81-88)**




53. The complaints about the rights of Mr Zuma under section 34 and Mr Zuma's rights of appeal are without any substance. Mr Zuma was afforded an opportunity to put forward any arguments that he may have wished to make in relation to the order sought to be made in respect of the contempt. He had full access to courts as per section 34 of the Constitution.

54. Mr Zuma's rights of appeal are not relevant to the merits of the matter. They are relevant only to the issue of direct access. Direct access was argued both in the first and in the second application. It was known by the Court that once direct access was granted, there would be no right of appeal. Therefore, the fact that Mr Zuma has no right of appeal after the judgment of this Court does not mean that there is an error. What is clear is that Mr Zuma simply disagrees with the majority judgment and prefers the minority judgment. That disagreement does not make this an "error" as per the requirements of Rule 42(1)(a) of the Uniform Rules of Court.

55. Mr Zuma has already conceded on his own that his lawyers did not advise him to bring an interim interdict in respect of the summons. This does not render the judgment of this Court erroneous.

**The Complaint about "Detention Without Trial" (para 86)**

56. Mr Zuma also contends that he has effectively been detained without trial. This is a deliberate distortion of the facts and the law.

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57. This case is about imprisonment for contempt of court. The constitutionality of the procedure of imprisonment for contempt has been the subject of numerous judgments in this Court, the Supreme Court of Appeal and the High Court. It has been authoritatively held that the procedure is a constitutional one.

58. The fact of the matter is that Mr Zuma's incarceration as punishment for contempt is part and parcel of South Africa's common law, which has been held to be consistent with the Constitution. Whether the incarceration should have direct or only after an order of compliance was the subject of debate between the Judges. The majority was fully aware of the opposing arguments. Accordingly, there is no basis for the allegation that the issue of detention without trial was not properly considered. If Mr Zuma had wished to urge this Honourable Court not to deal with the matter without a criminal trial, he should have participated in the proceedings and should have made that submission to the Court. He elected not to do so. He cannot complain now.

#### **The Complaint Relating to Acting Justice Pillay (para 92-93)**

59. Mr Zuma complains that Acting Justice Pillay was also a member of the panel that heard the matter. This complaint stands to be rejected. Justice Pillay's name was known beforehand, and that she was on the bench. It was never objected to. If Mr Zuma seriously intended to ask for the recusal of Justice Pillay, he should have done so. He failed to do so.



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60. Justice Pillay was never the subject of an “*improper intervention*” for appointment to the Constitutional Court. These allegations stem from the recent April 2021 interviews of Judges by the Judicial Services Commission for appointment to the Constitutional Court. One of the questions posed by Chief Justice Mogoeng, to Justice Pillay was that Minister Pravin Gordhan had, some six years ago, asked him how Justice Pillay had performed in an interview? According to the Chief Justice, he told Minister Gordhan that Justice Pillay was not recommended. That was the end of the discussion. The statements of Chief Justice Mogoeng do not reveal any “*improper intervention*”.

**Punishment for “Specific Individual” (para 97-98)**

61. Mr Zuma alleges that the sentence of incarceration was fashioned for him specifically. This is a false accusation. Mr Zuma was the respondent in Court. The sentence proposed by the Commission had to consider all relevant factors, including his status as former President. Mr Zuma cannot seriously suggest that his status as a former president was not a relevant factor in assessing the sanction. Plainly, it was. But the important fact is that this was not an error. These were facts known to the Court. They were given sufficient weighting, an appropriate balance was struck, and the sentence was imposed.


**Good Cause (para 101-103)**



62. Mr Zuma has simply not made out a case for good cause. He has repeated the grounds made in support of his erroneous judgment claim.
63. Furthermore, Mr Zuma has blamed poor legal advice for not asking for an interdict. He also blames his apparent belief that he was entitled to stay away from the Commission which was chaired by a person whom he regarded as being biased against him. But bearing in mind that Mr Zuma was advised by Senior Counsel , this cannot be accepted.
64. Moreover, the Mr Zuma does not give any details about the nature of the advice that he got and his own role in engaging with that advice. It must be recalled that as much as Mr Zuma may not be legally trained, he was formerly a president with access to the best available lawyers. In any event, bad legal advice does not mean that a judgment or order was granted erroneously.

**Discretion (para 104-107)**

65. Mr Zuma hints at evidence about his health situation. But he says nothing further. He gives no details at all.
66. It is impossible to work out whether the claim is that he is too ill. If that is so, that is a factor to be raised with the appropriate Correctional Services Department. It may be grounds to ask for early release on medical parole, but it is not a ground to apply for rescission on these facts. Mr Zuma deliberately chose not to adduce any evidence if it



exists about his state of health before the imposition of the sentence – he was invited to do this. Mr Zuma looks healthy. He addresses crowds of his supporters when he has been to the High Court in Pietermaritzburg for his corruption case. This past weekend he was shown on television leading a large crowd of “amabutho” in Nkandla. He also addressed a large crowd in Nkandla during this past weekend. Despite the grave situation of Covid-19, he did not wear a mask in public.

67. In these circumstances, it is submitted that the recission application should be dismissed, with costs.
68. I will now deal with the contents of the founding affidavit. Allegations that have not been dealt with are not necessarily admitted. To the extent that they are inconsistent with the contents of this affidavit, they are denied.

## **RESPONSES TO THE FOUNDING AFFIDAVIT**

### **Ad paragraphs 1 to 2**

69. These allegations are noted. If it is intended to suggest that Mr Zuma was entitled to a trial in contempt of court proceedings, that is denied.

### **Ad paragraph 3 to 9**

70. The allegations are noted.

### **Ad paragraph 10 and 11**



71. The relief sought by Mr Zuma is noted.
72. It is denied that Mr Zuma is entitled to the order that he seeks. There are no grounds set out for the rescission. Nor are there any grounds set out for the variation of the order, ostensibly to give Mr Zuma a further opportunity to make submissions on the sentence. Mr Zuma was given an opportunity to make submissions on the sentence, on at least two occasions. Firstly, Mr Zuma was served with the application in which the requested penalty was spelt out. He did not oppose that application. Secondly, this Court, on its own accord granted Mr Zuma an opportunity to make submissions on penalty. He rejected that attempt. To reopen the enquiry, Mr Zuma must show that the Judgment was granted in his absence (which means without his knowledge) and erroneously. He cannot show that at all. On his own version, he knew about these proceedings, but elected not to participate in them.
73. It is necessary to apply the correct legal principles in this case. The principle is that judgments of Court are final unless set aside on appeal. For the final Court of Appeal, the judgments remain final unless a party can bring themselves within the narrow grounds in Rule 42(1)(a), which Mr Zuma has applied under. If he does not fall within those grounds, his application should be dismissed.
74. Mr Zuma's application must be seen for what it is. It is really a guised appeal against this Court's judgment.

**Ad paragraph 12**

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75. Mr Zuma still does not accept his defiance of the Court Orders. He claims that his defiance is “*apparent*”. His description of the Judgment as “*passionate*” and “*charged*” reflects his ongoing lack of respect of judicial authority. I should mention at this stage that on 30 June 2021, a day after judgment was given in this matter, a statement was published by the J G Zuma Foundation. It purported to be expressing views in support of Mr Zuma. Mr Zuma is the patron of the Foundation. He is its founder. It spoke on his behalf. The statement is attached hereto marked “**PIM8**”. In the last paragraph the Foundation stated:

*“At a bare minimum, this means that courts must act independently and without bias, with unremitting fidelity to the law, and must be seen to be doing so. That did not happen in the Constitutional Court, as evidenced by the latest judgment. The dissenting minority judgment confirms that the majority judges breached the Constitution and their oath of office. This is so because courts are final arbiters on the Constitution’s meaning and the law – a high duty that must be discharged without real or perceived bias. In conclusion, the Jacob Zuma Foundation denounces Judge Khampepe [sic] judgment as judicially emotional & angry and not consistent with our Constitution.” [Underlining added].*

76. That is contemptuous, not just of Justice Khampepe and all the Justices who concurred in her judgment but of the whole Court as an institution.

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### Ad paragraph 13

77. The contents of this paragraph reflect Mr Zuma's disdain of the Court and its members. His statement that he trusts that the Court will be able *"to dig from the depth of its judicial being, to extract the requisite calmness and restraint"* suggests that the Court has not previously been calm or restrained in dealing with him. His firm assertion that he hopes that the matter will be dealt with *"on its legal merits"* again creates the unfortunate impression that the Court is not considering the legal merits of the matter when approaching the application. His statement that the Court wrongly accused him of a direct assault on its legitimacy on authority because of his *"genuine plea"* further adds to the insults that Mr Zuma has become accustomed to directing at this Court. Mr Zuma's characterization of his *"only sin"* that he took issue with the Chairperson of the Inquiry is plainly false, and therefore denied. The reason why Mr Zuma has been found guilty of contempt is because he disobeyed an order of this Court.

### Ad paragraph 14

78. It is not clear what Mr Zuma means when he asserts that he is likely to be *"the first direct prisoner of the Constitutional Court under our constitutional democracy"*. The statement is plainly intended to cast a shadow of doubt as to the legitimacy of the ruling of this Court. This is a factor that should be taken into account in assessing Mr Zuma's bona fides either for purposes of bringing the rescission application or



deciding an appropriate order as to costs. It is denied that there is anything unique or peculiar in the application for rescission. The Rules exist, they ought to be applied.

**Ad paragraph 15**

79. It is noted that Mr Zuma is in agreement with the minority judgment. But that is not a basis for the rescission of the majority judgment.

**Ad paragraph 16**

80. If the complaint of Mr Zuma is that the majority judgment was wrong in law in the way it applied the legal principles to his case, that is not a matter that can be solved by a rescission application. The majority judgment is the law. It cannot be attacked in rescission proceedings on the basis that it does not accurately *“represent the law on contempt of court orders in a constitutional democracy.”* It is noted that Mr Zuma refers to his *“unstable state of health”*. That is not a factor relevant for rescission, on these facts. It must be recalled that Mr Zuma had ample opportunity to put any facts that he wished for consideration before this Court. He chose not to do so. Even in this present application, Mr Zuma has produced no facts in support of the claim of his *“unstable state of health”*. The health considerations, which may be relevant, are factors to be taken into account by the Correctional Services Department in due course.

**Ad paragraph 17**

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81. I reiterate that outside the narrow ambit of Rule 42, which Mr Zuma has relied on, there is no other basis for the rescission. The fact that Mr Zuma feels that the sentence will have a serious impact on him does not given him grounds, without more for rescission.

**Ad paragraph 18**

82. These allegations are denied. It is clear that Mr Zuma seeks to avoid imprisonment. This is in conflict with the previous stance he has taken to claim that he is not afraid of imprisonment. In fact he has told this Court in a letter under cover of a letterhead of his own attorney of record that he is ready to become a prisoner. The factors that he mentions are to be taken into consideration by the Department of Correctional Services. They are not relevant once the sentence has been imposed.

**Ad paragraph 19**

83. These allegations are denied. Imprisonment, as this Court has already noted, is appropriate to vindicate the rule of law. This has no relevance to Mr Zuma's alleged "*political foes*". It simply has relevance only to the extent that this Court considered the evidence before it and arrived at the conclusion of imprisonment. Mr Zuma's claim that he should have been afforded an opportunity to mitigate "*after conviction*" is a ruse. He was told by this Court that he should make any representations he wishes to make should he be convicted. If he seriously wanted to utilize the opportunity, he should have done so. In



these paragraphs Mr Zuma still does not intend complying at all with the Order of the Constitutional Court. By bringing this Application, it is plain that Mr Zuma wants to have his cake and eat it. He wants to defy the Constitutional Court, but wishes to have no consequences visited upon him.

**Ad paragraph 20**

84. These allegations are denied. Mr Zuma refused on several occasions to give evidence before the Commission. This much is clearly set out in the first Judgment. It will therefore not be repeated herein.

**Ad paragraph 21**

85. These allegations are denied. The history of Mr Zuma's non-co-operation with the Commission has been well documented before. It is not necessary to repeat it here. The facts are also set out at paragraphs 29 to 51 of the judgment of this Court delivered on 28 January 2021.

86. These facts should dispel any notion of unfair treatment as against Mr Zuma. The Commission took all reasonable steps to ensure fairness to Mr Zuma. It is clear that Mr Zuma has distorted the evidence. He has misrepresented the facts. He has omitted details. He has told falsehoods to this Court.

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87. This, together with the reasons already articulated above, should result in the dismissal of this application. A litigant cannot approach the Court with false information.

**Ad paragraph 22**

88. I have set out above the correct sequence of the facts. The allegations pertaining to Justice Pillay are both false and irrelevant. Mr Zuma does not suggest that there was anything untoward in the warrant of arrest issued by Justice Pillay. It is, at any rate, the usual practice to issue a warrant of arrest where a criminal accused fails to appear in Court.

89. The warrant in issue was, on publicly available information, stood over and not executed pending the appearance of Mr Zuma at a later occasion. The reference by Mr Zuma to the Hanekom defamation matter is again spurious. That matter was decided on its facts, correctly as it appears since leave to appeal was refused both at the Supreme Court of Appeal and the Constitutional Court. The claims of a conflict of interest simply on account of the fact that Justice Pillay acted correctly by issuing a warrant of arrest and delivering a judgment against Mr Zuma in the Hanekom matter are completely unfounded.

**Ad paragraph 23**

90. These allegations are denied. After several attempts by the Commission to get Mr Zuma to co-operate by submitting affidavits, responding to Rule 3.3 notices and appearing at the Commission, on 1

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November 2019 Mr Zuma's attorneys informed the Commission that Mr Zuma was indisposed and would not be able to attend the Commission on 11 November 2019.

91. They claimed that they would notify the Commission about his recovery process. The letter is attached hereto marked "**PIM9**". There was no formal application in regard to miscommunication. Again on 4 December 2019 the Commission was informed by Mr Zuma's attorneys that Mr Zuma was ill and hospitalized. It was on this basis that a decision was taken to apply for a summons. The application was filed and delivered on 19 December 2019. Mr Zuma was required to file his opposition and answering affidavit by 6 January 2020.
92. Mr Zuma's attorneys did not in fact file the answering papers. Instead they undertook to do so by 10 January 2020. But on 10 January 2020 Mr Zuma's attorneys informed the Commission that the answering affidavit could not yet be filed since Mr Zuma had undergone a medical procedure on 6 and 9 January 2020. Copies of these letters are annexed marked "**PIM10**" and "**PIM11**". The application for the hearing of the summons was scheduled for 14 January 2020. But at 4.00pm on 13 January 2020 Mr Zuma filed an answering affidavit comprising some 105 pages, excluding the annexures. It was in this affidavit that Mr Zuma claimed that he was brought for medical treatment and would not be able to attend the Commission until after March 2020. Mr Zuma undertook that he would be sending his

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responses to specific areas of interest identified by the Commission.  
But this did not happen.

93. Accordingly, the allegations in paragraph 23 are false and denied.

**Ad paragraph 24**

94. These allegations are false and therefore denied. I have set out above the correct chronology, including by reference to documentary evidence exchanged at the time.

**Ad paragraph 25**

95. It is denied that the reason given for the recusal application was that Mr Zuma was “not well”. In fact, this was simply never mentioned at all during the application for recusal. The recusal application, in any event, was dismissed. A written Ruling was produced. Although an application for the review of that Ruling was instituted, there was no application to interdict the enforcement of the summons.

**Ad paragraph 26**

96. The claim that Mr Zuma was interested in giving evidence before the Commission is clearly false, and therefore denied. Mr Zuma knew that the only way that he could give evidence would be before Justice Zondo, as the lawfully appointed Chairperson of the Commission. He could not dictate that the evidence would only be given if Justice Zondo is not the Chairperson.

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### **Ad paragraph 27**

97. Mr Zuma's view about the lawfulness of the Commission are irrelevant. At the moment, the Commission exists. Moreover, its establishment has been endorsed by the High Court. Mr Zuma could not, on his own, decide that the Commission is unlawful and therefore he would not participate. He was obliged to attend the Commission, regardless of the view he held about its legality. These allegations concerning the decision of the Chairperson to issue a statement in which he explains the nature of the relationship he had with Mr Zuma were fully canvassed during the recusal application. A ruling was delivered. On Mr Zuma's version, there is a pending review, although he has taken no steps to progress it. If the review is to be heard in due course, those issues will be dealt with at that appropriate stage. For now, Mr Zuma was under a legal duty to appear before the Commission.

### **Ad paragraph 28**

98. It is true that Mr Zuma, together with his legal team left the premises of the Commission, without permission. This is in conflict with the law. A person who has been directed to appear at the Commission through a summons must obtain the permission of the Chairperson before they can excuse themselves. A person may not simply tell the Chairperson that they would be excusing themselves, and thereafter proceed in fact to do so. The decision of Mr Zuma apparently, via his counsel, to apply for the review of the Ruling of the Chairperson did not in Law entitled

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Mr Zuma to disregard the summons. He was still required to obey the summons, regardless of the pending review. This is the law, as pronounced by the Constitutional Court on several occasions.

#### **Ad paragraph 29**

99. Mr Zuma admits that the reason he left the proceedings was because of his intention *"to seek to review the decision of the Chairperson"*. He also admits that this was immediately corrected by the Evidence Leader, who pointed out that he was not entitled to leave without the permission of the Chairperson, regardless of his pending application for review. In these circumstances, it is unclear on what factual basis Mr Zuma alleges that he *"understood that we had the permission of the Chairperson to leave after that adjournment."* If he accepts that he was told specifically that he had no such permission, he could not sensibly have believed that he was entitled to leave. The notion that Mr Zuma left *"to take my medication and had left the Commission premises to do that"* cannot be reconciled with what transpired. Nor is it understandable in the light of Mr Zuma's own version that they wanted to be excused on the basis that he wished to institute a review application. Mr Zuma's statements of what was said in the Chairperson's Chambers is hearsay as he was not present and he has not attached any affidavit by a person who was present. What is clear is that on Mr Zuma's own version, he left the venue of the Commission proceedings without the Chairperson's permission. He had no right to do so.



### **Ad paragraph 30**

100. The claim that Mr Zuma was advised by his lawyers to appear as scheduled on the following Friday cannot be reconciled with the evidence. If that was his intention, this could have easily been conveyed to the Chairperson. In fact, when Mr Zuma walked out with his lawyers on 19 November 2020, it was made abundantly clear that they would not be returning.

### **Ad paragraph 31**

101. The charges were laid with the South African Police Service. I attach a copy of the criminal complaint as annexure "PIM12".

### **Ad paragraph 32**

102. It is true that an application was instituted in the Constitutional Court. It is false, however, that the Commission "*was no longer pursuing the matter via the prescribed Statutory route of the Commission's Act.*" When the Chairperson announced what the Commission would do about Mr Zuma's walkout from the Commission, he said that the Commission would do two things, namely, institute contempt proceedings in the Constitutional Court and lay a criminal complaint with the Police. He did not say the Commission would only do one of these.

103. By approaching this Court, the Commission was seeking the enforcement of the Statutory provisions.



**Ad paragraph 33 and 34**

104. These allegations are noted. It is not true that Mr Zuma has never treated the Court with contempt. He clearly has. This is why he has been found to be guilty of contempt of court. Mr Zuma's reference to "fairness" is self-serving. He has been treated with fairness, throughout the proceedings. It does not mean that there is lack of fairness when outcomes do not favour a particular litigant.

**Ad paragraph 35**

105. These allegations are noted. Mr Zuma has taken no steps to progress the application, such as compelling the production of the record, to the extent that he complains that no record has been provided. The record was lodged with the Registrar about two months or so ago and Mr Zuma has not indicated whether he will supplement his founding affidavit or not. Rule 53(4) of the Uniform Rules of the High Court obliged Mr Zuma to do this but he has not done so.

**Ad paragraph 36**

106. Mr Zuma misrepresents the position taken by the Commission. Elsewhere in this application, he states that he decided to spend time and money only in relation to the criminal cases. His attorney or record, Mr Eric Mabuza withdrew.

107. The Commission could not spend resources in respect of an application where there was lack of clarity whether it was being

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seriously pursued. This was made abundantly clear publicly. Mr Zuma, himself states that the review was not a priority. It is difficult to understand, on what basis, he then complains about the production of the record in respect of a review that he has not been pursuing.

108. Mr Zuma also claims that his failure to respond to the applications brought by the Commission before the Constitutional Court were based on two reasons. First, he claims lack of finances. Second, he claims that he was advised that he could not be forced to appear before a Judge whose recusal was the subject matter of an ongoing court process. But in relation to the latter, Mr Zuma admits that that was a wrongly held belief. In respect of the former – lack of resources – the explanation demonstrates that Mr Zuma acted deliberately when he did not oppose the applications. Throughout the period, Mr Zuma has been represented by Mr Eric Mabuza. This was until the finalization of the contempt of court application. As a matter of fact, therefore, Mr Zuma has had legal representation throughout the proceedings.

**Ad paragraph 37**

109. Mr Zuma's decision not to bring an interdict application in respect of the summons is not the focus of this Application. This application is about whether or not there are grounds for rescission such as good cause, erroneously granted or the default of Mr Zuma. These grounds are totally absent from the founding affidavit. Mr. Zuma's claim that he was

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sent to prison because of his *"lack of wisdom"* is disingenuous. He knows that the reason for his imprisonment is contempt of court.

**Ad paragraph 38 and 39**

110. Although Mr Zuma uses the issue of *"financial hardship"*, it is irrelevant to the current matter. Mr Zuma always had legal representation until the contempt of court application was argued before this Court. In fact, the last set of directions issued by this Court were responded to by Mr Eric Mabuza, on behalf of Mr Zuma.

**Ad paragraph 40**

111. These allegations are denied. Mr Zuma's reasons for not participating before the Constitutional Court had nothing to do with what has now been stated here. Mr Zuma's reasons were stated publicly. Mr Zuma stated that he was unwilling to appear before Judges whom he regarded as not being fair or neutral.

**Ad paragraph 41**

112. These allegations contain material misrepresentations. It is untrue that the Constitutional Court decided that Mr Zuma's *"non-participation in the urgent application"* demonstrated *"calculated disdain"* on his part. The contempt of court arises from Mr Zuma's non-compliance with the order of the Constitutional Court. The allegation that the *"Constitutional Court did not discharge its duty to scrutinize"* Mr Zuma's applications on grounds of urgency and direct access is preposterous. Both

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judgments of this Court contain an exhaustive analysis of both urgency and direct access.

**Ad paragraph 42**

113. These allegations are false, and therefore denied. Mr Zuma's decision not to oppose the applications before the Constitutional Court was based on reasons which were publicly articulated. Those reasons relate to Mr Zuma's view that the judiciary is not treating him fairly and accordingly he will not participate in its processes. His attorneys, who corresponded on his behalf with the Constitutional Court never once mentioned that Mr Zuma was unable to file documents before this Court on account of lack of funds.

**Ad paragraph 43**

114. This paragraph demonstrates precisely why Mr Zuma's recalcitrancy is of the worst kind. Statements that are objectively scandalous of the Court and the judicial system are viewed by him as acceptable. This is despite the fact that the Court has itself pronounced on those statements. In this paragraph, Mr Zuma repeats expressly the contents of statements which are defamatory and scandalous of the Court. Thus, there is no prospect of any corrective behaviour on the part of Mr Zuma. Mr Zuma again misrepresents the truth. Mr Zuma has not been imprisoned for holding the views that are critical of the Court. He has been imprisoned for contempt of court. It is astonishing

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that Mr Zuma believes that he is entitled to express views which are “*factually wrong*” as long as he genuinely holds them.

**Ad paragraph 44**

115. The Chairperson of the Commission was entitled to enforce the decision of the Constitutional Court. He had tried to invoke the summons procedure in terms of the Commission’s Act but that did not work. This is why the Constitutional Court was approached in the first place. It is not true that Mr Zuma was treated differently. The Commission was entitled to seek to enforce the summons through an interdict. Contrary to the claims made by Mr Zuma, he seeks to place himself above the law. He defied the summons. He has defied the Order of the Constitutional Court. In this Application he seeks to defy the order of his incarceration. There could not be a better example of a person who regards himself as above the Constitution.

116. It must be noted that days after this Court delivered its ruling, on 3 and 4 July 2021, Mr Zuma publicly stated that he would not be handing himself for arrest as ordered. He then went on a tirade to attack the judiciary, drawing false comparisons with the apartheid judiciary. He has made it abundantly clear that he will not go to prison, no matter what. It is accordingly clear that the real issue is that Mr Zuma simply wants to avoid prison. His complaints about this Court are solely intended to ensure that he does not comply.



117. It is remarkable that in the entire affidavit, Mr Zuma, nowhere states that he is committed to complying with the order of this Court, at all. This simply aggravates his crime of contempt of court.

118. The reference to P W Botha by Mr Zuma is vexatious. There are no facts at all which would justify the comparison that Mr Zuma is drawing.

**Ad paragraph 45**

119. These allegations are denied. The orders of this Court and its judgments do not sanction any attempt to subvert any process by anyone. Instead, they do what the Constitutional Court is required to do by law. They interpret the law and award just and equitable remedy. It is not true that the Chairperson informed the public that he would invoke the provisions of the Commission's Act but did something different. A charge was laid with the police because Mr Zuma's conduct constituted a crime. Moreover, an application was instituted to the Constitutional Court to enforce the summons. The approach to the Constitutional Court was in terms of the Constitution and the rules of the Constitutional Court. There is nothing flimsy or irrational in approaching the Court in terms of the Constitution. It is denied that Mr Zuma has not been treated in a way that respects his rights to equality under section 9 of the Constitution. The opposite is in fact true. Mr Zuma's behaviour demonstrates that he does not regard himself as bound by law.

**Ad paragraph 46**

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120. These allegations are denied. The simple fact was that a summons was issued. It was defied. The Commission was entitled to approach a Court to obtain an order compelling Mr Zuma to comply with the summons.

**Ad paragraph 47**

121. The complaint that the Constitutional Court should have “deferred” to the unnamed procedure should be rejected. The Constitutional Court was simply performing its function of construing a statute and the obligations flowing from it. This is its function under the Constitution. It is untrue that there was an attempt, from the onset, to imprison Mr Zuma. Mr Zuma was simply required to appear before the Commission, to answer questions pertaining to his role as President of the Republic of South Africa, when the events that form the subject matter of the inquiry unfolded. The decision to apply for an order of incarceration only became necessary when Mr Zuma defied the order of the Constitutional Court.

**Ad paragraph 48**

122. These allegations are false, and therefore denied. Mr Zuma himself accepts that he should have appeared before the Chairperson if no interdict was granted. It is therefore unclear why he simply repeats the same allegations which were rejected by the Chairperson. Mr Zuma seems to question the authority of the Constitutional Court to impose an Order directing him to appear before the Commission. This indeed

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is an unfortunate stance. But it also demonstrates why there is simply no likelihood that Mr Zuma will respect the authority of this Court .

#### **Ad paragraph 49**

123. Mr Zuma again repeats his stance. He believes that the conduct that he has demonstrated, including the public statements that he has uttered are perfectly acceptable. He does not accept that the statements have been found by the highest Court in the country as grounds of aggravation. If Mr Zuma does not accept the basic findings of this Court, it is plain that the only outcome he would accept is one that favours him.

#### **Ad paragraph 50**

124. In this paragraph, Mr Zuma attacks the Constitutional Court. He explicitly suggests that it is guilty of denigrating and demeaning litigants *“simply because they dare to hold genuine views about a judgment of the Court”*. This is a false assertion. Deliberate non-compliance with a Court order is a crime.

#### **Ad paragraph 51**

125. These allegations again demonstrate Mr Zuma's recalcitrance. He has not withdrawn a single one of the statements made. These statements, together with his conduct constitute contempt of court. On that score, the Court was unanimous.

#### **Ad paragraph 52**



126. If Mr Zuma, as he does, accepts that this was his election. He cannot have any legitimate complaint about a hearing. His argument appears to be that he was entitled to make the statements that he did. Those statements were insulting of the Court and its status. Mr Zuma is clearly not prepared to retract any of the statements made. This illustrates why the present application is a continuation of an abuse of the Court.

**Ad paragraph 53**

127. Mr Zuma's complaint that he could not be expected "*to plead in mitigation in the air*" overlooks the fact that the contempt of court proceedings are designed to afford the litigant who has been cited as a respondent the opportunity not only to deny that they are guilty of contempt but to mitigate on affidavit. Mr Zuma knew the sanction that was requested by the Commission. He ignored the founding affidavit. But in addition, the Court went out of its way to request Mr Zuma to file an affidavit in which he would appraise the Court on his view of an appropriate sanction.

**Ad paragraph 54**

128. Mr Zuma admits that he intentionally did not comply with the orders of the Constitutional Court. In his words he "*did not comply with the orders of the Constitutional Court because I believed that they were unlawful.*" This is literally taking the law into your own hands. Once the Constitutional Court has made a pronouncement, it must be

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obeyed without exception. It does not matter that Mr Zuma, as he claims he did had reasons for doubting the lawfulness of the judgment of Constitutional Court. Once the judgment was pronounced, it became the law and had to be obeyed. That Mr Zuma repeats his intentional decision to disobey the order of the Constitutional Court, shows beyond any doubt that Mr Zuma is beyond redemption.

**Ad paragraph 56 to 65**

129. These allegations are noted. It is denied that Mr Zuma has made out a case under each of the cited provisions.

**Ad paragraph 67 to 72**

130. The allegations contained herein are noted. The correctness of the legal propositions advanced is denied. It is specifically denied that the term "*erroneously granted*" or "*erroneously sought*" as used in Rule 42 includes an error of law, of the sort contended for my Mr Zuma. Nevertheless, the alleged errors of law are not erroneous, at all. They are findings of law. As they constitute findings of law, they are binding and ought to be obeyed.

**Ad paragraph 73 to 108**

131. These allegations have been addressed above. The submissions of law made above are repeated herein.



## CONCLUSION

132. Mr Zuma has failed to make a case for rescission. In addition, his application has repeated the gross insults to which this Court has been subjected.
133. Mr Zuma's previous non-participation in the proceedings of this Court is part of his defiance against the Judiciary he started when he walked out of the Commission on 19 November 2020 without the permission of the Chairperson despite the fact that he had been served with a summons requiring him to remain in attendance until he was excused by the Chairperson.
134. In any event, the *ex post facto* justification for purposes of the rescission application is contradicted by statements made by him and the Jacob Zuma Foundation moments after he walked out of the Commission on 19 November 2021 up to now. This statement is attached as annexure "PIM13". Parts of this statement read:

*"We stand by President Zuma and commend him for his firm stance of walking away from the Commission. It is indeed a comedy of errors, floundering from one error to the next.*

...

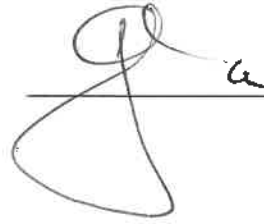
*We know that President Zuma and his team took this brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings.*



*President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process.”*


135. In argument the Court’s attention will be drawn to various other parts of those statements which support this.
136. Mr Zuma repeatedly refused to participate in the proceedings of this Honourable Court. When he so refused, he knew that the Court would go ahead and adjudicate the application without his contribution and that, if the Court found him guilty of contempt of court, there was a possibility that it could sentence him to a term of imprisonment. Despite knowing of all of this, he elected – very deliberately – not to participate and not to make a contribution to the proceedings. He adopted the attitude that this Honourable Court was not going to adjudicate the application impartially and said in effect that he did not care what it decided.
137. Indeed, he said that he was not afraid of jail. He cannot now, when this Honourable Court has adjudicated the matter, found him guilty and given him a sentence it considers appropriate, complain and ask the Court to reopen the case and hear him. Mr Zuma is the author of the situation in which he now finds himself. He must take responsibility for his decisions and his actions.
138. For these reasons, an addition to what has been stated, the application must be dismissed with costs.

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Deponent

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at GARDFONTEIN on this the 06<sup>th</sup> day of JULY 2021, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

<p>Handwritten signature of Commissioner of Oaths</p>	<p>AFRICAN POLICE SERVICE GARSFONTEIN 2021-07-06 COMMUNITY SERVICE CENTRE SUID-AFRIKAANSE POLISIEDIENS</p>
<p>(HANTTEKENING) KOMMISSARIS VAN EDE (SIGNATURE) COMMISSIONER OF OATHS</p>	
<p>VOLLE VOORNAME EN VAN IN DRUKKEDRIF FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS</p>	
<p>BESIGHEIDSADRES (STRAATADRES) BUSINESS ADDRESS (STREET ADDRESS)</p>	



IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CCT 295/20  
CASE NO:

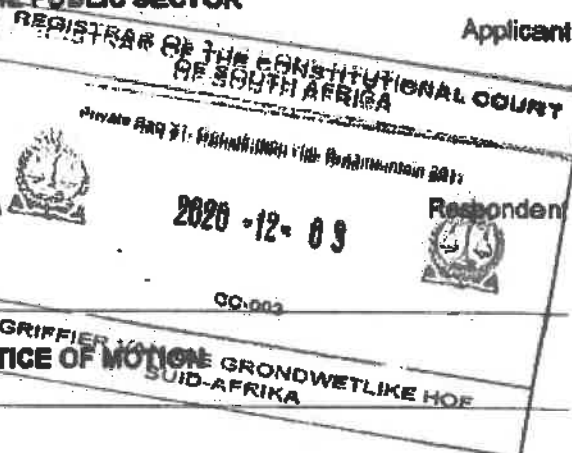
In the matter between:

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

Applicant

and

**JACOB GEDLEYIHLEKISA ZUMA**



Respondent

**TAKE NOTICE THAT** on a date to be determined by the Registrar of the above Honourable Court the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, the applicant herein, intends to apply on an urgent basis to the above Honourable Court on the basis of this Honourable Court's exclusive jurisdiction under section 167(4)(e) of the Constitution, alternatively under section 167(6)(a) of the Constitution and rule 18 of the Rules of the above Honourable Court, for an order in the following terms:

- 1 In terms of rule 12 of the Rules of this Honourable Court leave is hereby granted that this application be heard as one of urgency, the rules and forms



of service dispensed with in accordance with any directions that the Chief Justice may issue.

2 In terms of section 172(1)(a) of the Constitution it is declared that:

- 2.1 Mr Jacob Gedleyihlekisa Zuma ("the respondent"), in his capacity as the former President and head of the national executive of the Republic of South Africa, is constitutionally obliged to appear before the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State ("the Commission") and account by giving evidence and answering the allegations that concern his alleged failure as President and head of the national executive to fulfil his constitutional obligations, in terms of sections 1(d), 83(b), 83(c), 96 and 182(1)(c) of the Constitution and his oath of office.
- 2.2 The respondent is obliged to comply with any summons signed and issued by the Secretary of the Commission served on the respondent, in accordance with section 3(2) of the Commissions Act 8 of 1947.
- 2.3 The respondent's conduct in excusing himself and leaving the venue of the Commission hearing on 19 November 2020 without the permission of the Chairperson is unlawful and breaches section 3(1) of the Commissions Act 8 of 1947.
- 2.4 The respondent's failure to appear before the Commission on 20 November 2020 in accordance with the summons issued and



served on him, without seeking and/or obtaining the permission of the Chairperson, is unlawful and breaches section 3(1) of the Commissions Act.

- 3 The respondent is ordered to comply with the summons issued by the Secretary of the Commission directing him to appear before the Commission on 18 to 22 January 2021 (both dates inclusive) and 15 February 2021 to 19 February 2021 (both dates inclusive) at 10h00 on each day, unless directed otherwise by the Chairperson.
- 4 It is ordered that, when appearing before the Commission and after he has taken the oath or affirmation, the respondent shall answer any questions put to him by the designated Evidence Leader(s) and the Chairperson of the Commission, subject to the privilege against self-incrimination, and may not rely on the right to remain silent.
- 5 Unless excused by the Chairperson, the respondent is ordered to remain in attendance at the Commission from 10h00 on 18 to 22 January 2021 (both dates inclusive) and from 10h00 on 15 to 19 February 2021 (both dates inclusive), or any other date, in respect of which a summons has been issued and served on the respondent.
- 6 The respondent is ordered to comply with the Directives issued by the Chairperson of the Commission under regulation 10.6 of the Regulations of the Commission ("the Regulations") on 27 August 2020 and 08 September 2020, and any further directives under regulation 10.6, by submitting his affidavits on the matters contemplated in those directives, by no later than 10 January 2021.



7 The respondent is ordered to comply with any directives that the Chairperson may validly issue in the future against the respondent in respect of matters being investigated by the Commission.

8 The respondent is ordered to pay costs of this application, on the scale of attorney and own client.

**TAKE NOTICE FURTHER THAT**, if the respondent intends to oppose the relief sought in this application he is required, given the urgency of the matter, within five (5) days of the date of this notice of motion, to notify the Registrar of this Court and the applicant in writing of his intention to do so, and further that he is required to appoint in such notification an address at which he will accept notice and service of all documents in these proceedings.

**TAKE NOTICE FURTHER THAT** the Court is requested to issue directions to the parties, should the respondent give notice to oppose, regarding:

- (a) the filing of answering and replying affidavits;
- (b) the filing of written submissions;
- (c) any further matters it may require to be addressed by the parties.

**TAKE NOTICE FURTHER THAT** the applicant has appointed the State Attorney, Johannesburg, as his attorney of record and his address, as set out below, as the address where he will accept notice and service of all documents in these proceedings.



**TAKE NOTICE FURTHER THAT** the accompanying affidavit of the applicant will be used in support of this application.

**DATED AT JOHANNESBURG ON THIS 3<sup>rd</sup> DAY OF DECEMBER 2020**

**STATE ATTORNEY, JOHANNESBURG**

95 Albertina Sisulu Road  
19th Floor North State Building  
Johannesburg

Per: Mr Johan van Schalkwyk

+27 71 401 6235

Ref: 1544/18/P45

Email: [johvanschalkwyk@justice.gov.za](mailto:johvanschalkwyk@justice.gov.za)

**TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT**

Private Bag X1  
Constitutional Hill  
Braamfontein, 2017  
Johannesburg

By email: [generaloffice@concourt.org.za](mailto:generaloffice@concourt.org.za)

**AND TO: MR JACOB GEDLEYIHLEKISA ZUMA**

Respondent  
Kwadakwadunuse Homestead, KwaNxamalala, Nkandla, King  
Cetshwayo District, KwaZulu-Natal



**CARE OF: MABUZA ATTORNEYS**

**1<sup>st</sup> Floor**

**83 Central Street**

**Houghton, 2198**

**Johannesburg**

**Ref: Mr E T Mabuza**

**By email:** [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)  
[zondiwe@mabuzas.co.za](mailto:zondiwe@mabuzas.co.za)  
[rudolph@mabuzas.co.za](mailto:rudolph@mabuzas.co.za)

**By hand and By email**

A stylized handwritten signature consisting of a large loop and a vertical stroke.

6

A handwritten signature in cursive script.

## Shannon S. Van Vuuren

---

**From:** Van Schalkwyk Johannes <JohVanSchalkwyk@justice.gov.za>  
**Sent:** Thursday, 03 December 2020 15:22  
**To:** Swelihle S. Mfeka; Itumeleng Mosala  
**Cc:** Shannon S. Van Vuuren; Paul P. Pretorius  
**Subject:** FW: STATE CAPTURE COMMISSION // JG ZUMA  
**Attachments:** Scanned from a Xerox Multifunction Printer.pdf

Fyi

---

**From:** Dunisani Mathiba [mailto:mathiba@concourt.org.za]  
**Sent:** 03 December 2020 03:16 PM  
**To:** Van Schalkwyk Johannes; GeneralOffice  
**Cc:** eric@mabuzas.co.za; zondiwe@mabuzas.co.za; rudolph@mabuzas.co.za  
**Subject:** RE: STATE CAPTURE COMMISSION // JG ZUMA

Dear Mr Van Schalkwyk

Your email has been received and the contents thereof are duly noted.

Kindly find attached the stamped filing notice with a case number.

Regards

Dunisani mathiba

---

**From:** Van Schalkwyk Johannes [mailto:JohVanSchalkwyk@justice.gov.za]  
**Sent:** Thursday, 03 December 2020 2:25 PM  
**To:** GeneralOffice <GeneralOffice@concourt.org.za>; Dunisani Mathiba <mathiba@concourt.org.za>  
**Cc:** eric@mabuzas.co.za; zondiwe@mabuzas.co.za; rudolph@mabuzas.co.za  
**Subject:** STATE CAPTURE COMMISSION // JG ZUMA  
**Importance:** High

Dear Mr Mathiba

Herewith a link to our urgent application for issuing and filing. Link: <https://we.tl/t-Bda8Uojh5t> and password is CC-JGZ-APP@2020.12.03.

(The papers include the notice of motion and annexures totalling 389 pages and the indices).

Kindly advise us of the case number and the directions in respect of the set down date as a matter of urgency.

\*Kindly note the Respondent's attorney is copied herein and we agreed on service via email.

Warm regards



the doj & cd

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

Johan van Schalkwyk

B.JURIS(NWU);L.L.B(UP)

Senior Assistant State Attorney (P45)

State Attorney: Johannesburg

Tel: (011) 330 7655

Cell: 071 401 6235

Fax: 086 642 0970

[JohVanSchalkwyk@justice.gov.za](mailto:JohVanSchalkwyk@justice.gov.za)

Privileged/Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the Department of Justice and Constitutional Development shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of the Department of Justice unless specifically stated otherwise.

Privileged/Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the Department of Justice and Constitutional Development shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of the Department of Justice unless specifically stated otherwise.

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Att: Mr Dunisani Mathiba  
Acting Registrar  
Constitutional Court of South Africa  
Constitution Hill  
1 Hospital Street  
Johannesburg

1<sup>st</sup> Floor  
83 Central Street  
Houghton  
2198  
PO Box 55045  
Northlands 2116  
Tel: +27 11 483-2387/483-0476  
Fax: +27 11 728 - 0145  
Direct e-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Email: [Mathiba@concourt.org.za](mailto:Mathiba@concourt.org.za)  
[GeneralOffice@concourt.org.za](mailto:GeneralOffice@concourt.org.za)

Your Ref:  
Our Ref: Mr ET Mabuza/Mr RN Baloyi/Ms Z Longwe  
Date: Monday, December 14, 2020

Dear Acting Registrar,

**Judicial Commission of Inquiry into Allegations of State Capture and Fraud in the Public Sector Including Organs of State / President JG Zuma - Case Number: CCT295/20**

We are instructed by our client, President JG Zuma that he will not be participating in these proceedings at all.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Eric T. Mabuza', written over a large, stylized, circular scribble.

**MABUZA ATTORNEYS**

CC: The State Attorney, Johannesburg  
Attorneys for the Applicant  
Email: [johvanschalkwyk@justice.gov.za](mailto:johvanschalkwyk@justice.gov.za)

Two handwritten signatures in black ink, one appearing to be 'Eric T. Mabuza' and the other a less legible signature, positioned at the bottom right of the page.





**CONSTITUTIONAL COURT OF SOUTH AFRICA**

**Case CCT 295/20**

In the matter between:

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

**Applicant**

and

**JACOB GEDLEYIHLEKISA ZUMA**

**Respondent**

---

**DIRECTIONS DATED 11 DECEMBER 2020**

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The Chief Justice has issued the following directions:

1. The application is set down for hearing on Tuesday, 29 December 2020 at 10h00.
2. The respondent must file any answering affidavit by no later than Monday, 14 December 2020.
3. The applicant may file any replying affidavit by no later than Thursday, 17 December 2020.
4. Written submissions must be lodged by—
  - a) the applicant, on or before Friday, 18 December 2020; and
  - b) the respondent, on or before Tuesday, 22 December 2020.



5. The hearing will take place on a virtual platform. Directions will be issued in due course.
6. Further directions may be issued.



**MR DUNISANI MATHIBA  
ACTING REGISTRAR  
CONSTITUTIONAL COURT**

**TO: STATE ATTORNEY, JOHANNESBURG**

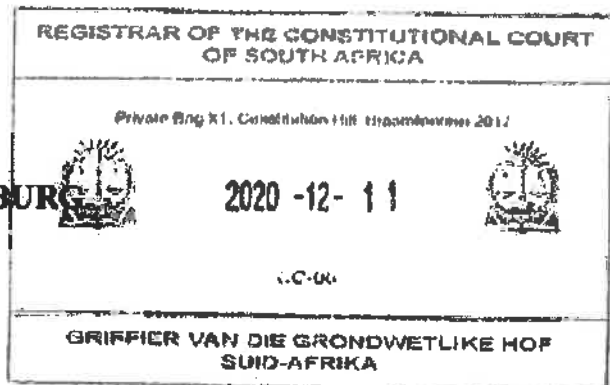
Attorneys for the Applicant  
10th Floor, North State Building  
95 Albertina Sisulu Road  
**JOHANNESBURG**

Tel: 071 401 6235

Fax: 086 642 0970

Email: johvanschalkwyk@justice.gov.za

Ref: 1544/18/P45



**AND TO: MABUZA ATORNEYS**

Attorneys for the Respondent

First Floor  
83 Central Street  
Houghton  
**JOHANNESBURG**

Email: eric@mabuzas.co.za / zondiwe@mabuzas.co.za / rudolph@mabuzas.co.za





2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
2193

Tel (International): +27 (10) 214-0651  
Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

---

**SUMMONS TO:  
APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:

SPS17(g)/1181/PJP

**To the sheriff or his/her deputy of Nkandla HL**

**INFORM:**

MR. JACOB GEDLEYIHLEKISA ZUMA

**OF**

KWADAKWADUNUSE HOMESTEAD,

KWANXAMALALA, NKANDLA,

KING CHETSWAYO DISTRICT,

KWAZULU-NATAL

**AND**

8 EPPING ROAD, FOREST TOWN,

PARKTOWN,

JOHANNESBURG (ERF 889 PARKTOWN)

**that he is hereby summoned to:**

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from **18 January 2021 to 22 January 2021 (both dates inclusive)** at **10h00am on each such day** for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto and any other affidavits or statements that the Commission may serve on him or his attorneys not later than 15 December 2020 and that, should Mr Zuma make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and he subsequently gives evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

**DATED at Parktown on this 26 day of NOVEMBER 2020.**



**Prof. Itumeleng Mosala**

**SECRETARY:**

**Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State**



A stylized handwritten signature consisting of a large loop at the top and a horizontal line at the bottom.A handwritten signature that appears to be the name 'Lynn' written in a cursive style.

## Annexure 'A'

1. Themba Mveli James Maseko : 22 June 2017; 24 August 2017; 04 September 2019
2. Mabel Patronella Mentor : 25 July 2018
3. Nhlanhla Musa Nene : 01 October 2018
4. Pravin Gordhan : 11 October 2018
5. Barbara Hogan : 30 July 2018; 08 October 2018
6. Ngoako Abel Ramatlhodi : 07 November 2018
7. Mahlodi Sam Muofhe : 16 November 2018
8. Fikile Mbalula : 18 March 2019
9. Angelo Agrizzi : 15 January 2019; 26 March 2019
10. Mxolisi Sandile Oliver Nxasana : 11 June 2019
11. Brent Adrian Simons : 09 August 2019
12. Abegnigo Hlungwani : 22 August 2019
13. Meliswe Mildred Oliphant : 07 October 2019
14. Makaringe Richard Baloyi : 11 October 2019
15. Yasmin Duarte : 07 October 2019; 07 October 2019
16. Samson Gwede Mantashe : 07 October 2019; 07 October 2019
17. Zwelini Lawrence Mkhize : 08 October 2019
18. Rajesh Sundaram : 05 April 2019; 29 April 2019
19. Miriam Phumla Williams : 16 August 2018; 22 February 2019
20. Sipiwe Nyanda : 02 November 2018; 11 December 2019
21. Trevor Andrew Manuel : 11 October 2018; 14 February 2019
22. Johan Wessel Booysen : 02 April 2019; 09 April 2019; 15 April 2019
23. Nonkululeko Sindane : 16 May 2019
24. Kobus Demeyer Roelofse : 27 August 2019
25. Lizo Njenje : 01 August 2019; 20 August 2019
26. Rieaz Shaik : 21 November 2019
27. Ronald Shingange : 12 December 2019
28. Mr Y : 28 January 2020
29. Abdurrazack "Zackie" Achmat : 13 February 2020
30. Popo Simon Molefe : 17 February 2020



The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.

A handwritten signature consisting of a large, stylized loop at the top, followed by a downward stroke and a horizontal base.A handwritten signature in cursive script, appearing to start with a capital letter followed by several connected letters.



2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
2193  
Tel (International): +27 (10) 214-0651  
Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

---

**SUMMONS TO:  
APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:

SPS17(g)/1285/PJP



**To the sheriff or his/her deputy of Nkandla HL and Johannesburg North HL**

**INFORM:**

**MR. JACOB GEDLEYIHLEKISA ZUMA**

**OF**

**KWADAKWADUNUSE HOMESTEAD,**

**KWANXAMALALA, NKANDLA,**

**KING CHETSWAYO DISTRICT,**

**KWAZULU-NATAL**

**AND**

**8 EPPING ROAD, FOREST TOWN,**

**PARKTOWN,**

**JOHANNESBURG (ERF 889 PARKTOWN)**

**that he is hereby summoned to:**

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from **15 February 2021 to 19 February 2021 (both dates inclusive)** at **10h00am on each such day** for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto and any other affidavits or statements that the Commission may serve on him or his attorneys not later than 15 December 2020 and that, should Mr Zuma make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and he subsequently gives evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

**DATED at Parktown on this 30<sup>th</sup> day of NOVEMBER 2020.**



**Prof. Itumeleng Mosala**



**SECRETARY:**

**Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud  
in the Public Sector including Organs of State**

**Annexure 'A'**



1. Themba Mveli James Maseko : 22 June 2017; 24 August 2017; 04 September 2019
2. Mabel Patronella Mentor : 25 July 2018
3. Nhlanhla Musa Nene : 01 October 2018
4. Pravin Gordhan : 11 October 2018
5. Barbara Hogan : 30 July 2018; 08 October 2018
6. Ngoako Abel Ramatlhodi : 07 November 2018
7. Mahlodi Sam Muofhe : 16 November 2018
8. Fikile Mbalula : 18 March 2019
9. Angelo Agrizzi : 15 January 2019; 26 March 2019
10. Mxolisi Sandile Oliver Nxasana : 11 June 2019
11. Brent Adrian Simons : 09 August 2019
12. Abegnigo Hlungwani : 22 August 2019
13. Meliswe Mildred Oliphant : 07 October 2019
14. Makaringe Richard Baloyi : 11 October 2019
15. Yasmin Duarte : 07 October 2019; 07 October 2019
16. Samson Gwede Mantashe : 07 October 2019; 07 October 2019
17. Zwelini Lawrence Mkhize : 08 October 2019
18. Rajesh Sundaram : 05 April 2019; 29 April 2019
19. Miriam Phumla Williams : 16 August 2018; 22 February 2019
20. Siphwe Nyanda : 02 November 2018; 11 December 2019
21. Trevor Andrew Manuel : 11 October 2018; 14 February 2019
22. Johan Wessel Booysen : 02 April 2019; 09 April 2019; 15 April 2019
23. Nonkululeko Sindane : 16 May 2019
24. Kobus Demeyer Roelofse : 27 August 2019
25. Lizo Njenje : 01 August 2019; 20 August 2019
26. Rieaz Shaik : 21 November 2019
27. Ronald Shingange : 12 December 2019
28. Mr Y : 28 January 2020

Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a large, stylized loop, and the second is a more complex, cursive signature.

- 29. Abdurrazack "Zackie" Achmat : 13 February 2020
- 30. Popo Simon Molefe : 17 February 2020

The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.





Att: Professor Itumeleng Mosala  
Secretary of the Judicial Commission of Inquiry  
into Allegations of State Capture, Corruption  
and Fraud in the Public  
Sector including Organs of State  
2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
**Parktown**

1<sup>st</sup> Floor  
83 Central Street  
Houghton  
2198  
PO Box 55045  
Northlands 2116  
Tel: +27 11 483-2367/483-0476  
Fax: +27 11 728 - 0145  
Direct e-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Your Ref:  
Our Ref: Mr ET Mabuza/Mr RN Baloyi/Ms Z Longwe  
Date: Friday, January 15, 2021

Dear Professor Mosala,

**President JG Zuma's appearance before the Commission on 18 - 22 January 2021**

1. We refer to your letter dated 11 January 2021 addressed to President Zuma.
2. We respectfully disagree with the Commission's view that President Zuma is obliged to appear on 18-22 January 2021 on the basis set out in your letter.
3. The Commission is aware that President Zuma has instituted an application to review and set aside the refusal by Deputy Chief Justice Zondo to recuse himself from hearing matters concerning him and his family. The review application is yet to be determined by the court. In our respectful view, President Zuma can only be legally obliged to appear after his review application has been determined.
4. We remind the Commission that it deemed appropriate to approach the Constitutional Court on an extremely urgent basis to compel President Zuma to comply with the very same summons that the Commission now wants to enforce

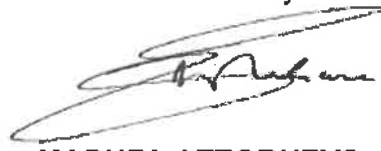
Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a stylized, cursive 'E' followed by a flourish. The second signature is a more complex, cursive signature.

and to forego some of his most fundamental rights. The Commission must therefore await the outcome of the decision of the Constitutional Court.

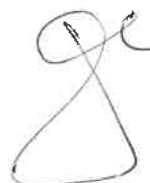
5. We further wish to remind the Commission respectfully that its application to the Constitutional Court did not only deal with the appearance of President Zuma but included amongst others a request for an order that President Zuma should not be allowed to exercise his constitutional right to remain silent.
6. It is therefore obvious that before any suggestion can be made about the appearance of President Zuma, the Commission must await the decision of the Constitutional Court which has a bearing on President Zuma's appearance.
7. In the circumstances, the summons purporting to compel President Zuma to appear before his review is finally determined and even before the Constitutional Court has delivered judgment on the question of his constitutional rights cannot be legally enforced at this stage.
8. We again place on record what we have previously stated regarding how the Commission continues to display conduct that shows clear bias against President Zuma. In this instance, the Commission now seeks to undermine a pending Constitutional Court judgment in pursuance of President Zuma.
9. Please be reminded that President Zuma enjoys no lesser rights than any other citizen of this country and the Commission has no powers whatsoever to act in a way that undermines President Zuma's constitutional rights.
10. It is for all the reasons mentioned above that we respectfully submit that President Zuma will not be appearing before the Commission on 18-22 January 2021. Accordingly, Counsel will not be briefed to appear.
11. The above should never be construed to suggest any disrespect or defiance of a legal process.
12. All our client's rights are reserved.



Yours faithfully

A handwritten signature in black ink, appearing to be 'S. Mabuza', written in a cursive style.

**MABUZA ATTORNEYS**

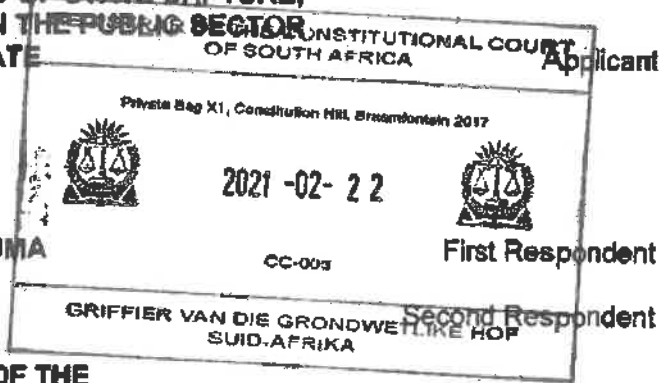
A handwritten mark or signature consisting of a large loop with a small flourish at the top.A handwritten signature in black ink, appearing to be 'J.M.', written in a cursive style.

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CCT 52/21  
CASE NO: \_\_\_\_\_

In the matter between:

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



and

**JACOB GEDLEYIHLEKISA ZUMA**

First Respondent

**MINISTER OF POLICE**

Second Respondent

**NATIONAL COMMISSIONER OF THE  
SOUTH AFRICAN POLICE SERVICE**

Third Respondent

**NOTICE OF MOTION**

**TAKE NOTICE THAT** the Applicant intends to apply to the above Honourable Court under section 167(6)(a) of the Constitution and rule 18 of the Rules of the Constitutional Court for an order in the following terms:

- 1 In terms of rule 12 of the Rules of this Honourable Court leave is hereby granted that this application be heard as one of urgency, and the rules and forms of service dispensed with in accordance with any directions that the Chief Justice may issue.

2 It is declared that Mr Jacob Gedleyihlekisa Zuma is guilty of contempt of court in that, in disobedience of paragraphs 4 and 5 of this Court's order of 28 January 2021 under case number CCT 295/20, he –

2.1 intentionally and unlawfully failed to appear before the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission") on 15 to 19 February 2021 in compliance with the summons issued by the Secretary of the Commission on 30 November 2020, which directed him to appear and give evidence before the Commission on the said dates; and

2.2 intentionally and unlawfully failed or refused to furnish the Commission with affidavits in compliance with the directives issued by the Chairperson of the Commission under regulation 10(6) of the Regulations of the Commission on 27 August 2020 and 8 September 2020.

3 Mr Jacob Gedleyihlekisa Zuma is sentenced to imprisonment for a term of two (2) years.

4 The Second and Third Respondents are ordered to take all such steps as may be required to give effect to the order in paragraph 3.



2  




5 Mr Jacob Gedleyihlekisa Zuma is directed to pay the costs of this application on the attorney and own client scale, including the costs of two counsel.

6 Further and/or alternative relief.


**TAKE NOTICE FURTHER THAT** the Chief Justice is requested to issue directions for the further conduct and disposal of the matter, in accordance with Rule 12 of the Constitutional Court.

**TAKE NOTICE FURTHER THAT** the Applicant has appointed the State Attorney, Johannesburg, as its attorney of record and his address, as set out below, as the address where it will accept notice and service of all documents in these proceedings.

**TAKE NOTICE FURTHER THAT** the accompanying affidavit of the Applicant will be used in support of this application.

DATED AT JOHANNESBURG ON THIS 22 DAY OF FEBRUARY 2021.

A handwritten signature in black ink, appearing to be a stylized 'J' or similar character.

3 

A handwritten signature in black ink, appearing to be 'Jm' or similar, with the number '3' written above it.



---

**STATE ATTORNEY, JOHANNESBURG**

**Attorneys for the Applicant**

10<sup>th</sup> Floor, North State Building  
95 Albertina Sisulu Str, Cnr Kruis Str  
Private Bag x9, Docex 688  
JOHANNESBURG, 2000

Per: Mr Johan van Schalkwyk

Cell: 071 401 6235

Ref: J Van Schalkwyk/1544/18/P45

Email: [JohVanSchalkwyk@justice.gov.za](mailto:JohVanSchalkwyk@justice.gov.za)

**TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT**

Private Bag X1  
Constitutional Hill  
Braamfontein, 2017  
Johannesburg

**AND TO: MR JACOB GEDLEYIHLEKISA ZUMA**

Respondent  
Kwadakwadunuse Homestead, KwaNxamalala, Nkandla, King  
Cetshwayo District, Kwazulu-Natal

**Care of Mabuza Attorneys**


1<sup>st</sup> Floor  
83 Central Street  
Houghton, 2198  
Johannesburg

Ref: Mr E T Mabuza

By hand &

By email: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)



4  


**AND TO: STATE ATTORNEY**

**PRETORIA**

**Per: Mr I Chowe**

**IChowe@justice.gov.za**

**ATTORNEY FOR THE MINISTER OF POLICE AND NATIONAL  
COMMISSIONER OF POLICE**

**C/o General E Groenewald**

**Email: GroenewaldD@saps.gov.za**



**In the High Court of South Africa  
Gauteng Local Division, Johannesburg**

CCT52/21

In the matter between:


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

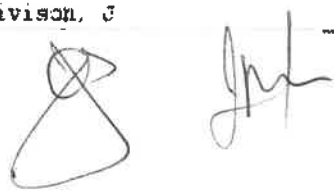
and:  
JACOB GEDLEYIHLEKISA ZUMA **1st Respondent**

Return in accordance with the provisions of the Supreme Court Act 10 of 2013, as amended

**RETURN OF SERVICE - NOTICE OF MOTION, FOUNDED AFFIDAVIT & ANNEXURES**

On this 23rd day of February 2021 at 14:36 I served this NOTICE OF MOTION, FOUNDED AFFIDAVIT & ANNEXURES upon MRS R Z NAKLABA, HOUSEKEEPER, ostensibly a responsible person and not less than 16 years of age, of and in control of and at the place of residence of JACOB GEDLEYIHLEKISA ZUMA at 8 EPPING RD, FOREST TOWN, JHB, the last mentioned being temporarily absent and by handing to the first mentioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 4(1)(a)(ii) The original return together with the original abovementioned process is dispatched to the mandator.

Sheets/Eye Bladsif/Bladsig	Date Datum	25.02.2021	Invoice Number Rekeningnummer Nr	I 64371																																				
<table border="1"> <thead> <tr> <th>Description</th> <th>Qty</th> <th>Unit</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Email Correspondence</td> <td>1</td> <td>2.50</td> <td>13.00</td> </tr> <tr> <td>STATION</td> <td>1</td> <td>10.50</td> <td>70.50</td> </tr> <tr> <td>TRAVELLING</td> <td>1</td> <td>10.50</td> <td>80.00</td> </tr> <tr> <td>Registration</td> <td>1</td> <td>1.65</td> <td>11.00</td> </tr> <tr> <td>REPAIR</td> <td>1</td> <td>5.62</td> <td>37.50</td> </tr> <tr> <td>Registry Fee</td> <td>1</td> <td>47.50</td> <td>440.00</td> </tr> <tr> <td>CONSTRUCTION</td> <td>1</td> <td>1.00</td> <td>4.50</td> </tr> <tr> <td>VAT / BTW 15%</td> <td></td> <td></td> <td>100.90</td> </tr> </tbody> </table>			Description	Qty	Unit	Amount	Email Correspondence	1	2.50	13.00	STATION	1	10.50	70.50	TRAVELLING	1	10.50	80.00	Registration	1	1.65	11.00	REPAIR	1	5.62	37.50	Registry Fee	1	47.50	440.00	CONSTRUCTION	1	1.00	4.50	VAT / BTW 15%			100.90	M Schoenfeldt Deputy Sheriff <b>T.A Kruger</b> Sheriff - Balg Johannesburg North - Noord 16701 334-497/6/4 Fax 011 334-4821 Cell 082 442 1952 P.O. Box 9025 Johannesburg 2000 info@sheriff.johannesburg.gov.za Payments - Betalings Bank Absa Bank Code 632015 Name Sheriff Johannesburg North Account 0861 149 867	
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE  
JOHANNESBURG**

In the matter between:

Case No - Saak No CCT52/21

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

Applicant

and:  
JACOB GEDLEYINLEKISA NUNA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rule, as amended

On this 26th day of FEBRUARY 2021 at 11:23 I certify that I served the NOTICE OF MOTION upon JACOB GEDLEYINLEKISA NUNA at KWADAKWADUNUSE HOMESTEAD, KWANKAMALALA, NKANDLA, residence by handing a copy thereof to Miss Noma, Female, Personal Assistant, a person apparently older than 16 years of age and employed at the Respondent's given address of residence. I further explained the nature, content and exigency of the process to the said person.

I herewith return the original document to your office  
RULE 54(6)(b)

Sheriff's Pay Rajugeld	Date Datum	Tax Invoice Number Belastingsoort No.					
	01.03.2021	I 12180					
Description			Qty	Vat	Amount	S. NQEMA Deputy Sheriff	
Registration			1	1.65	11.00	<b>S. Chetty</b> Sheriff - Bahu Melmoth, Eshowe, Mtunzini & Nkandla P O Box 666 Melmoth 3835 Tel: 035 450 0001 Fax: 035 450 0002 sheriff@melmoth@gmail.com Pinetown.	
Return & Copy			1	4.26	28.50		
Service Fee			1	10.63	71.00		
Travelling			200	180.00	1200.00		
Send/Rec Email			1	2.85	19.00		
Postage			1	3.75	25.00		
Licence Fee			1	120.00	800.00		
VAT / BTW					323.18	Dept. Standard Bank Acc: Sheriff Melmoth Business Account Bcode: 57729 Accto: 031013678	
VAT Reg No. BTW Reg No.	4310289923	You may require this account to be taxed and vouched before payment. Uitsluitend aan te rekenen op de rekening getaxteerd en getoetst op de jaarrekening		Total Totaal	2477.68	1013 VatReg 1544/18/P45	
COMMISSION OF ENQUIRY 2ND FLOOR, HILLSIDE HOUSE 17 EMPIRE ROAD, PARKTOWN, JOHANNESBURG 2193			Account No + Rekening Nr. Your Reference + U Verwysing My Reference + My Verwysing Ret: 112924/POPS/2		Registrar: JOHANNESBURG		



The Registrar  
Constitutional Court of South Africa  
**Braamfontein**

Email: [mathiba@concourt.org.za](mailto:mathiba@concourt.org.za)

Your Ref:  
Our Ref: Mr. ET Mabuza/Mr RN Baloyi  
Date: Wednesday, April 14, 2021

1<sup>st</sup> Floor  
83 Central Street  
Houghton  
2198  
PO Box 55045  
Northlands 2116  
Tel: +27 11 483-2387/483-0476  
Fax: +27 11 728 - 0145  
Direct e-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Dear Sir,

**Secretary of the Judicial Commission of Inquiry into Allegations of State Capture,  
Corruption and Fraud in the Public Sector including Organs of State / JG Zuma &  
Others - Case Number CCT52/21**

1. President Zuma has instructed us to forward the attached to the Honourable Chief Justice.
2. We have no further instructions on the matter.

Yours faithfully

A handwritten signature in black ink, appearing to read "Eric T. Mabuza", written over a large, stylized scribble.

**MABUZA ATTORNEYS**

Two handwritten signatures in black ink, one appearing to be a stylized "E" and the other a more complex signature.

# JACOB GEDLEYIHLEKISA ZUMA

KwaDakwadunuse Homestead  
KwaNxamalala, Nkandla  
King Cetshwayo District  
KwaZulu Natal

14 April 2021

**RE: DIRECTIONS DATED 9 APRIL 2021: CASE NO. CCT 52/21**

Dear Chief Justice

1. I received your directions dated 9 April 2021 in which you direct me to “file an affidavit of no longer than 15 pages on or before Wednesday, 14 April 2021” to address two theoretical questions relating to sanction.
2. The questions are framed on the presumption that the Court that heard the application of the Chairperson of the Commission of Inquiry into State Capture, Fraud and Corruption in Public Entities (“Zondo Commission”) has not determined the merits of whether I am guilty of contempt of court.
3. I have thought long and hard about the request in your directives. I have also been advised that addressing a letter of this nature to the court is unprecedented as a response to a directive to file an affidavit. However, given the unprecedented nature of my impending imprisonment by the Constitutional Court, we are indeed in unprecedented terrain.



4. The purpose of this letter is two-fold. First, although I am directed to address in 15 pages and within three court days my submissions on sanction in the event, I am found guilty of contempt of court and *"in the event that this court deems committal to be appropriate, the nature and magnitude of the sentence supported by reasons."*, I wish to advise you that I will not depose to an affidavit as presently directed. Second, I wish to advise that my stance in this regard is not out of any disrespect for you or the Court, but stems from my conscientious objection to the manner in which I have been treated. Accordingly, I set out in this letter my reasons for not participating and deem it prudent, for the record, to appraise you of my objections.
  
5. At the outset, I must state that I did not participate in the proceedings before the Constitutional Court and view the directives as nothing but a stratagem to clothe its decision with some legitimacy. Further, in directing me to depose to an affidavit, the Chairperson of the Commission, as the applicant, and some politically interested groups styled as *amicus curie* are given the right of rebuttal. That is in my view not a fair procedure in circumstances where my rights under sections 10, 11 and 12 of the Constitution are implicated. I am resigned to being a prisoner of the Constitutional Court because it is clear to me that the Constitutional Court considers the Zondo Commission to be central to our national life and the search for the national truth on the state of governance during my presidency. It has also become clear to me that even though the Constitutional Court has no jurisdiction Deputy Chief Justice Zondo was determined to place the matter before judges who serve as his subordinates in order to obtain the order he wants.

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, circular mark that resembles a large 'Z' or a similar symbol. The signature on the right is a more traditional cursive signature, appearing to read 'Zondo'.



6. This is despite the fact that by doing so, he ignores the review I have launched regarding his refusal to recuse himself.
  
7. The directions took me by surprise in their breadth and scope. I understand them to be your attempt at giving me a right to hearing only on the question of sanction in the alleged theoretical or hypothetical basis that I am found guilty of contempt of court. That is of significant concern to me firstly because the Court would have known that I had decided not to participate in the proceedings of the Court. I did not ask for this right to hearing and since it is an invention of the Chief Justice I would have expected the Chief Justice to have been concerned about the motive of seeking my participation in mitigating by speculating about a decision concealed from me.
  
8. As currently framed the directions – to the extent they purport to give me a right to a hearing on the question of sanction – it is a sham and an attempt to sanitise the gravity of the repressive manner in which the Court has dealt with my issues. It is disappointing and fortifies my concerns, when our apex court engages in what clearly is political or public management of a decision they have already taken.
  
9. In my view, these political gimmicks do not belong in the bench. It is apparent that the Constitutional Court is attempting to correct its rather incorrect decision in hearing a matter relating to a summons or the non-compliance thereto when the Commissions Act contains an internal provision as to how a commission should deal with such an eventuality.

Two handwritten signatures in black ink are located at the bottom right of the page. The signature on the left is a stylized, somewhat abstract scribble. The signature on the right is more legible, appearing to be 'J. M. C.' with a long horizontal stroke extending to the right.

10. It is a matter of record that I filed no notice to oppose. Nor did I file an answering affidavit or written submissions. I also did not request or brief Counsel to appear on my behalf to address the Court on the issues raised by Chairperson Zondo on matters arising from the Commission of Inquiry. I was content to leave the determination of the issues in the mighty hands of the Court. If the Court is of the view, as it does, that it can impose a sanction of incarceration without hearing the “accused” I still leave the matter squarely in its capable hands.
  
11. My position in respect of the contempt of court proceedings is a conscientious objection to what I consider to be an extraordinary abuse of judicial authority to advance politically charged narratives of a politically but very powerful commercial and political interests through the Zondo Commission. My objection is legitimate, as it is sourced directly from the Constitution itself and what it promises. The Constitution is the pillar of our celebrated constitutional order.
  
12. South Africa’s nascent democratic order is built against the background of a painful past, a blatant disregard for human rights by the apartheid political order. The new South Africa was built on an anti-thesis of an unjust system, a system that had no regard for human rights and justice. Our Constitution cured this apartheid injustice and engraved, as foundational principles, “human dignity, the achievement of equality and the advancement of human rights and freedoms.” To ensure the inviolability of these principles, our Constitution made it a mandatory constitutional requirement on every state institution (the courts included) to “respect, protect, promote and fulfil the rights in the Bill of Rights.” The Bill of Rights was given the supreme status as the cornerstone of democracy

A handwritten signature in black ink, appearing to be 'Zondo', written in a cursive style.

in South Africa, enshrining the rights of all people in our country and affirming the democratic values of human dignity, equality, and freedom. In s 8 of the Constitution, the Bill of Rights applies to all and binds the legislature, the executive, the judiciary, and all organs of state.

13. This means that both the Zondo Commission (acting as the executive arm of government) and the Constitutional Court are bound by the “democratic values of human dignity, equality and freedom.
14. The Constitutional Court was to be the enduring monument of our constitutional order, representing our victory over the apartheid system. It is the only innovation by the founders of our constitutional order in the structure of our judiciary that was established to champion a judicial system that would be the bulwark against injustice and oppression.
15. It was established to represent an irrevocable covenant between the people and their government of human dignity, the achievement of equality and the advancement of human rights and freedoms.
16. In order to ensure that our new system of constitutional democracy would have an enduring constitutional legacy, we decided that we would only appoint worthy arbitrators, whose historical experience and sense of humanity would connect with the spirit and ethos of our constitutional system. This is because our Constitutional Court would not have to be prompted to perform its central constitutional mission.

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17. The Constitutional Court would represent freedom for everyone, and with it, I believed that we would be safe from the unjust and oppressive political narratives that had routinely found credibility in the courts of oppression. It is no secret that dominant narratives come from the dominant and moneyed classes in our society.
18. Ideally, such narratives should not sway our apex court on how to deal with a particular litigant.
19. The men and women who were to serve on it would not conduct the affairs of the Court with arrogance and oppressive tendencies. In the words of our national hero Nelson Mandela on 14 February 1995 at the inauguration of the Constitutional Court, on behalf of the people of South Africa he said to the then Chief Justice Arthur Chaskalson:

“yours is the most noble task that could fall to any legal person. In the last resort, the guarantee of the fundamental rights and freedoms for which we fought so hard, lies in your hands. We look to you to honor the Constitution and the people it represents. We expect from you, no, we demand of you, the greatest use of your wisdom, honesty, and good sense – no short cuts, no easy solutions. Your work is not only lofty, but also a lonely one.”

20. At the signing of the Constitution on 10 December 1996, President Mandela characterized the Constitutional Court as the “*true and fearless custodian of our constitutional agreements.*” Why we needed an independent judiciary is to ensure that the courts are transformed into unwavering and uncompromising custodians of our constitutional democracy and the freedoms through an

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, cursive 'N' followed by a flourish, representing Nelson Mandela. The signature on the right is a more complex, cursive signature, representing Arthur Chaskalson.

adjudicative system that is based on the recognition of the inherent dignity of each individual.

21. I was particularly disappointed that our apex court even considered it prudent that it had jurisdiction to consider a custodial sanction as a court of first instance when no trial has been conducted to determine whether or not there has been contempt of court. Although I am not a lawyer, I have read the Constitutional Court ruling and its attempt to fudge the issue of jurisdiction and I was left none the wiser as to its reasoning about jurisdiction.
  
22. I also watched the proceedings of the Court on 28 December 2020 – in which I was addressed in very unkind words, labelled “accused number 1” at the Commission by the Commission lawyers, a defiant against the authority of the Commission. These unkind comments were not met with judicial disapproval and in fact found validation in the ruling of the Constitutional Court delivered by Justice Jafta on February 2021.
  
23. I was sad to see the Constitutional Court fail to uphold elementary constitutional standards of human dignity, advancement of rights and freedom. I was particularly shocked to learn that the Constitutional Court found it consistent with its constitutional mission to – in support of the Zondo Commission – to strip me of constitutional rights guaranteed in our Constitution. It was not only the right to be presumed innocent, to remain silent and not to testify during proceedings – guaranteed in section 35(3)(h) of the Constitution. My right to equality before the law and to the equal protection of the law was taken away from me. Many



witnesses at the Zondo Commission, where it was deemed appropriate, could assert their rights in section 35(3)(h) of the Constitution, with approval by the Chairperson, while he sought to limit mine. The Constitutional Court ordered that I should not assert a valid defense based on the right to be presumed innocent, to remain silent and not to testify in proceedings. Why is it consistent with the central constitutional mission of the Court to deprive me of the rights afforded to other witnesses in similar proceedings?

24. I reflected on the condemnatory tone adopted by the Constitutional Court in relation to my non-participation including its decision to impose a punitive cost order and could only conclude that the Court had decided to come to the assistance of the Zondo Commission – not based on constitutionally justifiable grounds but to support the rampant political narrative of the Zondo Commission that if I am forced to testify – it would assist in assessing the state of democratic governance under my Presidency.
25. Finally, without any reflection on its constitutional status as a court of first and final instance in constitutional matters, the Constitutional Court made rulings that deprived me of my right to have my justifiable dispute with Justice Zondo over his suitability to receive and determine evidence given by or against me in the Zondo Commission. I carefully examined the implications of a judgment that was essentially forcing me to appear before a biased and prejudiced presiding officer and realized that the Court had entrenched a growing judicial trend in which my cases are not determined in accordance with the Constitution and the constitutional values of our Constitution. Broadly speaking, I believe, having

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, cursive 'Z' that loops back, likely belonging to Justice Zondo. The signature on the right is a more fluid, cursive signature, possibly belonging to another official or legal representative.

examined how the courts have dealt with cases involving my constitutional rights, I came to the conclusion that there is inexplicable judicial antipathy towards me. I can give numerous examples of how courts have joined the political narrative in which I am routinely a subject of political ridicule and commentary.

- 25.1. The condemnatory political comments by Acting Justice Pillay in her judgment about me are but one example.
26. My decision not to participate in the contempt of court proceedings was based on my belief that my participation would not change the atmosphere of judicial hostility and humiliation reflected in its judgment against me. It is my view or my feeling that the judges of the Constitutional Court do not intend to ensure that they address disputes involving me in a manner that accords with the independence, impartiality, dignity, accessibility, and effectiveness of the Court.
27. One of the astonishing facts is indeed the presence of Acting Justice D Pillay as a member of the panel of the Constitutional Court considering my dispute, a judicial officer whose judicial antipathy towards me is well recorded in a court judgment and an order for my arrest while I was in hospital, sitting comfortably as a panelist pretending to exercise impartial judicial authority in a case that would determine whether I should be arrested and imprisoned for not complying with a court order. I found the participation of Acting Justice Pillay particularly disturbing and a clear indication of her unmitigated lack of discretion and a deeply irresponsible exercise of judicial power. Her gratuitous comments in a judgment against me in a dispute involving my comments on Derek Hanekom and her

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, somewhat circular shape with a vertical line extending upwards from the top. The signature on the right is more linear and appears to be the initials 'JH' with a long horizontal stroke extending to the right.

subsequent refusal to accept a medical note from a qualified doctor justifying my absence from a court in which my criminal trial was not scheduled to begin are a matter of public record.

28. Your directive, Chief Justice provides that I must answer the questions in a 15-page affidavit within 3 days. Regrettably, if I accede to your request, I purge my conscientious objection for having not participated in the proceedings of the Constitutional Court. So, please accept this letter as the only manner in terms of which I am able to convey my conscientious objection to the manner in which your Constitutional Court Justices have abused their power to take away rights accorded to me by the Constitution. I invite you to share this letter with them as it is relevant to the directions that you have issued. I make this request having been advised that this letter is not a pleading.
  
29. After agonising over how to respond to your direction, Chief Justice, I came to the conclusion that the directions are an attempt to get me to make submissions that would assist those judging me on the question of sanction.
  
30. Chief Justice, while giving me a right to a hearing is something I could commend, there are intractable problems with the nature and scope of the right that you have afforded me. The right to hearing in respect of sanction reduced to 15 pages which must be provided to the Court within 3 days does not appear to be made as a good faith attempt to give me a right to hearing but to sanitise the procedural infirmities of the procedures of the Constitutional Court. More importantly, the conditions for my right to a hearing do not appear to fully engage

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with my rights to express a view on the merits - given that the issue of sanction would ordinarily also include the question of why I should not be sanctioned for my non-compliance with the Court order. I have therefore decided to address that antecedent question before I address the theoretical question of what the sanction should be given in the event of my conviction.

31. As stated above, my decision not to participate in the hearing of the Constitutional Court was a conscientious objection.
  
32. Rather than being regarded as acts of defiance, my actions are aimed at bringing to the attention of the Court the injustice of their actions and judgment. I cannot appeal a judgment of the Constitutional Court even where it perpetrates a grave constitutional injustice. I therefore cannot in good conscience enable the Constitutional Court to violate my constitutional rights contrary to its supreme constitutional mandate by filing an affidavit on sanction simply to cure the procedural infirmities adopted by it.
  
33. When the Constitutional Court accepted the submissions of the Zondo Commission on the question of extreme urgency and direct access, I was convinced that it had done so because of the political nature of the work of the Zondo Commission – which is established to destroy the work that I did when I served my country as President. I am also concerned that in this context, the Constitutional Court as well as the Zondo Commission misapprehended the powers and legal status of the Commission.

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34. I have no doubt that the Zondo Commission has become a complex project controlled by my political foes. Even though I established the Commission, I was aware that it had been proposed as part of the campaigns to force me out of government.
35. The Zondo Commission has an insurmountable problem which the Court failed to even reflect on: whether it was competent for the judges of the Constitutional Court to adjudicate a matter involving their own colleague and a Deputy Chief Justice for that matter? The Constitutional Court failed to reflect its reasons for adjudicating a dispute involving their colleague.
36. The contempt proceedings were not brought to vindicate the integrity of the Zondo Commission rulings or directives – for as I listened to the arguments made before the Court by the Commission – it expressly does not seek to enforce my further participation in the Commission. In fact, it was stated vociferously on behalf of the Commission that all it wants is my incarceration and not my appearance before it.
37. What the Zondo Commission did was to avoid utilising the statutorily prescribed procedures for enforcing its directives, it created conditions for holding me in contempt of court rather than in contempt of the Zondo Commission. Had the Zondo Commission utilised the procedure prescribed in the Commissions Act to enforce its rulings, I would have been entitled to raise many defences. Approaching the Constitutional Court as a court of first and final instance violated my constitutional rights.

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38. As I understand it, the Zondo Commission publicly declared its decision to file a charge of contempt with the NPA in compliance with the Commissions Act. That statutorily prescribed approach was abandoned for the inexplicable convenience of the Zondo Commission and with no regard to the effects that such a position would have on my constitutional rights. This clearly demonstrated that the Court had abandoned its constitutional mission for the sake of promoting the entrenchment of political narratives of alleged acts of state capture, fraud and corruption by me.
39. I therefore believed that the Constitutional Court would not succumb to the temptation of promoting political narratives. The Court simply ignored that the Chairperson of the Zondo Commission had publicly announced that he would have me prosecuted on a criminal charge of contempt. To date I have not received summons to appear in a criminal court to answer any question in terms of the Commissions Act alleging that I should be found guilty of defying the Zondo Commission.
40. The fact that the Constitutional Court failed to detect the abuse of the procedure adopted by the Zondo Commission demonstrates that they too have adopted the political view that there is something that I did for which it is justified to strip me of my constitutional rights.
41. I was further advised that the Constitutional Court, as the supreme custodian of guaranteed constitutional rights would not countenance a situation in which an executive arm of government would request it to strip me of my constitutional

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right to be presumed innocent, to remain silence and not to testify during proceedings guaranteed in section 35(3)(h) of the Constitution. I had seen the Commission Chairperson accepting the right of at least two individuals appearing before him to rely on these rights as a legitimate response to the questions by the Commission. I was treated in a discriminatory manner by the Constitutional Court in violation of my right to s 9 when it agreed that I was not entitled to assert my constitutional right in section 35(3)(h) where other similarly placed witnesses had been allowed to exercise the right.

42. I was convinced that the Constitutional Court, acting as the ultimate custodian of our constitutional rights, would not deprive me of my right to appear before a tribunal or Commission of Inquiry that is fair and impartial. This to me was akin to forcing me to appear before someone who had tortured me to give a statement about my alleged criminal conduct involving my political activism. It is for that reason that the Commission has been trying very hard to pretend that my review application does not exist. I have reviewed the decision of Deputy Chief Justice Zondo refusing to recuse himself.

43. In that review I also demonstrate that not only has he told falsehoods on oath, but became a judge in his own matter.

44. I believed that Constitutional Court would respect the authority and obligation of the High Court to determine the merits of my review application and therefore, do nothing that would undermine the fair and impartial adjudication of that matter.

A handwritten signature in black ink, appearing to be 'Zondo', is located in the bottom right corner of the page.

45. The intervention of the Constitutional Court based on political conveniences in the work of the Zondo Commission to me was not only bizarre and premature but demonstrated further that I could not place my trust in the independence, impartiality, dignity, accessibility, and effectiveness of the Court. It was clear to me that the decision to approach the Constitutional Court was an abuse of our judiciary.
46. As a starting point, I do not believe that the Zondo Commission was established in a manner that is consistent with the Constitution. Deputy Justice Zondo's own appointment was unconstitutional as it was done by the Chief Justice – who too was complying with an illegal directive of the Public Protector and an unlawful order of the Gauteng High Court.
47. Chief Justice, you know that you do not have the power, either in terms of the Constitution or by any known convention in political or constitutional governance to participate in the appointment of a Commission of Inquiry established in terms of section 84(2)(f) of the Constitution.
48. You essentially appointed the Deputy Chief Justice Zondo to be Chairperson of the Commission and you did so in the face of a glaring breach of the separation of powers doctrine. The appointment of the Commission failed to uphold the Constitution by accepting the re-allocation of constitutional powers exclusively assigned to the President in terms of the Constitution for the political convenience of the time. In fact, you will recall that you first gave me the name of Justice Desai and thereafter the name of Deputy Chief Justice Zondo. What



is of concern to me other than that you did not have the constitutional power to exercise this function, it is who you consulted with for your change in directing me to appoint Deputy Chief Justice rather than your initial choice of Justice Desai. To date, I do not know what actually changed in this regard.

49. DCJ Zondo is simply disqualified to preside over my evidence by virtue of his prejudice towards me for reasons set out in my review application. Approaching this Court was a clear stratagem to sidestep the review. That the Commission even published that I had to demonstrate my seriousness about the review for it to file the necessary record and answer is simply disingenuous, to say the least.
50. The Zondo Commission, as the Court, knows or should know that there is no case of criminal contempt against me.
51. What the Constitutional Court judgment did was to take away my right to have my review application heard and determined. I could not continue to subject myself to a hearing before the very Commissioner who was biased. This was brought to the attention of the Court in a submission in which my review application was described by the Commission's Counsel as "hopeless".
52. It is not a criminal offence to have a dispute with an administrative agency over its eligibility to adjudicate my dispute. I have a legitimate dispute with the Chairperson, Mr Zondo and I am taking steps to have that ventilated in the courts through a judicial review, which has been ignored by the Commission and the Constitutional Court in its determination of this matter in its previous order.

Two handwritten signatures in black ink are located at the bottom right of the page. The signature on the left is a stylized, somewhat abstract mark, possibly representing the initials 'Z' and 'D'. The signature on the right is more fluid and cursive, appearing to be a full name or a set of initials.

53. It is clear that DCJ Zondo has created an unconstitutional potential for bias. He serves as both the accuser and the adjudicator in his own case and his own version of facts. He is already a complainant in a criminal case against me. Here the risk of retaliation by Mr Zondo is just too palpable to ignore and to insist that I appear by judicial fiat to a prejudiced presiding officer of a Commission is not only wrong, but it also lacks human dignity and the advancement of freedom and justice.

## CONCLUSION

54. My letter to you Chief Justice is long, but it was necessary as I do believe that you need to know why I believe that your decision to afford me a right to be heard falls woefully below that which is expected under the circumstances. I do not accept that I committed contempt of court when I decided not to participate in the Commission proceedings in circumstances where my rights would be violated. It is clear for all to see that nothing can persuade the Constitutional Court not to incarcerate me.

55. I have addressed this letter to you because I deemed it disrespectful to merely ignore directives from our Chief Justice without explaining myself. I have every faith in you as a jurist and a person of absolute integrity. I raise the issues I raise as matters of principle and not as an attack on you. I am fully aware that you were also not part of the panel that complied with DCJ Zondo's strange applications to the Constitutional Court.



56. I also have a duty to protect my constitutional rights even at the risk of being imprisoned. I have just turned 79 years as I write this letter. I have not known the peace and the freedom that I committed the most active years of my life to. However, I watch the Constitutional Court which is charged with ensuring the safety of my constitutional rights, violate them with judicial impunity. What the Zondo Commission has done is inexcusable and I will live to see my vindication when – after squandering billions of much needed public revenue, an independent court reviews and set aside the findings of the Commission on the basis that it was not established in accordance with our Constitution.
57. A lawfully established Commission would be an asset in making recommendations to the executive that could be accepted, considered, and possibly implemented. How an unlawfully established Commission of Inquiry is capable of assisting the executive to govern correctly eludes me.
58. Just so you do not believe that I have avoided answering your direction, here is my answer. There is no precedence for what the Constitutional Court has allowed to take place in its sacred forum. As stated above, I am ready to become a prisoner of the Constitutional Court and since I cannot appeal or review what I see as a gross irregularity, my imprisonment would become the soil on which future struggles for a judiciary that sees itself as a servant of the Constitution and the people rather than an instrument for advancing dominant political narratives. My impending imprisonment by the Constitutional Court will be a constitutional experiment because it does not appear that it was created as a court of first and final instance to hold the powers of imprisonment and incarceration.

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59. The Constitutional Court accepted its platform to be used to dehumanise and humiliate me by the Zondo Commission. I listened to the submissions made by Counsel and what stood out for me was his determination to convey to the Courts the unwavering belief that the Zondo Commission – an executive arm – was entitled to an urgent hearing to enforce its rulings by the order of the Constitutional Court. The Constitutional Court endorsed the abusive submissions that I am a risk to the integrity of our democratic system because I assert its laws in the correct forums to vindicate my rights. Chief Justice I have publicly expressed the view that the Courts have become political players in the affairs of our country as opposed to neutral arbiters with supreme constitutional duty to act independently, impartially, with dignity, accessibility, and effectiveness.

60. I am disappointed to witness the degradation of our collective commitment to remain vigilant against any form of dictatorship, including judicial dictatorship. I am however determined to stand on my conscience and beliefs in the sacredness of my constitutional rights. For the cause of constitutional rights, I will walk in jail as the first prisoner of the Constitutional Court.

61. Although this letter is an unprecedented step, I hope that I have answered your questions. However, I cannot assist the Courts to violate my constitutional rights by telling them what kind of punishment they must impose which accords with the foundational principles of human dignity, the achievement of equality and the advancement of human rights and freedom.

62. The Constitutional Court must know that it will imprison me for exercising my

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constitutional rights and for that I leave it to you and your court. Clearly, the Constitutional Court deems it appropriate and lawful to impose a criminal sanction of incarceration of a person without hearing oral evidence from such an accused person. Contrary to popular sentiment, peddled by sponsored legal analysts and editors, I do not seek to undermine our Constitution or to create any constitutional crises. In fact, I have accepted that my stance has consequences and I am of the view that the Constitutional Court already knows what ruling it will make.

63. I stress however, that judges of the Constitutional Court must know too that they are constitutional beings and are subject to the Constitution. The power that they have will not always ride on the wave of the political support of ANC political veterans and interests groups whose agenda in our nation is not particularly clear – but appears to mount campaigns to discredit what we and many freedom fighters were determined to achieve even at the cost of life itself. When I am imprisoned, as it is clearly the Court's intention, it is my body that you imprison and my political foes, who are now friends of the Court will flood the streets with celebration – for in my imprisonment – they would have achieved – using the legitimacy of institutions that we fought for.

64. Chief Justice, I would urge you and your colleagues to remain faithful servants and custodians of our Constitution. Be vigilant on what you do with the power vested on you which represents an inviolable national covenant. That my political foes have turned themselves into friends of the Court with such a powerful voice is unfortunate, but is the fate I have resigned myself to. I am ready

Handwritten signature and initials in black ink, appearing to be 'S. J. M. M. C.' or similar, located in the bottom right corner of the page.

for the finding the Constitutional Court is already contemplating, but will not clothe it with the legitimacy of my participation at this late stage and for a purpose that is so obvious.

65. I shall await the decision of your esteemed Court and am preparing myself for its obvious although unjustified severity.

ISSUED BY:

JACOB GEDLEYIHLEKISA ZUMA

A handwritten signature in black ink, appearing to be 'JZuma', located at the bottom right of the page.



T: 035 785

admin@jac

www.jaco

30 June

### **JGZF RESPONSE TO JG ZUMA'S CONCOURT JUDGEMENT**

The Jacob Zuma Foundation has taken note of the judgment of the Constitutional Court (both majority and minority). We are busy studying the judgment and discussing with a lawyers to get legal advice on the options available to our Patron, H.E President Zuma. however, would like to make the following observations:

Firstly, we are cognizant that the State Capture Commission (Zondo Commission) was established to perform a very important and invaluable task for our country. However, remains a statutory body clothed only with the powers that the Legislature has given it. courts (including the Constitutional Court) are duty-bound to uphold and protect the Constitution and to administer justice to all persons alike without fear, favour, or prejudice in accordance with the Constitution. Suffice to say that the same Constitution that obliges our Patron to obey the supreme law of the land like every other citizen also affords him the same protections that it affords every other citizen.

Secondly, our Patron has never believed that he is above the law or the Constitution, the supreme law of the land. On the contrary, he has always insisted that he must be treated like every other citizen, and his rights to equal protection of the laws must be respected and protected. Indeed, our Patron has expressed his doubts about the lawfulness of the Zondo Commission, the biased manner in which it is being conducted, and the fact that it has transformed into a "slaughterhouse" and a forum in which all kinds of unsubstantiated defamatory allegations have been made against him. He sought the recusal of DCJ Zondo on the basis of bias, followed appropriate legal channels, and lodged a judicial review application in the High Court. Instead of allowing a lawful judicial review process to unfold in the High Court, DCJ Zondo ignored that review court process and lodged an urgent application in the Constitutional Court seeking to hold our Patron in contempt despite exercising his rights of access to courts. In our view, that cannot be consistent with the substantive upholding of the rule of law that some only pay lip service to. Justice must be seen to be done.

Thirdly, it is not a criminal offence to have a dispute with an administrative agency such as the Zondo Commission. Our Patron has a legitimate disagreement with DCJ Zondo and has taken steps to have that dispute ventilated in the High Court.

The refusal of our Patron to comply with an order which he considered unconstitutional cannot be characterised as willful or "mala fide." He was acting in good faith and seeking to uphold the law.

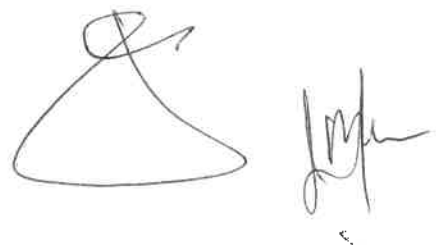
Finally, the principle of equality before the law was clearly violated, and the Zondo Commission was given an advantage in a case that was adjudicated by DCJ Zondo's colleagues, whom he supervises. In addition, the majority judgment makes a spurious claim that our Patron "attacked" the Constitutional Court, which is utterly false. If true, unconstitutional and a serious conflict for the same "vilified" panel of judges, which is supposedly embroiled in a running, bitter controversy with the alleged contemnor to perform as judges in their own case. No one so cruelly slandered is likely to maintain that calm detachment necessary for fair adjudication. The characterisation of our Patron by the majority panel paints a picture of a very angry panel of judges. We concur with the view of other justices who said the Constitutional Court majority acted contrary to the rule of law.

The primacy of our Constitution was not vindicated in this matter at all. Actual or perceived judicial bias is unacceptable in our constitutional order. Judicial authority is an integral and indispensable cog of our constitutional architecture. Our supreme law vests judicial authority in the courts. (Section 165(1) of the Constitution.) It commands that courts must function without fear, favour or prejudice, and subject only to the Constitution and the law. It follows that, at all times, the judicial function must be exercised in accordance with the Constitution. Judges are not above the law.

At a bare minimum, this means that courts must act independently and without bias, with unremitting fidelity to the law, and must be seen to be doing so. That did not happen in the Constitutional Court, as evidenced by the latest judgment. The dissenting minority judgment confirms that the majority judges breached the Constitution and their oath of office. This is so because courts are final arbiters on the Constitution's meaning and the law – a high duty that must be discharged without real or perceived bias.

In conclusion, the Jacob Zuma Foundation denounces Judge Kampempe's judgment as judicially emotional & angry and not consistent with our Constitution.

**For Inquiries Contact:**  
**JGZF Spokesperson - Mr Manyi**  
**+27(82) 582 4918**





LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 419 Jan Smuts Ave | Craighall | Johannesburg  
Tel: 011 781 0899 | Fax: 011 781 0526 | e-mail: [Info@lugisanimantshaattorneys.co.za](mailto:Info@lugisanimantshaattorneys.co.za) |  
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0257/18/C

Chairperson of the Commission of Inquiry into State Capture  
2<sup>nd</sup> Floor Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193

By hand

Date: 01 November 2019

**PRIVATE AND CONFIDENTIAL**

**"URGENT"**

Dear Chairperson,

**RE: THE FORMER PRESIDENT MR. J.G ZUMA**

1. We refer to the above matter and advise that former President was admitted in Hospital over the past weekend and was released late afternoon yesterday for him to continue treatment at his home.
2. The former President asked us to convey to you that due to the above he will not be able to attend the scheduled sitting of the Commission commencing on 11 November 2019 to 15 November 2019, he will however keep you updated on his recovery progress.

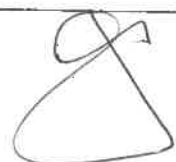
Director: Lugisani Mantsha BJuris, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21

Yours Faithfully

**Mr. L.D Mantsha**

---

**Director: Lugisani Mantsha Bjuris, LLB**  
**Lugisani Mantsha Incorporated Reg: 2012/069234/21**

A large, stylized handwritten signature in black ink, consisting of a large loop and a trailing line.A smaller, more compact handwritten signature in black ink, appearing to be initials or a short name.



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Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za) |  
Box 1127 | Randburg | 2125 |

---

Our Ref: Mr. D Mantsha LM0257/18/C

The Chairperson of the Commission of Inquiry

C/O Ms. B.K Shabalala  
Acting Secretary of the Commission of Inquiry  
Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Date: 06 January 2020

**PRIVATE AND CONFIDENTIAL**  
**"URGENT"**

Dear Sir/Madam,

**RE: NOTICE OF INTENTION TO OPPOSE - FORMER PRESIDENT JACOB ZUMA**

1. We refer to the above matter and your letter of 19 December 2019 and advise you that our offices had been closed from 13 December 2019 and reopened today, the 06<sup>th</sup> January 2020.
2. We enclose herewith, the Former President's Notice of Intention to Oppose your application.
3. Furthermore, be advised that our client will have his affidavit served on you before close of business on 10 January 2020.

Yours Faithfully

**Mr. L.D Mantsha**

Transmitted electronically without signature

---

Director: Lugisani Mantsha Bjuris, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21



CC: Adv Pretorius SC  
Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

---

Director: Lugisani Mantsha Bjuris, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21

*Impecc*



**IN THE COMMISSION OF INQUIRY INTO ALLEGATION OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF  
STATE (“THE COMMISSION”)**

In the matter between:

**THE COMMISSION**

**APPLICANT**

and

**JACOB GEDLEYIHLEKISA ZUMA**

**RESPONDENT**

---

**NOTICE OF INTENTION TO OPPOSE**

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**KINDLY TAKE NOTICE THAT** the Respondent hereby gives his notice of intention to oppose the Application.

**AND TAKE NOTICE FURTHER THAT** the Respondent shall receive all Notices, processes, and pleadings in this matter in the address mentioned herein below.

**DATED** at Johannesburg on this the 06<sup>th</sup> day of January 2020.





**LUGISANI MANTSHA INCORPORATED**

Respondent's Attorneys  
No. 410 Jan Smuts Avenue  
Burnside Island  
Block 6, First Floor  
Craighall, Johannesburg  
P O Box 1127  
Randburg, 2125  
Tel: (011) 781 0099  
Fax: (011) 781 0526  
Our Ref: LW0257/18/c

Email: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za)

**TO: MS. K B SHABALALA  
ACTING SECRETARY OF THE COMMISSION OF INQUIRY**

Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193  
Tel: 010 214 2651  
Tel: 0800 222 097

**AND TO: HONOURABLE JUSTICE ZONDO  
THE CHAIRPERSON OF THE COMMISSION OF INQUIRY**

2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193  
Tel: 010 214 2651  
Tel: 0800 222 097



**AND TO: P J PRETORIUS**  
**Head of the Legal Team**

2<sup>nd</sup> Floor, Hillside House

17 Empire Road

Parktown

Johannesburg

2193

Tel: 010 214 2651

Tel: 0800 222 097

Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)





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Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0257/18/C

The Chairperson of the Commission of Inquiry

C/O Ms. B.K Shabalala  
Acting Secretary of the Commission of Inquiry  
Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Date: 10 January 2020

**PRIVATE AND CONFIDENTIAL**

**"URGENT"**

Dear Sir/Madam,

**RE: JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE  
CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR  
INCLUDING ORGANS OF STATE: MR. JACOB ZUMA**

1. We refer to the above matter and our letter dated 06 January 2020.
2. We advise that we will not be able to serve our client's affidavit due to the fact that our client underwent a medical surgery procedure on the 6 and 09 January 2020, we will endeavour to provide you with his affidavit on or before the 14 January 2020.

Yours Faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

**CC: Adv Pretorius SC**  
Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)



**PERJURY**

**DEFINITION**

Perjury at Common Law consist in the unlawful and intentional making of a false declaration under oath (or any form of affirmation or admonition allowed by law to be substituted for an oath) in the legal proceedings before a competent tribunal, by a person who, at the time of making the statement, knows it to be false or foresees the possibility that may be false.

**PLEASE NOTE:**

The whole declaration need to be false. Even if a single statement in the declaration is false, the declaration will be false. A false declaration can be made orally or in writing. If a person makes a false declaration under oath, but later alleges that he or she did not regard the oath as binding on his or conscience, he or she will still be guilty of perjury. It is unlawful to make a false declaration under oath.

**CERTIFICATE**

I, JUMELONG MOSALA

ID nr: 500420 5794 081

Address: 106 Jacobson De/Lynwood Ridge Victoria

Hereby certifies that the above definition was explained to me and that the statement that I am going to make is the truth and nothing but the truth:

[Signature] ..... 2020/12/07 .....  
**SIGNATURE** ..... **DATE**

I (Peral, Rank, Name):

0478403 COLONEL Nama ME

ME Hereby certifies that implication of perjury was explained to the above complainant and that He / She understands it.

[Signature] ..... 2020/12/07 .....  
**SIGNATURE** ..... **DATE**

**(PLEASE FILE IN DOCKETS UNDER "B")**

[Handwritten marks]



2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
2193  
Tel (International): +27 (10) 214-0651  
Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

---

**07 December 2020**

I am the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State.

I confirm that the affidavit that accompanies this letter is my statement to lodge a formal complaint against Mr. Jacob Gedleyihlekisa Zuma with the South African Police Service of the Hillbrow Police Station in Johannesburg. I confirm further that I am duly authorised to lodge such a complaint in my capacity as the Secretary of the Commission.

.....  
**PROF. ITUMELENG MOSALA**

**Secretary**

**Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud  
in the Public Sector Including Organs of State**

- A) OFFENCE : CONTRAVENTION OF SECT C(1) COMMISSIONS 1947
- B) DATE, TIME & PLACE: 2020/11/19 sat about 11:00
- C) METHOD USED: SUSPECT LEFT THE VENUE OF THE COMMISSION WITHOUT PERMISSION
- D) INSTRUMENT USED: PERSON -
- E) PROPERTY INVOLVED: N/A
- F) VALUE: N/A
- G) LCRC : N/A
- H) CIRCULATION NUMBER: N/A
- I) WITNESS: PROF M OSALA
- J) SUSPECTS: MR JACOB GADLEY HELISA ZUMA
- K) COMMENTS: The suspect was

summoned to appear before the Commission of Enquiry headed by DPC DCJ Raymond Zondo and was ordered to remain in-attendance. until he was excused by the chairperson and he failed to do so and so he contravened the Commissions Act of 1947 particularly section 1(b)(1)

COMPLIED BY NR 0478403 RANK COLONEL INT SURNAME MENAMA

	YES	NO
DOES A1 CONTAIN ALL THE ELEMENTS OF THE CRIME?	✓	
DOES A1 CONTAIN FULL DESCRIPTION OF WITNESS?	✓	
DOES A1 CONTAIN FULL DESCRIPTION OF SUSPECT (S)?	✓	
DOES A1 CONTAIN FULL DESCRIPTION OF THE CRIME SCENE?	✓	
DOES A1 CONTAIN FULL DESCRIPTION OF THE EXHIBITS?	✓	
DOES A1 CONTAIN THE CORRECT PREAMBLE?	✓	
DOES A1 CONTAIN THE CORRECT AFFIDAVIT/ COMMISSION OF OUTH ?	✓	

PERSUED BY : FULL SIGNATURE

  
G.L. Steyn  
Captain





SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

PREAMBLE TO STATEMENT • AANHEF TOT VERKLARING

A. 1

Surname Van	MOSALU	Title Titel	PROF
Christian names Voorname	ITUMBELENG		
Identity No. Identiteits No.	5004205794081	Passport number Paspoortnommer	
Persal No.		Date of birth Geboortedatum	19500420
		Or—Age Of—Ouderdom	070
Race Ras	A Br B W	Gender Geslag	M F V
		Occupation Beroep	Director of Finance
		Language Taal	Setswana

RESIDENTIAL ADDRESS • WOONADRES

Building/Farm/Plot/Place Gebou/Plaas/Plot/Plek	106 JACOBSON DR	No.	
Street name Straatnaam		No.	
Suburb/Ext/Area Voorstad/Uitbr/Gebied	LYNNWOOD RIDGE		
Town/City Dorp/Stad	PRETORIA	Tel. code Tel. kode	011
		No.	7524441

Name of institution/Organisation Naam van Instansie/Organisasie	JUDICIAL COMMISSION OF INQUIRY				
Building/Farm/Plot/Place Gebou/Plaas/Plot/Plek	INTO ALLEGATIONS OF STATE CAPTURE				
Street name Straatnaam	17 EMPIRE ROAD				
Suburb/Ext/Area Voorstad/Uitbr/Gebied	PARKTOWN				
Town/City Dorp/Stad	JOHANNESBURG				
Telephone—Code Telefoon—Kode	011	Number Nommer	0102140651	Extension Uitbreiding	

CELL: 0767524441

Surname Van	RATSHIKANA	Initials Voorletters	R
Title Titel	PA	Tel. code Tel. kode	011
		No.	2140651
		Ext Uitbr	

CELL: 0713197843

2020/12/07 Date/Datum

Signature/Handtekening



---

**AFFIDAVIT**

---

I, the undersigned

**ITUMELENG MOSALA**

do hereby make oath and state that:

1. I am an adult male employed as the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission"), with its main place of business situated at Hillside House, 17 Empire Road, Parktown, Johannesburg. I was appointed to this position with effect from 01 October 2020. I am duly authorised to depose to this affidavit. As Secretary of the Commission, I am the Head of the Secretariat which is the administrative unit of the Commission.
2. All the facts stated herein are, unless the context indicates otherwise, within my own personal knowledge or are contained in records of the Commission under my control, and are, to the best of my knowledge and belief, both true and correct.
3. I depose to this affidavit in my capacity as the Secretary of the Commission in order to lay a criminal complaint with the South African Police Service against Mr Jacob Gedleyihlekisa Zuma, former President of the Republic of South Africa, for a possible contravention of section 6(1) of the Commissions Act,

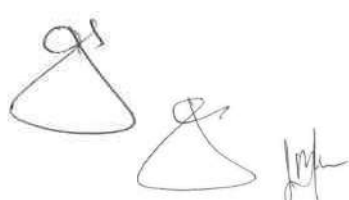
MEN   
 

1947 (Act No 8 of 1947) ("**the Commissions Act**") on the basis that on 19 November 2020 he left the proceedings of the Commission without the permission of the Chairperson despite the fact that he had been served with a summons to attend the proceedings of the Commission at 10h00 on 16 November 2020 to 20 November 2020 (both dates inclusive) and to remain in attendance until permitted by the Chairperson to leave.

#### **THE SUMMONS AGAINST MR JACOB GEDLEYIHLEKISA ZUMA**

4. On 9 October 2020, the Chairperson of the Commission ("**the Chairperson**") authorised the issuing of a summons against Mr Jacob Gedleyihlekisa Zuma to appear before the Commission at 10h00 on 16 November 2020 to 20 November 2020 (both dates inclusive).
5. On 20 October 2020, I duly signed and issued a summons for Mr Zuma to appear as a witness before the Commission on 16 to 20 November 2020. A copy of the summons is attached hereto marked Annexure "**IM1**". The summons required Mr Zuma to appear before the Commission at 10h00 on 16 November 2020 to 20 November 2020 at the City of Johannesburg Old Council Chamber, 158 Civic Boulevard, Braamfontein, Johannesburg.
6. On 20 October 2020, the Deputy Sheriff of Nkandla, Mr Ndumiso Mthembu, served the summons at Mr Zuma's residence by handing a copy thereof to Ms Mthonsi, a police officer posted at Mr Zuma's residence. I attach the return of service of 20 October 2020 hereto marked Annexure "**IM2**". On 22 October 2020, the sheriff of Nkandla, Mr Satheseelan Chetty, went to Mr Zuma's


MEN 2

The page concludes with handwritten markings. On the left, the word "MEN" is written in capital letters. To its right, the number "2" is written. Below these, there are several handwritten signatures and initials, including a large, stylized signature that appears to be "Mthembu" and another smaller signature to its right.

residence in Nkandla to make a second attempt to effect personal service on Mr Zuma. Mr Zuma was reportedly present at his residence. However, his secretary, Ms N.A. Ngcobo, was adamant that it was not possible for the document to be served on Mr Zuma personally. She reportedly informed Mr Chetty that Mr Zuma had instructed her to accept the document on his behalf. I attach the return of service of 22 October 2020 hereto marked Annexure "IM3". Mr Chetty deposed to an affidavit which outlined his attempts to effect personal service of the summons on Mr Zuma which I attach hereto marked Annexure "IM4".

7. At the Commission's request, Deputy Sheriff Mr Mthembu made a third attempt at personal service on 29 October 2020, but Mr Zuma was not at his residence on this occasion.
8. On 19 October 2020, Mr Zuma's attorneys confirmed by way of an email that their offices would accept service of a copy of the summons. A copy of the summons was accordingly sent to Mr Zuma's attorneys on 23 October 2020.
9. Due to the difficulties encountered in effecting personal service of the summons on Mr Zuma, the Commission sent a further letter dated 27 October 2020 to Mr Zuma's attorneys seeking confirmation that they and their client acknowledge valid service of the summons. On 29 October 2020, Mr Zuma's attorneys confirmed that they were indeed mandated to accept the summons on Mr Zuma's behalf. The summons was then effected on Mr Zuma's attorneys on 30 October 2020. I attach the return of service of 30 October 2020 hereto marked Annexure "IM5".

MEN 3

The page concludes with handwritten text and signatures. The word "MEN" is written in capital letters. To its right is the number "3". Below these are several handwritten signatures and initials, including a large stylized signature and a smaller one to the right.

10. Mr Zuma was thus duly summoned to appear before the Commission at 10h00 on 16 November 2020 to 20 November 2020 (both dates inclusive) at the City of Johannesburg Old Council Chamber, 158 Civic Boulevard, Braamfontein, Johannesburg.

#### **THE EVENTS OF THE WEEK OF 16 TO 20 NOVEMBER 2020**



11. On Monday, 16 November 2020, Mr Zuma attended the proceedings of the Commission. I confirm that I was also in attendance at the proceedings. Argument was heard on Mr Zuma's application for the Chairperson's recusal which took the entire day on 16 November 2020. At the end of the day, the Chairperson reserved his ruling and indicated that he would deliver his ruling the following day.
12. On Tuesday, 17 November 2020, the Chairperson announced that he would deliver his ruling on the recusal application the following day, namely on Wednesday, 18 November 2020. Mr Zuma was also in attendance at the proceedings. On Tuesday, 17 November 2020, Mr Zuma's counsel, Adv Muzi Sikhakhane SC, then advised the Chairperson that Mr Zuma wished to attend a family funeral on Wednesday, 18 November 2020 and requested that Mr Zuma be excused from attending the Commission's proceedings the next day (i.e. 18 November 2020). The Chairperson gave Mr Zuma permission to attend the family funeral on Wednesday, 18 November 2020 but made it clear that Mr Zuma should return and appear before the Commission at the commencement of the proceedings at 10h00 on Thursday, 19 November 2020. I attach hereto the relevant extract of the transcript of the proceedings on Tuesday, 17 November 2020 marked Annexure "IM6".

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13. On Wednesday, 18 November 2020, the Chairperson announced that he required more time to prepare his ruling and that he would issue his ruling the following day (i.e. Thursday, 19 November 2020). As I recall, Mr Zuma furnished the Commission with a further affidavit with regard to the recusal application.
14. At or around 10h00 on Thursday, 19 November 2020, the proceedings commenced. Mr Zuma was in attendance. The Chairperson delivered his ruling together with his reasons. He dismissed the recusal application. I confirm that I was also in attendance at these proceedings and bore witness to the events as set out below.
15. After the Chairperson had dismissed the recusal application, Adv Paul Pretorius SC, the Head of the Commission's Legal Team, indicated that the Commission's Legal Team intended to proceed with Mr Zuma's examination, in accordance with the summons. However, Mr Zuma's counsel, Adv Muzi Sikhakhane SC, informed the Chairperson that Mr Zuma had decided "to excuse himself" from the proceedings.
16. Adv Muzi Sikhakhane SC further informed the Chairperson that Mr Zuma intended to take the Chairperson's recusal decision on review and to lodge a complaint against the Chairperson with the Judicial Service Commission on the basis that, by deciding Mr Zuma's recusal application, the Chairperson had decided a matter in which he was a party.
17. Adv Pretorius SC pointed out that Mr Zuma was under a summons that was still valid and binding on him and he could not "excuse himself" from the

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proceedings and required the Chairperson's permission to leave the proceedings. Adv Pretorius SC made it clear that, if Mr Zuma left the proceedings without the Chairperson's permission, he would be acting in defiance of the summons and unlawfully.

18. After these submissions were made, the Chairperson announced that he would adjourn the proceedings for the tea break. It was clear that, after the tea break, the proceedings would resume. However, Mr Zuma left the proceedings during the tea break without the permission of the Chairperson.
19. When the Commission resumed after the tea break, the Chairperson indicated that Mr Zuma had left the Commission without his permission and that this was regarded as a serious matter. The Chairperson stated that the Commission could not proceed any further that day or the following day, as it had planned to conduct Mr Zuma's examination which had become impossible due to Mr Zuma's departure from the proceedings. The proceedings were, accordingly, adjourned shortly after 12h00. I attach hereto the relevant extract of the transcript of the proceedings for Thursday, 19 November 2020 marked Annexure "IM7".
20. The proceedings of Thursday, 19 November 2020, were televised live and clearly showed the events which transpired from the commencement of the proceedings until the Chairperson adjourned the proceedings. This included Mr Zuma's departure from the Commission's proceedings during the tea break. Should the South African Police Service or the National Prosecuting

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Authority wish me to make arrangements for the SABC to provide the footage of what happened, I will do so.

21. Section 6 of the Commissions Act pertains to "Offences by witnesses". It provides:

*"(1) Any person summoned to attend and give evidence or to produce any book, document or object before a commission who, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until he is excused by the chairman of the commission from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he has been required by the chairman of the commission to do so or, having been sworn or having made affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, document or object in his possession or custody or under his control, which he has been summoned to produce, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment."* (underlining supplied)

22. I understand that section 6(1) of the Commissions Act makes it a criminal offence for a person who has been summoned to attend and give evidence before a Commission to fail, without sufficient cause, to attend at the time and place specified in the summons. I also understand that the same section makes it a criminal offence for a person who, having been summoned to attend the proceedings of a Commission, attends the proceedings but fails to remain in attendance until the conclusion of the enquiry or until he is excused from further attendance by the Chairperson of the Commission.

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23. I believe that Mr Zuma's conduct in failing to remain in attendance at the proceedings of the Commission on Thursday, 19 November 2020 without the Chairperson's permission was a contravention of section 6(1) of the Commissions Act. I further believe that his conduct in deciding not to attend the proceedings of the Commission on Friday, 20 November 2020 was also a contravention of section 6(1) of the Commissions Act as such decision was without sufficient cause.
24. I consider it important to highlight two facts about Mr Zuma's conduct on Thursday, 19 November 2020. The one is that on Tuesday, 17 November 2020, Mr Zuma showed that he knew that he needed the Chairperson's permission in order not to be in attendance. He showed this by requesting the Chairperson through his counsel to grant him permission not to attend the proceedings on Wednesday, 18 November 2020. Therefore, it cannot be open to him to say that on Thursday, 19 November 2020, he did not know that he needed the Chairperson's permission in order to leave the proceedings before they were concluded.
25. The other fact is that, just before the adjournment for the tea break on Thursday, 19 November 2020, Adv Pretorius SC made it clear to Mr Zuma and his counsel that Mr Zuma could not excuse himself from the proceedings and that, to leave, he needed the Chairperson's permission and that, if he left without the Chairperson's permission, he would be acting in defiance of the summons and unlawfully. In any event the summons also made it clear that not to comply with the summons was a criminal offence.

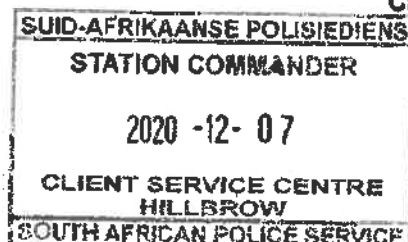
8  
MEN  
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26. In the light of all the above, I request the South African Police Service to investigate the possible contravention of section 6(1) of the Commissions Act by Mr Zuma and, if there is a case for Mr Zuma to answer, to hand the matter over to the National Prosecuting Authority for it to make a decision whether or not to prosecute Mr Zuma.
27. As stated above, the proceedings of Thursday, 19 November 2020 were broadcast live on television and the recordings thereof can be easily accessed.
28. I am available to provide any further information or records necessary to the SAPS to facilitate the investigation.

  
 \_\_\_\_\_  
**ITUMELENG MOSALA**

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at Hillbrow on this the 07 day of DECEMBER 2020, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.

  
 \_\_\_\_\_  
**COMMISSIONER OF OATHS**  
 Full names: Mxolisi Edwin Namba  
 Address: 40 COLLINDER ROAD DUBOIS  
 Capacity: COLONEL








2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
2193  
Tel (International): +27 (10) 214-0651  
Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

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**SUMMONS TO:  
APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:

SPS17(g)/1181/PJP

To the sheriff or his/her deputy of Nkandla HL

**INFORM:**

MR. JACOB GEDLEYIHLEKISA ZUMA

**OF**

KWADAKWADUNUSE HOMESTEAD,

KWANXAMALALA, NKANDLA,

KING CHETSWAYO DISTRICT,

KWAZULU-NATAL

that he is hereby summoned to:

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from 16 November 2020 to 20 November 2020 (both dates inclusive) at 10h00am on each such day for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto.

Please take notice that should you make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and you subsequently give evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

DATED at Parktown on this 20th day of OCTOBER 2020.



Prof. Itumeleng Mosala

SECRETARY:

Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud  
in the Public Sector Including Organs of State

2



### Annexure 'A'



1. Themba Mveli James Maseko : 22 June 2017; 24 August 2017; 04 September 2019
2. Mabel Patronella Mentor : 25 July 2018
3. Nhlanhla Musa Nene : 01 October 2018
4. Pravin Gordhan : 11 October 2018
5. Barbara Hogan : 30 July 2018; 08 October 2018
6. Ngoako Abel Ramathodi : 07 November 2018
7. Mahlodi Sam Muofhe : 16 November 2018
8. Fikile Mbalula : 18 March 2019
9. Angelo Agrizzi : 15 January 2019; 26 March 2019
10. Mxolisi Sandile Oliver Nxasana : 11 June 2019
11. Brent Adrian Simons : 09 August 2019
12. Abegnigo Hlungwani : 22 August 2019
13. Meliswe Mildred Oliphant : 07 October 2019
14. Makaringe Richard Baloyi : 11 October 2019
15. Yasmin Duarte : 07 October 2019; 07 October 2019
16. Samson Gwede Mantashe : 07 October 2019; 07 October 2019
17. Zwelini Lawrence Mkhize : 08 October 2019
18. Rajesh Sundaram : 05 April 2019; 29 April 2019
19. Miriam Phumla Williams : 16 August 2018; 22 February 2019
20. Siphwe Nyanda : 02 November 2018; 11 December 2019
21. Trevor Andrew Manuel : 11 October 2018; 14 February 2019
22. Johan Wessel Booyesen : 02 April 2019; 09 April 2019; 15 April 2019
23. Nonkululeko Sindane : 16 May 2019
24. Kobus Demeyer Roelofse : 27 August 2019
25. Lizo Njenje : 01 August 2019; 20 August 2019
26. Rieaz Shaik : 21 November 2019
27. Ronald Shingange : 12 December 2019
28. Mr Y : 28 January 2020
29. Abdurrazack "Zackie" Achmat : 13 February 2020
30. Popo Simon Molefe : 17 February 2020



MEN' A handwritten signature consisting of a stylized 'M' and 'N' with a dot above the 'N', possibly representing 'M. N. M.'

The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.

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

JOHANNESBURG

In the matter between:

STATE CAPTURE

Case No - Saak No

Applicant

and:

MR JACOB GEGLEYIHLEKISA ZUMA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 20th day of OCTOBER 2020 at 18:00 I certify that I served the SUMMONS TO: APPEAR AS A WITNESS upon MR JACOB GEGLEYIHLEKISA ZUMA at KWADAKWADUNUSE HOMESTEAD, KWANKAMALALA, NKANDLA, residence by handing a copy thereof to Miss Sergeant Mthonsi, Female, Police Officer, a person apparently older than 16 years of age and employed at the defendant's given address. I further explained the nature, content and exigency of the process to the said person.

I herewith return the original document to your office  
Rule 54(6)(b)

Appearance Date: 16 NOVEMBER 2020.

Sheriff Fees Bahugelde	Date Datum	Tax Invoice Number Belastingfaktuur Nr.					
	21.10.2020	I 10846	Description	Qty	Vat	Amount	Mdumiso G Mthembu Deputy Sheriff
			Registration	1	1.65	11.00	S. Chetty Sheriff - Balju
			Return & Copy	1	4.20	28.50	Melmoth, Eshowe, Mtunzini & Nkandla
			Service/Fee	1	10.65	71.00	P.O. Box 666 Melmoth 3835
			Travelling	230	207.00	1306.00	Tel: 035 450 0001 Fax: 035 450 0002
			Send/rec Email	1	2.85	19.00	sheriffmelmoth@gmail.com
			Postage	1	3.75	25.00	Standard Bank Sheriff Melmoth Business Account
			Urgency Fee	1	105.00	700.00	Branch 67728 Acct: 031013478
			Vat / BTW			325.18	
VAT Reg No BTW Reg Nr			You may require this account to be taxed and vouched before payments. U kan veris die hierdie rekening getaksaar en gesel word voor betaal			Total Totaal	2569.68
4318289923			Account No. • Rekening Nr.			1013	VatReg
COMMISSION OF ENQUIRY 2ND FLOOR, HILLSIDE HOUSE 17 EMPIRE ROAD, PARKTOWN, JOHANNESBURG 2193			Your Reference • U Verwysing			SPS17(G)/1181/RJP	
			My Reference • My Verwysing			REGISTRATION	
			REF: 111464/POPS/1				
			Registrar: JOHANNESBURG				

*Handwritten signature*  
MEN

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

In the matter between:

STATE CAPTURE

and:

MR JACOB GELEYINLEKIZA ZUMA

Case No - Saak No

Applicant

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 22nd day of OCTOBER 2020 at 10:38 I served the SUMMONS TO APPEAR AS A WITNESS upon MR JACOB GELEYINLEKIZA ZUMA at KWADAKWADUNUSE HOMESTEAD, KWANKALALA, NKANDLA by handing a copy thereof to MS N.A NGCOBO, FEMALE, SECRETARY TO FORMER PRESIDENT ZUMA, a person apparently older than 16 years of age and employed at the Respondent's residence. I further explained the nature and exigency of the process to the said person. Rule 54(6)(b)

Appearance Date: 16 NOVEMBER 2020.

Sheriff Fees Hofgeelde	Date Datum	Tax Invoice Number Rekeningfaktuur Nr.	Description	Qty	Vat	Amount
	27.10.2020	I 10951	Registration	1	1.45	11.00
			Return & Copy	1	4.28	28.50
			Service Fee	1	10.65	71.00
			Travelling	300	270.00	1800.00
			Send/rec Email	1	2.85	19.00
			Postage	1	3.75	25.00
			Time spent	3	135.00	908.00
			Urgency Fee	1	195.00	709.00
			Cost of Copies	10	9.75	65.00
			VAT / BTW			542.93
			<b>Total</b>			<b>4162.43</b>

S. CHETTY  
SHERIFF  
**S. Chetty**  
Sheriff - Baiju  
Malmoth, Lishowe,  
Munzini & Nkandla  
P O Box 666  
Malmoth  
3835  
Tel: 035 450 0001  
Fax: 035 450 0002  
shenimalmoth@gmail.com  
Payment:  
Bank: Standard Bank  
Name: Sheriff Malmoth  
Business Account  
Branch: 57729  
Account: 031013678

VAT Reg No  
BTW Reg No

4310289923

You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getekseer en getoets word voor betaling.

Total

4162.43

1013 VatKey

COMMISSION OF ENQUIRY  
2ND FLOOR, HILLSIDE HOUSE  
17 EMPIRE ROAD,  
PARKTOWN, JOHANNESBURG  
2193

Account No. \* Rekening Nr.  
Your Reference \* U Verwysing  
My Reference \* My Verwysing  
K&T: 111548/POPS72

SPS17(G)/1181/PJP

Registrar: JOHANNESBURG

MEN

Form Change & Size of Case System (P&P) 1998 - 200

*[Handwritten signatures and initials]*

## AFFIDAVIT

I the undersigned, Satheseelan Chetty ID No: 6602065212081, do hereby make oath and state that:

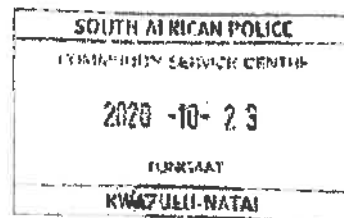
On the 22/10/2020, approximately 10:15 am, I arrived at Mr J.G Zuma's residence. On arrival, I spoke to a Colonel Dlamini. I introduced myself as Mr Chetty - The Sheriff of Nkandla, I enquired from him if Mr Zuma was in. Colonel Dlamini responded by saying that Mr Zuma was not in. I informed him the purpose of my visit. He told me that he is aware that the Sheriff was coming to serve a court document and was instructed to receive the document on Mr Zuma's behalf. I informed Colonel Dlamini that if Mr Zuma is not in, I would have to serve the document on Mr Zuma's Secretary - Ms N.A Ngcobo.

He tried calling Mr Zuma's Secretary - Ms N.A Ngcobo, but no response. He enquired from the Sergeant that was there, if Ms N.A Ngcobo - Secretary was in, he replied that she was in.

Colonel Dlamini tried calling Ms N.A Ngcobo - Secretary, again and she answered. He told her that the Sheriff was there and needed her to come to the gate and accept the service of the court document.

Ms N.A Ngcobo - Secretary arrived at the gate and I introduced myself to her and explained to her that I need to serve the document on Mr Zuma. I asked her if Mr Zuma was in, she replied yes. I then told her that I need to serve Mr Zuma the document personally, since Mr Zuma was on the premises. Ms N.A Ngcobo responded by saying "no that's not possible". I asked her: "Why?" She said "You can't".

Ms N.A Ngcobo - Secretary, then informed me that she was told by Mr Zuma, to accept the document on his behalf. I then handed over the document to Ms N.A Ngcobo - Secretary and asked her to sign my copy as proof that she accepted same. Ms N.A Ngcobo - Secretary signed my copy and I left the said premises.



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~~SECRET~~

SECRETARY (DEPONENT)

Sheriff Nkandla

In terms of Regulation R 1258 published in Government Gazette No 3619 of the 21 July 1977 having been complied with I hereby certify that the deponent has acknowledgement that he/she knows and understands the contents of this affidavit, which was signed and sworn to before me

at

~~TENICANT~~  
~~THE COMMISSIONER OF OATHS~~  
~~THE COMMISSIONER OF OATHS~~

On this 23 day of OCTOBER 2020

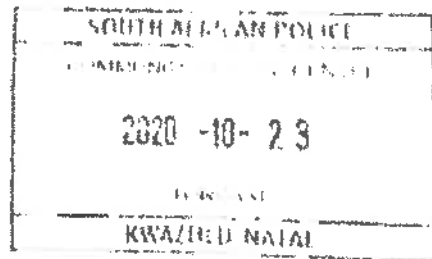
COMMISSIONER OF OATHS

FULL NAME: TONICANT N. G. (handwritten)

CAPACITY: (handwritten)

AREA: TENICANT

BUSINESS ADDRESS: 300 MAIN RD, TRUKOM



*(Handwritten signature)*

*(Handwritten signature)*

*(Handwritten signature)*

mead

**Derick de Beer**

**From:** Shannon S. Van Vuuren  
**Sent:** 03 November 2020 12:28  
**To:** Veruschka V. September  
**Cc:** Alan A. Nixon  
**Subject:** JACOB ZUMA RETURN OF SERVICE // MABUZA ATTORNEYS // JHB NORTH

**From:** johannesburgnorth@sheriffnet.co.za <johannesburgnorth@sheriffnet.co.za>  
**Sent:** Monday, 02 November 2020 15:30  
**To:** Lerato L. Radebe <LeratoR@commissionsc.org.za>; Lerato L. Radebe <LeratoR@commissionsc.org.za>;  
 lerator@commissoinsc.org.za  
**Subject:** Return: 155056 - NO REF - THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE  
 CORRUPTION - MR JACOB GELDLEYIHLEKISA ZUMA

**The Judicial Commission of Inquiry into allegations of State Capture, Corruption and fraud in the  
 public sector including organs of the state  
 Held at Johannesburg**

In the Matter between:	Case Number	NO CASE NO
THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE CORRUPTION	Plaintiff	
and		
MR JACOB GELDLEYIHLEKISA ZUMA	Defendant	
and		

Return in accordance with the provisions of the Supreme Court Act 10 of 2013, as amended

**RETURN OF SERVICE - SUMMONS - RETURN IN ACCORDANCE WITH THE PROVISIONS OF RULE 54(6) OF THE  
 UNIFORMS RULES OF COURT, AS AMENDED**

On this 30th day of October 2020 at 14:20 I served this SUMMONS upon MISS LANGWE, ATTORNEY ostensibly a responsible person and not less than 16 years of age, being the duly authorised agent of MR JACOB GELDLEYIHLEKISA ZUMA who accepted service on behalf of lastmentioned after a power of attorney was displayed, at C/O MABUZA ATTORNEYS, 1ST FLR, 83 CENTRAL STR, HOUGHTON, JHB by handing firstmentioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 54(6)

Note: The original return together with the original abovementioned process is dispatched to the mandator.

A T Esterhuizen - Deputy Sheriff

Sheriff Costs - Account: 4226 - COMMISSION OF INQUIRY			
Description	Qty	VAT	Total
Email correspondence	1	2.85	19.00
Service	1	10.58	70.50
Travelling	1	18.00	120.00
Registration	1	1.65	11.00
Return	1	5.63	37.50
Urgency fee	1	67.50	450.00

Sheriff JHB North  
 T A Kruger  
 P O Box 9025  
 Johannesburg 2000  
 Tel 011 334 4397/8/9  
 Fax: 011 334 4320

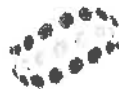
*men*

*[Handwritten signature]*

**COMMISSION OF INQUIRY INTO STATE CAPTURE**  
**HELD AT**  
**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**  
**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**17 NOVEMBER 2020**

**DAY 308**



**Gauteng Transcribers**

22 Woodlands Drive  
Irene Woods, Centurion  
TEL: 012 941 0567 FAX: 086 742 7088  
MOBILE: 086 513 1757  
[info@gautengtranscribers.co.za](mailto:info@gautengtranscribers.co.za)



**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

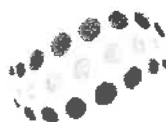
**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**DATE OF HEARING:**

**17 NOVEMBER 2020**

**TRANSCRIBERS:**

**B KLINE; Y KLIEM; V FAASEN; D STANIFORTH**



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MEAN

**PROCEEDINGS RESUME ON 17 NOVEMBER 2020**

**CHAIRPERSON:** Good morning Mr Pretorius, good morning everybody.

**ADV PRETORIUS SC:** Morning Chair.

**CHAIRPERSON:** Yes. Yesterday I hear argument on the recusal application and I indicated that I was hoping to give judgment this morning. I am not going to give a ruling or judgment this morning because I must – I am still working on it. I have got quite some documentation to go  
10 through carefully. I am going to use today to work on that judgment.

So we are going to adjourn and resume tomorrow at ten by which time I hope to be ready to deliver my ruling/judgment on the recusal application. So we are going to adjourn and then we must resume tomorrow at ten. If for some reason I am not ready at ten o'clock communication will be sent to all concerned.

It might be eleven or twelve but I am going to aim for ten o'clock tomorrow. Okay. I have already  
20 communicated this to counsel on both sides so they are aware of it. Okay alright.

**ADV PRETORIUS SC:** Thank you Chair.

**CHAIRPERSON:** Thank you. I think Mr Sikhakhane would like to say something. Somebody must just sanitise first.



man



**ADV SIKHAKHANE:** Chair thank you, thank you.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** We – I have indicated yesterday that we were to look at the statement that you read.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** In which I in jest said you have made yourself a witness.

**CHAIRPERSON:** Ja.

**ADV SIKHAKHANE:** We have consulted briefly with client  
10 and our instructions are to put on record a statement that deals with your statement.

**CHAIRPERSON:** Ja.

**ADV SIKHAKHANE:** And may or may not put in dispute some of the things you have stated so I thought

**CHAIRPERSON:** Ja.

**ADV SIKHAKHANE:** It is convenient that it will happen – the judgment will happen to – the ruling will happen tomorrow which we hope we shall have given you the version of the relationship of yours with the former President.

20 **CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** Secondly he requests that he has an emergency and if he – with the leave of the Chairperson he is not here tomorrow it is not any disrespect he would like me to ask the Chair to excuse him – he has a funeral to attend – something has just happened he has to go there





and be...[intervenes]

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** Chair.

**CHAIRPERSON:** Okay and then he would be – depending on the outcome tomorrow he would be back on Thursday?

**ADV SIKHAKHANE:** Depending on the outcome tomorrow so we will have – we will communicate

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** The situation because he is going there  
10 for a funeral. I do not know whether the funeral – it cannot be during the week.

**CHAIRPERSON:** Yes, yes.

**ADV SIKHAKHANE:** But a death has happened in the family and so...

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** But he is going to – whatever the Chair

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** Tells us to do but we will also try and give the Chair the version of the relationship the two of you  
20 had from his perspective. And Chair may I say right here because it is because there may be things that he may have thought are not relevant.

**CHAIRPERSON:** Ja.

**ADV SIKHAKHANE:** But he will place them in – on record.

**CHAIRPERSON:** Ja.



men



**ADV SIKHAKHANE:** He needs to put his own version.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** Thank you Chair.

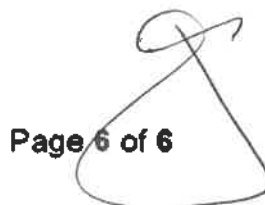
**CHAIRPERSON:** No, no, no that is fine. Well he may attend the funeral tomorrow and on the understanding that if on Thursday he is required to be here he will be back.

**ADV SIKHAKHANE:** Thank you Chair I will communicate that with him.

**CHAIRPERSON:** Okay alright.

10 **ADV SIKHAKHANE:** Thank you Chair.

**CHAIRPERSON:** We adjourn.



Men  
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**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**DATE OF HEARING:**

19 NOVEMBER 2020

**TRANSCRIBERS:**

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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proceedings will continue or whether they will be adjourned or stayed, in effect, pending any application for review or any referral of any complaint Chair.

So the position is simply this. The summons stands. It is not, with respect to my learned friend, open to the Applicant simply to "excuse himself".

The proper application of the law that demands that you make a decision about the continuance of proceedings. And in that regard, we have prepared argument.

10 But in the face of a unilateral decision, I am not sure that it is going to be productive to take up time, presenting that argument to you. So perhaps we should take a short adjournment and you can rule on the proceedings after the adjournment.

**CHAIRPERSON:** Well, let us take the tea adjournment and then we will resume after 15-minutes.

**ADV PRETORIUS SC:** Thank you, Chair.

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS**

20 **INQUIRY RESUMES**

**CHAIRPERSON:** We took a tea adjournment which has ended up taking quite long. We return to the hearing in circumstances where Mr Zuma has left, I have been told. Mr Zuma had been issued with a summons to be here from Monday to tomorrow unless he was excused by me. On



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Tuesday his lawyers asked me to excuse him for yesterday because he wanted to attend a funeral. I excused him from attending. He has left today without asking me to be excused.

This is a serious matter but in terms of the plans of the Commission for this week he was going to be, if I dismissed his application that I should recuse myself, as I have done, he was going to be asked to take the witness stand and be questioned about various matters relating to  
10 matters that we are investigating as a Commission. It is a pity that he has elected to leave without asking for permission.

There is no point for the Commission to sit for the rest of the day because it has convened to deal with his evidence, there is no point in coming tomorrow because he is not coming back.

So we are going to adjourn and the Commission will reflect on the matters that it needs to reflect on but it is going to continue with its work. I think I am going to end  
20 there. I do not know if there is anything you want to say Mr Pretorius?

**ADV PRETORIUS SC:** No, Chair.

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** Your address is noted.

**CHAIRPERSON:** Yes. Okay so we are going to adjourn,

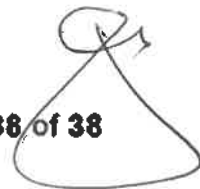


19 NOVEMBER 2020 – DAY 309

there will be no hearing tomorrow but next week there are witnesses who will come and we will continue next week on Monday. We adjourn.

INQUIRY ADJOURNS TO 23 NOVEMBER 2020

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MEN

A handwritten signature in cursive script, appearing to read "J. Men".

"PIM13"



PG Ref: 101577  
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19 November 2020

#### **Statement by JG Zuma Foundation on Zondo Commission**

The JG Zuma Foundation expresses its disappointment that the Chairperson of the Zondo Commission missed the opportunity offered to him by President Zuma's counsel during oral submissions on 16 November 2020.

Equally disturbing is the fact that the Chairperson failed to realize that as soon as his unusual statement was contradicted, he could not be the arbiter of his own dispute.

We are also gravely concerned at the reports that when President Zuma's legal team went to see the Chairperson in chambers they found the Chairperson with Ngcukaitobi SC, whose role in the Chairperson's chambers was not explained. It is disturbing that the Chairperson allowed such irregularities to occur in this matter.

We stand by President Zuma and commend him for his firm stance of walking away from the Commission. It is indeed a comedy of errors, floundering from one error to the next.

We commend President Zuma for risking it all in order not to legitimize an irregular process disguised as a legitimate Commission.

We call on all supporters of President Zuma as he faces criminal proceedings being plotted by the Evidence Leaders, and the Chairperson irregularly assisted by Ngcukaitobi SC, who also represents other parties appearing before the same Commission.

**Breaking the cycle of intergenerational poverty**

Registered Number: 2008-02106/08  
Founder and Patron: Mr Jacob G. Zuma

We know that President Zuma and his team took this brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings.

We know that President Zuma and his team took this brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings.

President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process.

We hope that the Chairperson is aware that those pulling the strings behind the scenes do not have his interests at heart and will drop him as quickly as they picked him.

President Zuma's counsel repeatedly implored the Commission to be responsible but all these attempts were in vain as the forces behind the scenes were prepared to risk it all, including the integrity of the Chairperson, to achieve their nefarious goals.

They can spin what happened all they like, their evil intentions were thwarted and prejudice blinded them.

We are behind President Zuma all the way, no matter what they try to destroy him. They will fail.

Issued by  
Jacob Gedleyihlekisa Mhlanganyelwa Zuma Foundation.





# JACOB GEDLEYIHLEKISA ZUMA

Kwibakwasunise Homestead  
KwaNkamalala, Nkandla  
King Cetshwayo District  
KwaZulu Natal

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## STATEMENT ON CONSTITUTIONAL COURT DECISION COMPELLING ME TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE

I have received an overwhelming number of messages of support from members of the African National Congress and the public at large following the recent extraordinary and unprecedented decision of the Constitutional Court where it effectively decided that I as an individual citizen, could no longer expect to have my basic constitutional rights protected and upheld by the country's Constitution. With this groundswell of messages, I felt moved to publicly express solidarity with the sentiments and concerns raised with me about a clearly politicized segment of the judiciary that now heralds an imminent constitutional crisis in this country.


When the former Public Protector, Advocate Madonsela, stipulated the terms upon which the President would establish a commission of inquiry to look into allegations of state capture, she had recommended that the chairperson of the inquiry be appointed by the Chief Justice and not the president as is the normal and correct legal procedure. As the President at the time, I legally challenged this approach by the Public Protector stating that she was overstepping the powers of her office by imposing the decision to appoint a commission of inquiry on the president and by imposing how the head of that commission of inquiry should be appointed. The Public Protector stated that she made the recommendation of the appointment of a commission of inquiry because her term of office was ending and she would not have had sufficient



would have carried on with the work she had started as the work is that of the office of Public Protector and not the individual serving as the Public Protector at the time. She did not leave that office having completed every single investigation that was before her when her term ended but deemed it necessary that this particular investigation be referred to a commission of inquiry and not the other investigations that she had not completed at the time. It was clear then as is clear now that; given that this matter contained specific allegations against Zuma, it needed a different and special approach that would deviate from the law and the Constitution to ensure that Zuma was dealt with differently.

The High Court in Pretoria decided in favor of the Public Protector in that legal challenge stating, amongst other things, that the commission of inquiry as recommended by the Public Protector would be different in that it would only have such powers as are directly equal to the powers of the office of the Public Protector. What has subsequently transpired with the establishment and functioning of the Commission of Inquiry into Allegations of State Capture is completely at odds with what the court stated as the envisaged purpose of this commission.

The Commission into Allegations of State Capture led by the Deputy Chief Justice, has followed in the steps of the former Public Protector in how it also has continued with creating a special and different approach to specifically deal with Zuma. The chairperson of the commission, unprovoked, has called special press conferences to make specific announcements about Zuma. This has never happened for any other witness. Recently the commission ran to the Constitutional Court on an urgent basis to get the Constitutional Court to compel me to attend at the commission and to compel me to give answers at the commission, effectively undermining a litany of my constitutional rights including the right to the presumption of innocence. I have never said that I

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apprehension of bias and a history of personal relations between the Deputy Chief Justice and myself, I have taken the decision by the Deputy Chief Justice not to recuse himself on review as I believe his presiding over the proceedings does not provide me the certainty of a fair and just hearing.

The recent decision of the Constitutional Court also mimics the posture of the commission in that it has now also created a special and different set of circumstances specifically designed to deal with Zuma by suspending my Constitutional rights rendering me completely defenceless against the commission. This conjures up memories of how the apartheid government passed the General Laws Amendment Act 37 in 1963 which introduced a new clause of indefinite detention specifically intended to be used against then PAC leader, Robert Sobukwe. The parallels are too similar to ignore given that Sobukwe was specifically targeted for his ideological stance on liberation. I on the other hand am the target of propoganda, vilification and falsified claims against me for my stance on the transformation of this country and its economy. The Commission of Inquiry Into Allegations of State Capture should have been rightly named the Commission of Inquiry into Allegations of State Capture against Jacob Zuma as it has been obviously established to investigate me specifically.

With the recent decision of the Constitutional Court one cannot help but wonder why it is that Chief Justice Mogoeng initially informed me that this commission would be chaired by Judge Desai but shortly thereafter changed this decision and informed me that the commission would be chaired by Deputy Chief Justice Zondo instead.

Deputy Chief Justice Zondo in dismissing the application to recuse himself was again frugal and expedient with the truth in how he contextualized and defined the nature of the personal relationship we had. Perhaps by western



personal integrity, which now seems very compromised, to disclose to the public the extent to which I have repeatedly intervened financially in matters pertaining to the maintenance of the child whose details he has already divulged. I had relied upon his own sense of integrity as a person and a judicial officer to remember that he had on several occasions asked people such as Mr. Manzi to speak to me on his behalf regarding his judicial appointments and personal aspirations to be considered by me as president for his elevation to higher courts during my tenure as president. I had relied upon his own sense of integrity as a person and a judicial officer to remember that we had met at my Forest Town residence to discuss the nature of our relationship and the risks that were inherent in the public knowledge of our past association given the offices we both occupied at the time. I had relied upon his own sense of integrity as a judicial officer to be mindful of the fact that he and my estranged wife Thobeka are very close confidants and that I am a point of convergence in key aspects of their lives respectively. I had relied on his own sense of integrity as a judicial officer not to be a witness and judge in an application where he is central to the dispute. He literally created a dispute of fact in an application about him and continued to adjudicate the matter where his version was being contested by me. Again, a special and different set of legal norms were employed because they were targeting Zuma. This violation of sacrosanct legal principles went unnoticed simply because it was being used against Zuma.

It is clear that the laws of this country are politicized even at the highest court in the land. Recently at the State Capture Commission, allegations made against the judiciary have been overlooked and suppressed by the chairperson himself. It is also patently clear to me that I am being singled out for different and special treatment by the judiciary and the legal system as a whole. I therefore state in advance that the Commission Into Allegations of State Capture can expect no further co-operation from me in any of their



I do not fear being arrested, I do not fear being convicted nor do I fear being incarcerated. I joined the struggle against the racist apartheid government and the unjust oppression of black people by whites in the country at a very young age. As a result, I was sentenced in December 1963 to serve 10 years on Robben Island at the age of 21. Thereafter, I continued to be at the forefront of the liberation struggle within the ranks of the African National Congress and Umkhonto weSizwe in exile until my return to South Africa in the early 90's. In all the years of struggle, I had never imagined that there would come a time when a democratic government in South Africa built on Constitutional values would behave exactly like the apartheid government in creating legal processes designed to target specific individuals in society. Witnessing this carries a much more amplified pain when realizing that it is now a black liberated government behaving in this way against one of their own. The notion of divide and conquer against the ANC has never been a more apposite truism than in the current politics of South Africa. This brings to mind what the great Pan Africanist philosopher Frantz Fanon wrote of post-colonial nations in his work titled *The Wretched of the Earth* saying:

*"If this suppressed fury fails to find an outlet, it turns into a vacuum and devastates the oppressed creatures themselves. In order to free themselves they even massacre each other. The different tribes fight between themselves since they cannot face the real enemy- and you can count on the colonial policy to keep up their rivalries"*

The wrath visited upon me as an individual knows no bounds as my children and those known to be close to me have been specifically targeted and harassed to the extent that they all have had their bank accounts closed for no particular reason other than that they are known to be associated to me. The government and the justice system have turned a blind eye to these and many other injustices simply because they target Zuma. Anything bearing the

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agenda to have special and different laws that only apply to Zuma continues to manifest.

In the circumstances, I am left with no other alternative but to be defiant against injustice as I did against the apartheid government. I am again prepared to go to prison to defend the Constitutional rights that I personally fought for and to serve whatever sentence that this democratically elected government deems appropriate as part of the special and different laws for Zuma agenda.

JG ZUMA

1 FEBRUARY 2021

A handwritten signature in black ink, appearing to read 'JG Zuma', is located in the bottom right corner of the page. The signature is written in a cursive style with a large, stylized initial 'Z'.

# JACOB GEDLEYIHLEKISA ZUMA

KwaDakwadunuse Homestead  
KwaNxamalala, Nkandla  
King Cetshwayo District  
KwaZulu Natal

15 FEBRUARY 2021

## FINAL STATEMENT ON CONSTITUTIONAL COURT DECISION COMPELLING ME TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO STATE ALLEGATIONS OF STATE CAPTURE AND MY REFUSAL TO APPEAR BEFORE THE ZONDO COMMISSION

1. On 1 February 2021 I issued a statement in which I set out my position and attitude towards what I referred to as an unprecedented decision of the Constitutional Court, which effectively stripped me off my constitutional right as a citizen and created, as some of our courts have been doing to me, jurisprudence that only applies to Jacob Gedleyihlekisa Zuma.
2. I took this extra-ordinary step not to undermine the Constitution but to vindicate it, in the face of what I view as a few in the judiciary that have long left their constitutional station to join political battles. I took it after my observation that there are some concerning tendencies slowly manifesting in the judicial system that we should all fear. It is my political stance and mine alone.



on what they have always sought to do, turn all the narratives against me into evidence. In his long-prepared speech, Pretorius SC presented what Deputy Chief Justice Zondo literally called evidence against me. Realizing that they had forfeited the opportunity to present the evidence to me, they did what has become their hallmark at the Commission in making submissions to each other and playing politics to influence public opinion.

4. That Deputy Chief Justice Zondo could mislead to the nation is something that should concern us all. In justifying his position earlier, he stated that it was my legal team that said I would come and exercise my right to silence. Those who know the truth will know that when my legal team made this reference, it was in the context of an example and suggestion of how a more responsible way forward could be found.
5. His conduct today fortifies my resolve and belief that he has always sought to prejudice me. In what seemed like Pretorius SC's closing argument, it appeared that the script thereof was already written for the report of the Commission. In his typical approach, he smuggled new allegations about me that were obviously intended to ambush me. He has prejudiced my children, my family as he presented his version that he always sought to place in Commission's report.
6. The Deputy Chief Justice concluded by saying my contempt constitute grounds for him to approach to the Constitutional Court to seek a sentence.





proceedings would commence, but I have accepted that Deputy Chief Justice Zondo and due process and the law are estranged.

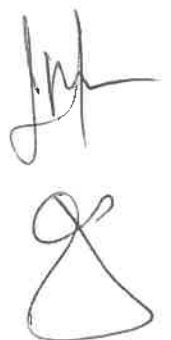
7. Now that it seems that my role in the Commission has come to an end, I wait to face the sentence to be issued by the Constitutional Court. Accordingly, I stand by my statement of 1 February 2021 and no amount of intimidation or blackmail will change my position as I firmly believe that we should never allow for the establishment of a judiciary in which justice, fairness and due process are discretionary and are exclusively preserved for certain litigants and not others.
8. Many in our society have watched this form of judicial abuse but choose to look the other way merely because of their antipathy towards me. They choose to lay the blame at my doorstep and fail to confront head-on the judicial crisis that is unfolding in our country.
9. The Zondo Commission has today again showed how it is short of the attributes necessary to conduct an independent, fair and impartial investigation or hearings that involve me or that contradict their script on state capture. Judge Zondo has today again displayed questionable judicial integrity, independence and open-mindedness required in an investigation of this magnitude. Upon being advised by my legal team in open proceedings that it would have been more prudent to have more than one person preside over a commission of this nature, Judge Zondo answered that he could not do

A handwritten signature in black ink, appearing to be the initials 'JH' with a stylized flourish above the 'H'.

task? What type of society accepts such an explanation from a Deputy Chief Justice who sits in the apex court with ten other judges in order to enrich, sometimes by dissent, the quality of judgments?

10. What society looks the other way when a judge adjudicates a matter involving his own disputed facts? What judicial system tolerates a judge admitting that he concealed a fact in his statement relating to whether he had ever met with me during my tenure as President? I invite all of those who care to look closely at my replying affidavit in the recusal application as well as the Deputy Chief Justice's delayed admission that his statement had not been accurate. Indeed, as this admission stared us in the face, all looked the other way in their consistent attempts to conceal or downplay the obvious errors of the Chairperson of the Commission.

11. Although my statement was a response to the judgment of the Constitutional Court, my reservations about the Commission and its lawfulness are well recorded. I stand by my reservations and that the Commission was conceptualized as part of the campaign and sponsored multi-sectoral collaboration to remove me from office. Faced with this obvious unlawful appointment of the Commission, the Chief Justice endorsed it. Later, and indeed unsurprisingly, Judge President Mlambo also endorsed this unprecedented breach of the principle of separation of powers between the executive and the judiciary. No matter how long we deny it or ignore it, the illegality of that decision to allocate to the judiciary a constitutional function of

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12. The Commission approached the Constitutional Court in total disregard of the fact that I was taking its ruling on the recusal application on review. This calculated stratagem was to frustrate my chances of even challenging their subpoenas in our courts. The Commission obviously ran to seek a licence to act with impunity. I still persist that there was no basis or dispute necessitating the Commission to approach the Constitutional Court and that there was no factual basis for presumption that I would defy the subpoena. I have already presented myself to the Commission on two occasions when called upon to do so.
  
13. Fed with absolute lies, the Constitutional Court assumed that I or my legal team had threatened that I would defy or refuse to answer. You only have to peruse the records of the date of the recusal application to know that my legal team was at pains to suggest a responsible way forward. The submission by the Commission that a threat was made that I would defy or refuse to answer is a blatant falsehood fabricated on behalf of the Commission and entertained by the judges of the Constitutional Court.
  
14. My lawyers, as a courtesy, advised the Constitutional Court that I would not participate in the proceedings. The judges of the Constitutional Court concluded that my election not to waste their time deserves a cost order against me. It has become common place for some of our courts to make these costs orders against me in order to diminish my constitutional right to

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15. It was submitted on behalf of the Commission, something it seem to have been accepted by the Constitutional Court that; I am "accused No 1" at the Commission. Labelling me in this fashion is deeply offensive to me but is also clear evidence that the Commission treats me as an accused, not a witness.
16. The Constitutional Court went further, accepting as a fact, the Commission's submissions that I had a constitutional duty to account to it (for the wrongdoing). I have followed the evidence of many witnesses at the Commission, including those alleged to have implicated me and elected that none of them had any case of substance against me. However, the Commission sought to deliver me at all costs and in this endeavour is prepared to break every rule of justice and fairness.
17. It is that type of judicial conduct that I protest against, not our law or our Constitution. It is not the authority of the Constitutional Court that I reject, but its abuse by a few judges. It is not our law that I defy, but a few lawless judges who have left their constitutional post for political expediency. I respect the law and have subjected myself even to its abuse for the past 20 years. I have presented myself to the Zondo Commission twice and therefore there was no factual justification for the order given by the Constitutional Court. None whatsoever.
18. I protest against those in the judiciary that have become an extension of political forces that seek to destroy and control our country. I seek no special treatment from the judiciary. I ask them to remain true only to their oath of

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vindicate what we fought for so that even when society is in turmoil, as it will from time to time, we will have a judiciary that refuses to join the lynching mobs.

19. As it has become common place in our country in cases that relate to me, my statement has been met with the bigotry that has become the hallmark of our sponsored opinion makers. Instead of pausing to consider whether the so-called constitutional crisis may be emerging from the conduct of some of our courts themselves, the debate has been conducted in the usual binary, simplistic and biased terms, seeking to shield what I regard as a few in the judiciary that have forsaken their oath of office to **“...uphold and protect the Constitution and the human rights entrenched in it, and will administer justice to all persons alike without fear, favour or prejudice, in accordance with the Constitution and the law.”**

20. I do so not to undermine the Constitution or the law, but to express my own protest about those in the judiciary that have turned their back on their fundamental task in society. I take this stance because I believe that judges should never become agents of ruling classes in society.

21. So, I take this stance not because I refuse to accept that my Presidency like any other was not perfect, but because we continue to allow some in the judiciary to create jurisprudence and legal inconsistencies that only apply to

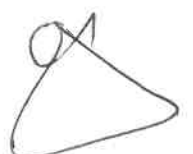


Protector, not because none can see the contradictions, but because they care less about the Constitution than they do about seeing me lynched and punished.

None can claim not to see that the recent judgment of the Constitutional Court is a travesty of justice. That we accept a judgment based on mere conjecture and speculation about my future conduct is a betrayal of the Constitution that many refuse to confront as they scapegoat me for every malady in society.

22. The debate has tended to focus on me, with many suggesting that I regard myself as above the law or that I do not recognize our Constitution and our law. They know as well as I do, that is not the case. Some have argued that if I do not appear before the Zondo Commission I must be jailed or stripped of presidential benefits or pension. Well, for the record, I am the one that suggested that I do not mind defending myself against the sanction that accompanies my principled stance. Secondly, it should naturally please them that, should I fail to defend myself before the relevant contempt forum, I will face jail term.

23. The suggestion that I would be enticed with pension and benefits to abandon my principled stance against what I see as bias by a few in the judiciary, can only come from people who believe that money can buy everything. When I joined the ANC and fought for democracy, I did not do so for money and benefits. This, to me, is a foreign tendency to some of us who have been



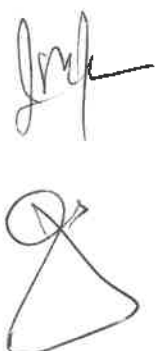
24. I am grateful however, to many comrades, who have sought to hear my side of the story and have understood my frustration. I am grateful for their support and their courage to stand with me rather than to appease, at my expense, those who seek to control our economy, judiciary and our country.

25. Some in our so called intelligentsia have become blinded by their prejudice towards me, they agree that the court may take away my right to remain silent, yet they fail to recognize that the Zondo Commission has already extended this right to at least three witnesses that appeared before it. Where is the consistency in this approach?

26. I demand no more than justice, fairness and impartiality, all of which are attributes we should not have to remind some of our judges to possess. They promised the country they possessed these attributes the day they applied for judicial office and took their oath of office. We should not have to remind some of them of this.

27. If we paused, in any case that involves me, and asked whether many of the decisions taken, and attitudes adopted are not merely driven by the antipathy towards me. What legacy are some of our judges leaving for future generations?

28. When Judge President Mlambo can flip flop on the same principle simply to

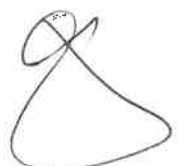
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confronting these questions I am raising, many will resort to sarcasm, and seek a response that blames me. In any event, that is what has led us to this point. The failure to see our law beyond one individual we seek to punish.

29. We sit with some judges who have assisted the incumbent President to hide from society what on the face of it seem to be bribes obtained in order to win an internal ANC election. We sit with some judges who sealed those records simply because such records may reveal that some of them, while presiding in our courts, have had their hands filled with the proverbial 30 pieces of silver.

30. I repeat, it is not the law against which I protest, as I refuse to subject myself to Zondo Commission. I protest against our black, red and green robes, dressing up some individuals that have long betrayed the Constitution and their oath of office. It is those who allow it and look the other way that must do some reflection. You do not have to like me to do this reflection. It is a choice we must make because this country and our law will and must outlive Jacob Zuma.

31. Finally, I restate that my statement is no breach of the law. It is a protest against some in the judiciary that have sold their souls and departed from their oath of office. It is my respect for the law that obliges me to reject the abuse of law and judicial office for political purposes. The law I respect, its abuse I will not.

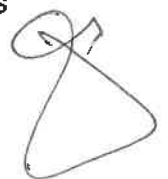




32. I restate that my review of the recusal ruling remains undetermined and this is part of my reservation about presenting myself to the very presiding officer whose decision I am taking on review. I have no doubt that I will lose it like many other cases. Be that as it may, I am entitled to have it determined or at least recognized.

33. Ordinarily I should have the faith to approach the Chairperson of the Commission or our courts to seek whatever remedy would stay the proceedings until my review is determined. However, the antipathy of some of the courts and the Commission towards me has made it futile for me to exercise my constitutionally guaranteed access to courts. Not only will I be dismissed, but I will also be punished with punitive costs for approaching the courts.

34. I am in the process of revising all matters I have before our courts, except the criminal matter, as it has become clear to me that I will never get justice before some of the current crop of our judges in their quest to raise their hands to seek political acceptance at my expense. I have observed in hearings how some of our judges have directed their antipathy towards my counsel in hearings and am grateful that my legal team, under testing circumstances have kept their professional composure.

A handwritten signature in black ink, appearing to read 'Justice'.A large, stylized handwritten signature in black ink, possibly reading 'Justice'.

35. I am aware that that our judiciary and magistracy have a number of men and

tainting all of them with the same brush. Unfortunately, many of them, for their refusal to be part of the syndicate or to forsake their oath of office, they will never be allocated matters wherein pre-determined outcomes are demanded.

36. I respect our citizens and our law. History will soon reveal that it is only some in our courts that have been captured to serve political ends and to undermine the Constitution, which is the supreme law of the land. I will not join those who seek to do this.

37. As you sharpen your pens to condemn me, I reiterate that I stand by my earlier statement and will not appear before a process that is not impartial. I stand by the decision not to forsake the law and our Constitution. I choose to protest in order to restore our constitutionally enshrined principle of an independent judiciary.

**ISSUED BY:**

**JACOB GEDLEYIHLEKISA ZUMA**

A handwritten signature in black ink, appearing to read 'JZuma', written in a cursive style.A handwritten mark or signature in black ink, consisting of a large, stylized loop with a small arrow-like stroke at the top right.

# JACOB GEDLEYIHLEKISA ZUMA

KwaDakwadunuse Homestead  
KwaNxamalala, Nkandla  
King Cetshwayo District  
KwaZulu Natal

**25 March 2021**

## **STATEMENT ON CONSTITUTIONAL COURT HEARING THIS MORNING AND MY DECISION NOT TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO STATE ALLEGATIONS OF STATE CAPTURE, FRAUD AND CORRUPTION IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

1. Today, the Constitutional Court heard arguments made on behalf of Deputy Chief Justice Zondo in which all sorts of untruthful and selective averments were made against me. Many of these missed my real concerns which have compelled me to take the stance I have taken.
2. At the outset, I wish to state that the public would have noticed the composition of the Constitutional Court this morning. The inclusion of Justice Dhaya Pillay was indeed curious if one considers her historical hostility and insults against me. That she was included in this particular matter demonstrates the crises engulfing our judiciary.
3. Justice Dhaya Pillay has previously insulted me by insinuating in her judgment that I am "...a wedge driver with a poisonous tongue." It is the same judge



The same judge said that **"It is in fact Mr Zuma who damaged the reputation of the ANC as a result of the allegations of fraud and corruption levelled against him. Removing Mr Zuma was therefore consistent with the country's Constitution and in the interests of the ANC and the people of South Africa."** This was said in a case that had nothing to do with my role in the ANC and government.. I would have expected that a court, acting impartially, would have the conscience of mind to exclude a judge that has made such statements against the subject of a matter before them.

4. Ordinarily and if I had faith that a South African court would consider my submissions, I would present them to the Constitutional Court. However, my experience is that many South African judges, including those of the Constitutional Court, can no longer bring an open mind to cases involving me as they have done in awarding legal costs against me in a case I had not participated in.

5. It is a travesty of justice to observe how the Constitutional Court has allowed itself to be abused in this manner and the repeated warnings I have made in this regard continue to go unheard simply because they emanate from me. The truth is that the Commission approached the Constitutional Court directly to compel me to appear on the grounds that Commission was running out of time and that approaching a lower court as is the correct legal procedure. would have caused


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6. What the Constitutional Court failed to appreciate is that in rescuing the Commission from its own inefficiencies and incompetence, the Constitutional Court chose to prejudice me and violate my constitutional rights by being the court of first and last instance by circumventing my right to the normal due process of having the judicial decision of a lower court remaining subject to review by a higher court. The fact is that it is the Commission that has failed to regulate its own costs and processes in allowing itself to waste time pursuing to all sorts of evidence under the sun that had nothing to do with their terms of reference. In addition to that, the Commission has never been truthful about its own inefficiencies that include the hiring expensive premises with extravagant extras and over staffing with expensive investigators and legal personnel that caused the costs of the Commission to grossly exceed its initial allocated budget.
7. In an attempt to cover up these in efficiencies and wasteful expenditure, the Commission sought to scapegoat me by asking the Constitutional Court to encroach my constitutional rights. For the sake of expedience of the Commission, the Constitutional Court accepted the unfounded allegations that I was delaying the Commission in the completion of its work when all I had done was exercised a legitimate right to challenge the impartiality of the Chairperson of the Commission.
8. In what appeared to be a plea for my severe punishment for revenge's sake, speculations were made about me and my case. In truth, I have stated that my



better, judges, in whom we vest public power to protect the rule of law and the Constitution.

9. What I wish to reiterate though, in order to deal with the misrepresentations and lies peddled in the Constitutional Court on a previous occasion and this morning, is the basis of my stance as well as my right to express my views on the judiciary without being limited.
10. This approach to the Constitutional Court by the Commission is but a scheme to ignore and sidestep the serious issues raised in my review application. Therein, I raise the issues on the basis of which I seek the recusal of Deputy Chief Justice Zondo. In that review I also demonstrate that the Deputy Chief Justice had been untruthful in his statement regarding whether or not he had met with me while I was Head of State. This much is acknowledged by him in his attempt to explain his initial denial that we had indeed met.
11. Further, my review deals with the fact that Deputy Chief Justice Zondo had become a judge in his own matter. It is common knowledge that he made averments which were disputed. In this regard, he could not be the one to determine a dispute that involves his version.
12. The insistence made on behalf of the Commission that I must be incarcerated revealed the hostility of the Commission against me. It is no longer my attendance that they seek, but they have joined the political campaign to destroy me. It also reveals that this was always the Commission's mandate

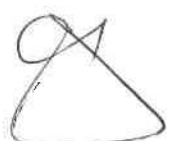


13. I have expressed my concern at the manner in which the Deputy Chief Justice is improperly exploiting his proximity to the Constitutional Court to protect and advance his own interests as chairperson of the Commission . I strongly disagree with the assertion that I have raised my concerns in order to diminish the stature of the Constitutional Court. This assertion is a contrived appeal to the Constitutional Court to make it seem as if the case of the Commission is to protect the integrity of the Constitutional Court.

14. I have stated previously that mine is a conscientious objection to the abuse of legal processes. I do not stand against the rule of law but seek to defend my own rights against the onslaught emanating from the Commission and our courts. I am entitled to express my views in this regard and to express them rigorously.


15. More recently, various forces claiming to be defending the Constitution have emerged in their sponsored attempts to influence and exert a public pressure the Constitutional Court to find against me. These hypocrites and pharisees in priestly collars parade as men of God seek nothing but the control of the judiciary and the country.

16. So much was said about my non-participation in the Constitutional Court proceedings. I am entitled not to file opposing papers and it is unfair to suggest that I must be punished for this election. First, I was told that should I oppose the application, I would pay punitive legal costs. Then, when I do not oppose,



17. Similarly, even when I could not attend because of ill-health, Deputy Chief Justice Zondo refused to believe me. I invited him to meet with the Surgeon General and he undertook to do so, but never did.
18. The approach to the Constitutional Court by the Commission is nothing but a scheme to divert attention from the review application, which reveals that Deputy Chief Justice Zondo has not only lied, but became a judge in his own matter. I would have thought it was not allowed for a judge to sit in his own case.
19. The Commission persists with its convenient untruth which has now unfortunately received judicial endorsement that I have refused to give evidence before the Commission. Deputy Chief Justice Zondo knows that it is false that I have refused to participate in the activities of the Commission. What I have objected to, is appearing before Deputy Chief Justice Zondo against whom I have a pending review application to determine whether he should have recused himself from sitting in my appearances.
20. The conduct of Deputy Chief Justice Zondo continues to demonstrates bias against me, the nature of which disqualifies him from adjudicating any dispute regarding evidence presented at the Commission involving me or my family. In short, the moment that he presented a disputed version of facts involving the nature of our past relationship, he became an adjudicator in his own case and

*J. Zondo*

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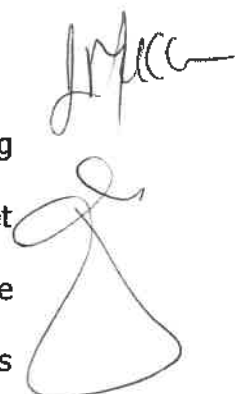
21. I believe that the review applicaton is being deliberately ignored because the facts do not support Deputy Chief Justice Zondo and the desired finding that must be made against me. The pending review application must first be determined before I should be expected to appear before the Commission. The Constitutional Court has drawn an oppressive line against my right to have the review application determined in order to preserve the impartiality and dignity of the Commission. It is highly inappropriate for the Constitutional Court to intervene to save Deputy Chief Justice Zondo from embarrassment from separate issues arising out of the Commission.
22. I believe that history will absolve me. I know that I have dedicated my life to the cause of advancing the interests of my people. I will serve the term of imprisonment imposed by the Constitutional Court - that has already become the focus point of the defend our democracy campaign. This campaign is dangerous to our democracy and when its true fruits are seen in time, I will be vindicated.
23. Many now claim that there is a constitutional crisis. I do not see any constitutional crises when I accept the statutory sanction that may accompany my conscientious objection to the conduct of certain senior members of the judiciary. The crisis would arise if I refused to face the sanction that accompanies my stance, if so determined by a competent court and impartial forum.



system. They can put my physical body behind prison doors; however, my spirit is free to speak against the injustice of the imprisonment. Our people – ordinary people – will gain their voice and when they do, not even the Constitutional Court will not be spared the rigorous questions.

25. All South Africans should be concerned about the dangerous situation we are heading towards. The core principles about separation of powers between the judiciary, legislature and the executive are being gradually weakened. More concerning for me as a person who fought for this democracy, is how the judiciary is now in the position where they are beyond reproach and the judges in this country are continuously taking extra powers to themselves to the detriment of legitimate democratic processes. I strongly agree with the public sentiment that is starting to see the emergence of a judicial dictatorship in South Africa. This, like the injustice of apartheid will not last as there are many like me who still stand for true freedom and democracy. We have in South Africa today the gradual entrenchment of the counter-majoritarian problem.

26. Unfortunately, when people rise up against this judicial corruption, our young democracy will unravel and many democratic gains will be lost in the ashes that will be left of what used to be our democratic state. Many who profess to be acting in the interests of democracy will leave for their wealth destinations abroad as many of them hold dual citizenship. The stooges of these so-called defenders of democracy, will be left with us battling to re-build our country again.

A handwritten signature in black ink, appearing to read 'Amico', is positioned above a large, abstract scribble that resembles a stylized figure or a large letter 'A'.



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19 November 2020

### **Statement by JG Zuma Foundation on Zondo Commission**

The JG Zuma Foundation expresses its disappointment that the Chairperson of the Zondo Commission missed the opportunity offered to him by President Zuma's counsel during oral submissions on 16 November 2020.

Equally disturbing is the fact that the Chairperson failed to realize that as soon as his unusual statement was contradicted, he could not be the arbiter of his own dispute.

We are also gravely concerned at the reports that when President Zuma's legal team went to see the Chairperson in chambers they found the Chairperson with Ngcukaitobi SC, whose role in the Chairperson's chambers was not explained. It is disturbing that the Chairperson allowed such irregularities to occur in this matter.

We stand by President Zuma and commend him for his firm stance of walking away from the Commission. It is indeed a comedy of errors, floundering from one error to the next.

We commend President Zuma for risking it all in order not to legitimize an irregular process disguised as a legitimate Commission.

We call on all supporters of President Zuma as he faces criminal proceedings being plotted by the Evidence Leaders, and the Chairperson irregularly assisted by Ngcukaitobi SC, who also represents other parties appearing before the same Commission.

### **Breaking the cycle of intergenerational poverty**

Registered Number: 2008/021836/08

Founder and Patron: Mr Jacob G. Zuma

We know that President Zuma and his team took this brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings.

President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process.

We hope that the Chairperson is aware that those pulling the strings behind the scenes do not have his interests at heart and will drop him as quickly as they picked him.

President Zuma's counsel repeatedly implored the Commission to be responsible but all [REDACTED] behind the scenes



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We hope that the Chairperson is aware that those pulling the strings behind the scenes do not have his interests at heart and will drop him as quickly as they picked him.

President Zuma's counsel repeatedly implored the Commission to be responsible but all these attempts were in vain as the forces behind the scenes were prepared to risk it all, including the integrity of the Chairperson, to achieve their nefarious goals.

They can spin what happened all they like, their evil intentions were thwarted and prejudice blinded them.

We are behind President Zuma all the way, no matter what they try to destroy him. They will fail.

Issued by

Jacob Gedleyihlekisa Mhlanganyelwa Zuma Foundation.

**Breaking the cycle of intergenerational poverty**

[www.jacobzumafoundation.org.za](http://www.jacobzumafoundation.org.za)

# JACOB GEDLEYIHLEKISA ZUMA

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KwaZulu Natal

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## **STATEMENT ON CONSTITUTIONAL COURT DECISION COMPELLING ME TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE**

I have received an overwhelming number of messages of support from members of the African National Congress and the public at large following the recent extraordinary and unprecedented decision of the Constitutional Court where it effectively decided that I as an individual citizen, could no longer expect to have my basic constitutional rights protected and upheld by the country's Constitution. With this groundswell of messages, I felt moved to publicly express solidarity with the sentiments and concerns raised with me about a clearly politicized segment of the judiciary that now heralds an imminent constitutional crisis in this country.

When the former Public Protector, Advocate Madonsela, stipulated the terms upon which the President would establish a commission of inquiry to look into allegations of state capture, she had recommended that the chairperson of the inquiry be appointed by the Chief Justice and not the president as is the normal and correct legal procedure. As the President at the time, I legally challenged this approach by the Public Protector stating that she was overstepping the powers of her office by imposing the decision to appoint a commission of inquiry on the president and by imposing how the head of that commission of inquiry should be appointed. The Public Protector stated that she made the recommendation of the appointment of a commission of inquiry because her term of office was ending and she would not have had sufficient time to complete her investigation into the complaints that had been lodged. This in itself was also legally problematic in that, the investigation was carried out by her office and not her as an incumbent in that office. Her successor

would have carried on with the work she had started as the work is that of the office of Public Protector and not the individual serving as the Public Protector at the time. She did not leave that office having completed every single investigation that was before her when her term ended but deemed it necessary that this particular investigation be referred to a commission of inquiry and not the other investigations that she had not completed at the time. It was clear then as is clear now that; given that this matter contained specific allegations against Zuma, it needed a different and special approach that would deviate from the law and the Constitution to ensure that Zuma was dealt with differently.

The High Court in Pretoria decided in favor of the Public Protector in that legal challenge stating, amongst other things, that the commission of inquiry as recommended by the Public Protector would be different in that it would only have such powers as are directly equal to the powers of the office of the Public Protector. What has subsequently transpired with the establishment and functioning of the Commission of Inquiry Into Allegations of State Capture is completely at odds with what the court stated as the envisaged purpose of this commission.

The Commission Into Allegations of State Capture led by the Deputy Chief Justice, has followed in the steps of the former Public Protector in how it also has continued with creating a special and different approach to specifically deal with Zuma. The chairperson of the commission, unprovoked, has called special press conferences to make specific announcements about Zuma. This has never happened for any other witness. Recently the commission ran to the Constitutional Court on an urgent basis to get the Constitutional Court to compel me to attend at the commission and to compel me to give answers at the commission, effectively undermining a litany of my constitutional rights including the right to the presumption of innocence. I have never said that I do not want to appear before the commission but have said that I cannot appear before Deputy Chief Justice Zondo because of a well-founded

apprehension of bias and a history of personal relations between the Deputy Chief Justice and myself. I have taken the decision by the Deputy Chief Justice not to recuse himself on review as I believe his presiding over the proceedings does not provide me the certainty of a fair and just hearing.

The recent decision of the Constitutional Court also mimics the posture of the commission in that it has now also created a special and different set of circumstances specifically designed to deal with Zuma by suspending my Constitutional rights rendering me completely defenceless against the commission. This conjures up memories of how the apartheid government passed the General Laws Amendment Act 37 in 1963 which introduced a new clause of indefinite detention specifically intended to be used against then PAC leader, Robert Sobukwe. The parallels are too similar to ignore given that Sobukwe was specifically targeted for his ideological stance on liberation. I on the other hand am the target of propaganda, vilification and falsified claims against me for my stance on the transformation of this country and its economy. The Commission of Inquiry Into Allegations of State Capture should have been rightly named the Commission of Inquiry into Allegations of State Capture against Jacob Zuma as it has been obviously established to investigate me specifically.

With the recent decision of the Constitutional Court one cannot help but wonder why it is that Chief Justice Mogoeng initially informed me that this commission would be chaired by Judge Desai but shortly thereafter changed this decision and informed me that the commission would be chaired by Deputy Chief Justice Zondo instead.

Deputy Chief Justice Zondo in dismissing the application to recuse himself was again frugal and expedient with the truth in how he contextualized and defined the nature of the personal relationship we had. Perhaps by western culture's standard of defining kinship he may be correct if the yardstick is of family events attended or family invitations issued. I had relied on his own



personal integrity, which now seems very compromised, to disclose to the public the extent to which I have repeatedly intervened financially in matters pertaining to the maintenance of the child whose details he has already divulged. I had relied upon his own sense of integrity as a person and a judicial officer to remember that he had on several occasions asked people such as Mr. Manzi to speak to me on his behalf regarding his judicial appointments and personal aspirations to be considered by me as president for his elevation to higher courts during my tenure as president. I had relied upon his own sense of integrity as a person and a judicial officer to remember that we had met at my Forest Town residence to discuss the nature of our relationship and the risks that were inherent in the public knowledge of our past association given the offices we both occupied at the time. I had relied upon his own sense of integrity as a judicial officer to be mindful of the fact that he and my estranged wife Thobeka are very close confidants and that I am a point of convergence in key aspects of their lives respectively. I had relied on his own sense of integrity as a judicial officer not to be a witness and judge in an application where he is central to the dispute. He literally created a dispute of fact in an application about him and continued to adjudicate the matter where his version was being contested by me. Again, a special and different set of legal norms were employed because they were targeting Zuma. This violation of sacrosanct legal principles went unnoticed simply because it was being used against Zuma.

It is clear that the laws of this country are politicized even at the highest court in the land. Recently at the State Capture Commission, allegations made against the judiciary have been overlooked and suppressed by the chairperson himself. It is also patently clear to me that I am being singled out for different and special treatment by the judiciary and the legal system as a whole. I therefore state in advance that the Commission Into Allegations of State Capture can expect no further co-operation from me in any of their processes going forward. If this stance is considered to be a violation of their law, then let their law take its course.



I do not fear being arrested, I do not fear being convicted nor do I fear being incarcerated. I joined the struggle against the racist apartheid government and the unjust oppression of black people by whites in the country at a very young age. As a result, I was sentenced in December 1963 to serve 10 years on Robben Island at the age of 21. Thereafter, I continued to be at the forefront of the liberation struggle within the ranks of the African National Congress and Umkhonto weSizwe in exile until my return to South Africa in the early 90's. In all the years of struggle, I had never imagined that there would come a time when a democratic government in South Africa built on Constitutional values would behave exactly like the apartheid government in creating legal processes designed to target specific individuals in society. Witnessing this carries a much more amplified pain when realizing that it is now a black liberated government behaving in this way against one of their own. The notion of divide and conquer against the ANC has never been a more apposite truism than in the current politics of South Africa. This brings to mind what the great Pan Africanist philosopher Frantz Fanon wrote of post-colonial nations in his work titled *The Wretched of the Earth* saying:

*"If this suppressed fury fails to find an outlet, it turns into a vacuum and devastates the oppressed creatures themselves. In order to free themselves they even massacre each other. The different tribes fight between themselves since they cannot face the real enemy- and you can count on the colonial policy to keep up their rivalries"*

The wrath visited upon me as an individual knows no bounds as my children and those known to be close to me have been specifically targeted and harassed to the extent that they all have had their bank accounts closed for no particular reason other than that they are known to be associated to me. The government and the justice system have turned a blind eye to these and many other injustices simply because they target Zuma. Anything bearing the name Zuma can enjoy no legal rights or protection in this country as the grand

agenda to have special and different laws that only apply to Zuma continues to manifest.

In the circumstances, I am left with no other alternative but to be defiant against injustice as I did against the apartheid government. I am again prepared to go to prison to defend the Constitutional rights that I personally fought for and to serve whatever sentence that this democratically elected government deems appropriate as part of the special and different laws for Zuma agenda.

JG ZUMA

1 FEBRUARY 2021

# JACOB GEDLEYIHLEKISA ZUMA

KwaDakwadunuse Homestead  
KwaNxamalala, Nkandla  
King Cetshwayo District  
KwaZulu Natal

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15 FEBRUARY 2021

## FINAL STATEMENT ON CONSTITUTIONAL COURT DECISION COMPELLING ME TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO STATE ALLEGATIONS OF STATE CAPTURE AND MY REFUSAL TO APPEAR BEFORE THE ZONDO COMMISSION

1. On 1 February 2021 I issued a statement in which I set out my position and attitude towards what I referred to as an unprecedented decision of the Constitutional Court, which effectively stripped me off my constitutional right as a citizen and created, as some of our courts have been doing to me, jurisprudence that only applies to Jacob Gedleyihlekisa Zuma.
2. I took this extra-ordinary step not to undermine the Constitution but to vindicate it, in the face of what I view as a few in the judiciary that have long left their constitutional station to join political battles. I took it after my observation that there are some concerning tendencies slowly manifesting in the judicial system that we should all fear. It is my political stance and mine alone.
3. Today, unprovoked, Deputy Chief Justice Zondo decided to propagate some political propaganda against me. In my absence he and Pretorius SC decided

on what they have always sought to do, turn all the narratives against me into evidence. In his long-prepared speech, Pretorius SC presented what Deputy Chief Justice Zondo literally called evidence against me. Realizing that they had forfeited the opportunity to present the evidence to me, they did what has become their hallmark at the Commission in making submissions to each other and playing politics to influence public opinion.

4. That Deputy Chief Justice Zondo could mislead to the nation is something that should concern us all. In justifying his position earlier, he stated that it was my legal team that said I would come and exercise my right to silence. Those who know the truth will know that when my legal team made this reference, it was in the context of an example and suggestion of how a more responsible way forward could be found.
5. His conduct today fortifies my resolve and belief that he has always sought to prejudice me. In what seemed like Pretorius SC's closing argument, it appeared that the script thereof was already written for the report of the Commission. In his typical approach, he smuggled new allegations about me that were obviously intended to ambush me. He has prejudiced my children, my family as he presented his version that he always sought to place in Commission's report.
6. The Deputy Chief Justice concluded by saying my contempt constitute grounds for him to approach to the Constitutional Court to seek a sentence. Ofcourse he will get it. I am not certain that ordinarily that is how contempt

proceedings would commence, but I have accepted that Deputy Chief Justice Zondo and due process and the law are estranged.

7. Now that it seems that my role in the Commission has come to an end, I wait to face the sentence to be issued by the Constitutional Court. Accordingly, I stand by my statement of 1 February 2021 and no amount of intimidation or blackmail will change my position as I firmly believe that we should never allow for the establishment of a judiciary in which justice, fairness and due process are discretionary and are exclusively preserved for certain litigants and not others.
8. Many in our society have watched this form of judicial abuse but choose to look the other way merely because of their antipathy towards me. They choose to lay the blame at my doorstep and fail to confront head-on the judicial crisis that is unfolding in our country.
9. The Zondo Commission has today again showed how it is short of the attributes necessary to conduct an independent, fair and impartial investigation or hearings that involve me or that contradict their script on state capture. Judge Zondo has today again displayed questionable judicial integrity, independence and open-mindedness required in an investigation of this magnitude. Upon being advised by my legal team in open proceedings that it would have been more prudent to have more than one person preside over a commission of this nature, Judge Zondo answered that he could not do this since he risked a dissenting voice when the report is written. What judge says this as a reason and justification not to be assisted in such a mammoth

task? What type of society accepts such an explanation from a Deputy Chief Justice who sits in the apex court with ten other judges in order to enrich, sometimes by dissent, the quality of judgments?

10. What society looks the other way when a judge adjudicates a matter involving his own disputed facts? What judicial system tolerates a judge admitting that he concealed a fact in his statement relating to whether he had ever met with me during my tenure as President? I invite all of those who care to look closely at my replying affidavit in the recusal application as well as the Deputy Chief Justice's delayed admission that his statement had not been accurate. Indeed, as this admission stared us in the face, all looked the other way in their consistent attempts to conceal or downplay the obvious errors of the Chairperson of the Commission.
  
11. Although my statement was a response to the judgment of the Constitutional Court, my reservations about the Commission and its lawfulness are well recorded. I stand by my reservations and that the Commission was conceptualized as part of the campaign and sponsored multi-sectoral collaboration to remove me from office. Faced with this obvious unlawful appointment of the Commission, the Chief Justice endorsed it. Later, and indeed unsurprisingly, Judge President Mlambo also endorsed this unprecedented breach of the principle of separation of powers between the executive and the judiciary. No matter how long we deny it or ignore it, the illegality of that decision to allocate to the judiciary a constitutional function of the President will stubbornly stare us in the face.

12. The Commission approached the Constitutional Court in total disregard of the fact that I was taking its ruling on the recusal application on review. This calculated stratagem was to frustrate my chances of even challenging their subpoenas in our courts. The Commission obviously ran to seek a licence to act with impunity. I still persist that there was no basis or dispute necessitating the Commission to approach the Constitutional Court and that there was no factual basis for presumption that I would defy the subpoena. I have already presented myself to the Commission on two occasions when called upon to do so.
  
13. Fed with absolute lies, the Constitutional Court assumed that I or my legal team had threatened that I would defy or refuse to answer. You only have to peruse the records of the date of the recusal application to know that my legal team was at pains to suggest a responsible way forward. The submission by the Commission that a threat was made that I would defy or refuse to answer is a blatant falsehood fabricated on behalf of the Commission and entertained by the judges of the Constitutional Court.
  
14. My lawyers, as a courtesy, advised the Constitutional Court that I would not participate in the proceedings. The judges of the Constitutional Court concluded that my election not to waste their time deserves a cost order against me. It has become common place for some of our courts to make these costs orders against me in order to diminish my constitutional right to approach courts.

15. It was submitted on behalf of the Commission, something it seem to have been accepted by the Constitutional Court that; I am “accused No 1” at the Commission. Labelling me in this fashion is deeply offensive to me but is also clear evidence that the Commission treats me as an accused, not a witness.
16. The Constitutional Court went further, accepting as a fact, the Commission’s submissions that I had a constitutional duty to account to it (for the wrongdoing). I have followed the evidence of many witnesses at the Commission, including those alleged to have implicated me and elected that none of them had any case of substance against me. However, the Commission sought to deliver me at all costs and in this endeavour is prepared to break every rule of justice and fairness.
17. It is that type of judicial conduct that I protest against, not our law or our Constitution. It is not the authority of the Constitutional Court that I reject, but its abuse by a few judges. It is not our law that I defy, but a few lawless judges who have left their constitutional post for political expediency. I respect the law and have subjected myself even to its abuse for the past 20 years. I have presented myself to the Zondo Commission twice and therefore there was no factual justification for the order given by the Constitutional Court. None whatsoever.
18. I protest against those in the judiciary that have become an extension of political forces that seek to destroy and control our country. I seek no special treatment from the judiciary. I ask them to remain true only to their oath of office and their duty to treat everyone as equal before the law. I do not ask them or any of them or you to develop any affection for me. I only seek to



vindicate what we fought for so that even when society is in turmoil, as it will from time to time, we will have a judiciary that refuses to join the lynching mobs.

19. As it has become common place in our country in cases that relate to me, my statement has been met with the bigotry that has become the hallmark of our sponsored opinion makers. Instead of pausing to consider whether the so-called constitutional crisis may be emerging from the conduct of some of our courts themselves, the debate has been conducted in the usual binary, simplistic and biased terms, seeking to shield what I regard as a few in the judiciary that have forsaken their oath of office to “**...uphold and protect the Constitution and the human rights entrenched in it, and will administer justice to all persons alike without fear, favour or prejudice, in accordance with the Constitution and the law.**”
20. I do so not to undermine the Constitution or the law, but to express my own protest about those in the judiciary that have turned their back on their fundamental task in society. I take this stance because I believe that judges should never become agents of ruling classes in society.
21. So, I take this stance not because I refuse to accept that my Presidency like any other was not perfect, but because we continue to allow some in the judiciary to create jurisprudence and legal inconsistencies that only apply to me. To date, nothing has been said about Judge President Mlambo’s contradictory rulings on the powers and remedies of the Office of the Public

Protector, not because none can see the contradictions, but because they care less about the Constitution than they do about seeing me lynched and punished.

None can claim not to see that the recent judgment of the Constitutional Court is a travesty of justice. That we accept a judgment based on mere conjecture and speculation about my future conduct is a betrayal of the Constitution that many refuse to confront as they scapegoat me for every malady in society.

22. The debate has tended to focus on me, with many suggesting that I regard myself as above the law or that I do not recognize our Constitution and our law. They know as well as I do, that is not the case. Some have argued that if I do not appear before the Zondo Commission I must be jailed or stripped of presidential benefits or pension. Well, for the record, I am the one that suggested that I do not mind defending myself against the sanction that accompanies my principled stance. Secondly, it should naturally please them that, should I fail to defend myself before the relevant contempt forum, I will face jail term.

23. The suggestion that I would be enticed with pension and benefits to abandon my principled stance against what I see as bias by a few in the judiciary, can only come from people who believe that money can buy everything. When I joined the ANC and fought for democracy, I did not do so for money and benefits. This, to me, is a foreign tendency to some of us who have been freedom fighters.

24. I am grateful however, to many comrades, who have sought to hear my side of the story and have understood my frustration. I am grateful for their support and their courage to stand with me rather than to appease, at my expense, those who seek to control our economy, judiciary and our country.
25. Some in our so called intelligentsia have become blinded by their prejudice towards me, they agree that the court may take away my right to remain silent, yet they fail to recognize that the Zondo Commission has already extended this right to at least three witnesses that appeared before it. Where is the consistency in this approach?
26. I demand no more than justice, fairness and impartiality, all of which are attributes we should not have to remind some of our judges to possess. They promised the country they possessed these attributes the day they applied for judicial office and took their oath of office. We should not have to remind some of them of this.
27. If we paused, in any case that involves me, and asked whether many of the decisions taken, and attitudes adopted are not merely driven by the antipathy towards me. What legacy are some of our judges leaving for future generations?
28. When Judge President Mlambo can flip flop on the same principle simply to punish me, what kind of judges do we have? What justice are we serving and what law will be followed when I am long gone. I know that instead of

confronting these questions I am raising, many will resort to sarcasm, and seek a response that blames me. In any event, that is what has led us to this point. The failure to see our law beyond one individual we seek to punish.

29. We sit with some judges who have assisted the incumbent President to hide from society what on the face of it seem to be bribes obtained in order to win an internal ANC election. We sit with some judges who sealed those records simply because such records may reveal that some of them, while presiding in our courts, have had their hands filled with the proverbial 30 pieces of silver.
30. I repeat, it is not the law against which I protest, as I refuse to subject myself to Zondo Commission. I protest against our black, red and green robes, dressing up some individuals that have long betrayed the Constitution and their oath of office. It is those who allow it and look the other way that must do some reflection. You do not have to like me to do this reflection. It is a choice we must make because this country and our law will and must outlive Jacob Zuma.
31. Finally, I restate that my statement is no breach of the law. It is a protest against some in the judiciary that have sold their souls and departed from their oath of office. It is my respect for the law that obliges me to reject the abuse of law and judicial office for political purposes. The law I respect, its abuse I will not.

32. I restate that my review of the recusal ruling remains undetermined and this is part of my reservation about presenting myself to the very presiding officer whose decision I am taking on review. I have no doubt that I will lose it like many other cases. Be that as it may, I am entitled to have it determined or at least recognized.
33. Ordinarily I should have the faith to approach the Chairperson of the Commission or our courts to seek whatever remedy would stay the proceedings until my review is determined. However, the antipathy of some of the courts and the Commission towards me has made it futile for me to exercise my constitutionally guaranteed access to courts. Not only will I be dismissed, but I will also be punished with punitive costs for approaching the courts.
34. I am in the process of revising all matters I have before our courts, except the criminal matter, as it has become clear to me that I will never get justice before some of the current crop of our judges in their quest to raise their hands to seek political acceptance at my expense. I have observed in hearings how some of our judges have directed their antipathy towards my counsel in hearings and am grateful that my legal team, under testing circumstances have kept their professional composure.
35. I am aware that that our judiciary and magistracy have a number of men and women of integrity, many of whom are shunned when matters are allocated. I respect them and must not be understood not to recognize them or that I am

tainting all of them with the same brush. Unfortunately, many of them, for their refusal to be part of the syndicate or to forsake their oath of office, they will never be allocated matters wherein pre-determined outcomes are demanded.

36. I respect our citizens and our law. History will soon reveal that it is only some in our courts that have been captured to serve political ends and to undermine the Constitution, which is the supreme law of the land. I will not join those who seek to do this.

37. As you sharpen your pens to condemn me, I reiterate that I stand by my earlier statement and will not appear before a process that is not impartial. I stand by the decision not to forsake the law and our Constitution. I choose to protest in order to restore our constitutionally enshrined principle of an independent judiciary.

**ISSUED BY:**

**JACOB GEDLEYIHLEKISA ZUMA**

# JACOB GEDLEYIHLEKISA ZUMA

KwaDakwadunuse Homestead  
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**25 March 2021**

## **STATEMENT ON CONSTITUTIONAL COURT HEARING THIS MORNING AND MY DECISION NOT TO APPEAR BEFORE THE COMMISSION OF INQUIRY INTO STATE ALLEGATIONS OF STATE CAPTURE, FRAUD AND CORRUPTION IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

1. Today, the Constitutional Court heard arguments made on behalf of Deputy Chief Justice Zondo in which all sorts of untruthful and selective averments were made against me. Many of these missed my real concerns which have compelled me to take the stance I have taken.
2. At the outset, I wish to state that the public would have noticed the composition of the Constitutional Court this morning. The inclusion of Justice Dhaya Pillay was indeed curious if one considers her historical hostility and insults against me. That she was included in this particular matter demonstrates the crises engulfing our judiciary.
3. Justice Dhaya Pillay has previously insulted me by insinuating in her judgment that I am **"...a wedge driver with a poisonous tongue."** It is the same judge that issued a warrant of arrest against me as she refused to accept a medical report from the Surgeon General of the South African National Defence Force.

The same judge said that **“It is in fact Mr Zuma who damaged the reputation of the ANC as a result of the allegations of fraud and corruption levelled against him. Removing Mr Zuma was therefore consistent with the country’s Constitution and in the interests of the ANC and the people of South Africa.”** This was said in a case that had nothing to do with my role in the ANC and government.. I would have expected that a court, acting impartially, would have the conscience of mind to exclude a judge that has made such statements against the subject of a matter before them.

4. Ordinarily and if I had faith that a South African court would consider my submissions, I would present them to the Constitutional Court. However, my experience is that many South African judges, including those of the Constitutional Court, can no longer bring an open mind to cases involving me as they have done in awarding legal costs against me in a case I had not participated in.
5. It is a travesty of justice to observe how the Constitutional Court has allowed itself to be abused in this manner and the repeated warnings I have made in this regard continue to go unheard simply because they emanate from me. The truth is that the Commission approached the Constitutional Court directly to compel me to appear on the grounds that Commission was running out of time and that approaching a lower court as is the correct legal procedure, would have caused delays that would have affected the timelines around which the Commission needed to finish its work.



6. What the Constitutional Court failed to appreciate is that in rescuing the Commission from its own inefficiencies and incompetence, the Constitutional Court chose to prejudice me and violate my constitutional rights by being the court of first and last instance by circumventing my right to the normal due process of having the judicial decision of a lower court remaining subject to review by a higher court. The fact is that it is the Commission that has failed to regulate its own costs and processes in allowing itself to waste time pursuing to all sorts of evidence under the sun that had nothing to do with their terms of reference. In addition to that, the Commission has never been truthful about its own inefficiencies that include the hiring expensive premises with extravagant extras and over staffing with expensive investigators and legal personnel that caused the costs of the Commission to grossly exceed its initial allocated budget.
7. In an attempt to cover up these inefficiencies and wasteful expenditure, the Commission sought to scapegoat me by asking the Constitutional Court to encroach my constitutional rights. For the sake of expedience of the Commission, the Constitutional Court accepted the unfounded allegations that I was delaying the Commission in the completion of its work when all I had done was exercised a legitimate right to challenge the impartiality of the Chairperson of the Commission.
8. In what appeared to be a plea for my severe punishment for revenge's sake, speculations were made about me and my case. In truth, I have stated that my stance is no disrespect of the law. Instead, I seek to express my disapproval of what I deem to be an abuse of legal processes by people who should know

better, judges, in whom we vest public power to protect the rule of law and the Constitution.

9. What I wish to reiterate though, in order to deal with the misrepresentations and lies peddled in the Constitutional Court on a previous occasion and this morning, is the basis of my stance as well as my right to express my views on the judiciary without being limited.
10. This approach to the Constitutional Court by the Commission is but a scheme to ignore and sidestep the serious issues raised in my review application. Therein, I raise the issues on the basis of which I seek the recusal of Deputy Chief Justice Zondo. In that review I also demonstrate that the Deputy Chief Justice had been untruthful in his statement regarding whether or not he had met with me while I was Head of State. This much is acknowledged by him in his attempt to explain his initial denial that we had indeed met.
11. Further, my review deals with the fact that Deputy Chief Justice Zondo had become a judge in his own matter. It is common knowledge that he made averments which were disputed. In this regard, he could not be the one to determine a dispute that involves his version.
12. The insistence made on behalf of the Commission that I must be incarcerated revealed the hostility of the Commission against me. It is no longer my attendance that they seek, but they have joined the political campaign to destroy me. It also reveals that this was always the Commission's mandate.

13. I have expressed my concern at the manner in which the Deputy Chief Justice is improperly exploiting his proximity to the Constitutional Court to protect and advance his own interests as chairperson of the Commission . I strongly disagree with the assertion that I have raised my concerns in order to diminish the stature of the Constitutional Court. This assertion is a contrived appeal to the Constitutional Court to make it seem as if the case of the Commission is to protect the integrity of the Constitutional Court.
14. I have stated previously that mine is a conscientious objection to the abuse of legal processes. I do not stand against the rule of law but seek to defend my own rights against the onslaught emanating from the Commission and our courts. I am entitled to express my views in this regard and to express them rigorously.
15. More recently, various forces claiming to be defending the Constitution have emerged in their sponsored attempts to influence and exert a public pressure the Constitutional Court to find against me. These hypocrites and pharisees in priestly collars parade as men of God seek nothing but the control of the judiciary and the country.
16. So much was said about my non-participation in the Constitutional Court proceedings. I am entitled not to file opposing papers and it is unfair to suggest that I must be punished for this election. First, I was told that should I oppose the application, I would pay punitive legal costs. Then, when I do not oppose, the Commission asks that I should be punished for not opposing. This simply reveals the attitude of the Commission towards me.

17. Similarly, even when I could not attend because of ill-health, Deputy Chief Justice Zondo refused to believe me. I invited him to meet with the Sergeant General and he undertook to do so, but never did.
18. The approach to the Constitutional Court by the Commission is nothing but a scheme to divert attention from the review application, which reveals that Deputy Chief Justice Zondo has not only lied, but became a judge in his own matter. I would have thought it was not allowed for a judge to sit in his own case.
19. The Commission persists with its convenient untruth which has now unfortunately received judicial endorsement that I have refused to give evidence before the Commission. Deputy Chief Justice Zondo knows that it is false that I have refused to participate in the activities of the Commission. What I have objected to, is appearing before Deputy Chief Justice Zondo against whom I have a pending review application to determine whether he should have recused himself from sitting in my appearances.
20. The conduct of Deputy Chief Justice Zondo continues to demonstrate bias against me, the nature of which disqualifies him from adjudicating any dispute regarding evidence presented at the Commission involving me or my family. In short, the moment that he presented a disputed version of facts involving the nature of our past relationship, he became an adjudicator in his own case and therefore disqualified from adjudicating any dispute involving me fairly, impartially, and independently.

21. I believe that the review application is being deliberately ignored because the facts do not support Deputy Chief Justice Zondo and the desired finding that must be made against me. The pending review application must first be determined before I should be expected to appear before the Commission. The Constitutional Court has drawn an oppressive line against my right to have the review application determined in order to preserve the impartiality and dignity of the Commission. It is highly inappropriate for the Constitutional Court to intervene to save Deputy Chief Justice Zondo from embarrassment from separate issues arising out of the Commission.
22. I believe that history will absolve me. I know that I have dedicated my life to the cause of advancing the interests of my people. I will serve the term of imprisonment imposed by the Constitutional Court - that has already become the focus point of the defend our democracy campaign. This campaign is dangerous to our democracy and when its true fruits are seen in time, I will be vindicated.
23. Many now claim that there is a constitutional crisis. I do not see any constitutional crises when I accept the statutory sanction that may accompany my conscientious objection to the conduct of certain senior members of the judiciary. The crisis would arise if I refused to face the sanction that accompanies my stance, if so determined by a competent court and impartial forum.
24. All I said is that I am not afraid of going to jail as I was not under the apartheid system. However, I will not subject myself to an oppressive and unjust court

system. They can put my physical body behind prison doors; however, my spirit is free to speak against the injustice of the imprisonment. Our people – ordinary people – will gain their voice and when they do, not even the Constitutional Court will not be spared the rigorous questions.

25. All South Africans should be concerned about the dangerous situation we are heading towards. The core principles about separation of powers between the judiciary, legislature and the executive are being gradually weakened. More concerning for me as a person who fought for this democracy, is how the judiciary is now in the position where they are beyond reproach and the judges in this country are continuously taking extra powers to themselves to the detriment of legitimate democratic processes. I strongly agree with the public sentiment that is starting to see the emergence of a judicial dictatorship in South Africa. This, like the injustice of apartheid will not last as there are many like me who still stand for true freedom and democracy. We have in South Africa today the gradual entrenchment of the counter-majoritarian problem.
26. Unfortunately, when people rise up against this judicial corruption, our young democracy will unravel and many democratic gains will be lost in the ashes that will be left of what used to be our democratic state. Many who profess to be acting in the interests of democracy will leave for their wealth destinations abroad as many of them hold dual citizenship. The stooges of these so-called defenders of democracy, will be left with us battling to re-build our country again.

**ISSUED BY:**

**JACOB GEDLEYIHLEKISA ZUMA**