



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

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INDEX: SEQ 24/2020

No.	Description	Pages
A.	Affidavit (Request for Postponement) of WELCOME SITHEMBISO MHLONGO , dated 29 July 2020, in support of the Application for Postponement of the date for the hearing	001 to 013
	A1. Affidavit of Brian Padayachee dated 01 November 2019	13.1 to 13.2
	A2. Affidavit of Brian Padayachee dated 12 September 2019	13.3 to 13.6
	A3. Email from the Commission to Maringa Attorneys	13.7 to 13.9
B.	Correspondence between State Capture Commission and WS Mhlongo	014 to 253
1.	29 June and 03 July 2019 – Emails from Maringa Attorneys regarding the evidence of WS Mhlongo and MSO Nxasana evidence.	014 to 018
2.	31 July 2019 - Email to Maringa Attorneys regarding the appearance date of MSO Nxasana	019 to 022
3.	31 July 2019 – Maringa Attorneys Email enquiring about voice recordings referred to in Nxasana's affidavit between WS Mhlongo and T Joubert	023 to 025
4.	12 Aug 2019 - Email from SCC to Maringa Attorneys re JW Booysen WS Mhlongo	026 to 027

No.	Description	Pages
5.	20 Aug 2019 - Email from SCC to Maringa Attorneys (audio recording re Nxasana's evidence)	028 to 030
6.	16 Oct 2019 - Email from SCC to Maringa Attorneys, re WS Mhlongo's Rule 3.4 application based on the evidence of JW Booysen	031 to 080
7.	15 Nov 2019 - Email from SCC to Maringa Attorneys sending JW Booysen's answering papers	081 to 086
8.	27 Nov 2019 - Email from Maringa Attorneys attaching WS Mhlongo's reply	087 to 095
9.	28 Nov 2019 - Email from SCC to Maringa Attorneys affording WS Mhlongo an opportunity to supplement his replying papers	096 to 098
10.	2 Dec 2019 - Email from Maringa Attorneys attaching supplementary replying papers	099 to 100
11.	14 Jan 2020 - Email from Maringa Attorneys to SCC attaching SW Mhlongo's application in regards to J van Loggerenberg's evidence.	101 to 116
12.	SW Mhlongo supplemented papers JW Booysen Main affidavit	117 to 167
13.	24 March 2020 - S van Vuuren email to L Groenewald, indicating that no Rule 3.4 has been brought with regards to MSO Nxasana's evidence	168 to 170
14.	1 April 2020 - Email from Maringa Attorneys to SCC acknowledging receipt of ruling	171 to 176
15.	8 July 2020 – W Nicholson email regarding phone call with Maringa Attorneys and his email to Maringa Attorneys	177 to 180
16.	10 July 2020 – W Nicholson email to Maringa Attorneys	181 to 186
17.	10 July 2020 - Notice of Set Down	187 to 190
18.	10 July 2020 – W Nicholson email to G Hulley re phone call with Maringa Attorneys	191 to 194
19.	14 July 2020 - Email to Legal Team regarding a telephone call from Maringa Attorneys	195 to 196
20.	14 July 2020 - Maringa Attorneys letter to SCC re client testifying by way of affidavit	197 to 207
21.	16 July 2020 - SCC email to Maringa Attorneys	208 to 210
22.	19 July 2020 - SCC email to Maringa Attorneys	211 to 214

No.	Description	Pages
23.	20 July 2020 - Maringa Attorneys letter to SCC and Deputy Chief Justice	215 to 222
24.	24 July 2020 - SCC email to Maringa Attorneys attaching Johan Booysen's response to SW Mhlongo's replying affidavit dated 27 November 2019	223 to 228
25.	24 July 2020 - SCC email requesting complete scanned copy of SW Mhlongo's supplemented replying papers dated 02 December 2019	229 to 231
26.	24 July 2020 - Maringa Attorneys letter indicating that an application for postponement will be brought	232 to 235
27.	23 July 2020 - Email to Maringa from SCC W Nicholson Re: remote evidence	236 to 240
28.	25 July 2020 SCC email to Maringa Attorneys re: Supplementary Affidavit;	241 to 242
29.	25 July 2020 – Maringa Attorneys email response re: Supplementary Affidavit	243 to 245
30.	27 July 2020, SCC W Nicholson email to Maringa Attorneys, Re: T Joubert affidavit	246 to 251
31.	27 July 2020 - Letter from SCC to Maringa Attorneys attaching prior correspondence, audio recording & transcript.	252 to 253
C.	Opposing affidavit	254 to

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

In the application of:

COLONEL WS MHLONGO

Applicant//Witness

FILING NOTICE

DOCUMENTS TO BE FILED: Application for postponement

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The secretary of the Commission
Commission of inquiry into State Capture
2nd floor Hillside house
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Johannes burg

REQUEST FOR POSTPONMENT

I, the undersigned:

WELCOME SITHEMBISO MHLOGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation (DPCI), commonly known as HAWKS. I am currently stationed at the Provincial Unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.

INTRODUCTION

3. I hereunder, and herewith, request the Commission to postpone the hearing of my evidence scheduled for 30 July 2020.

4. The request for postponement is mounted as a remedy to procedural and substantive unfairness which results on account of events canvassed below, pertaining to the new case presented against me, and the failure to make available to me the audio recordings referenced and relied upon in affidavits implicating me.

FACTUAL BACKGROUND

5. On or about 09 April 2019, the Commission or the Secretariat notified me, in terms of Rule 3 of the Rules of the Commission, that Major General Booysen was to give evidence to the Commission, as set-out in an affidavit attached and accompanying the notice forwarded to me.
6. I was advised that the evidence could implicate me, and I was specifically referred to Paragraph 42-45 thereof.

- 6.1 The first of the allegations against me, in the mentioned paragraphs, was contained in Para 44 of the affidavit of Major General Booysen as follows:

It later emerged during the investigation communication interception authorised in terms of Act 70 of 2002, that one of the Colonels at the HWAKS, Colonel Welcome S (WS) Mhlongo ("Mhlongo") had links with Panday and I therefore

had good reason to suspect that Mhlongo had informed Panday where the files were kept.

- 6.2 I answered to the allegation and I admitted knowing Panday but denied having had given him the information regarding the location of the files, and specifically explained that I did not know where the relevant files were kept and I could not have known as I was far removed from the investigations.
- 6.3 The second allegation against me, in the mentioned paragraphs, was contained in Para 45 of the affidavit of Major General Booysen as follows:

Mhlongo was later implicated by Advocate Mxolisi Nxasana for attempting to 'find dirt' on Nxasana at the behest of Advocate Nomgcobo Jiba ("Jiba"). This was when Nxasana had succeeded Jiba as the National Director of Public Prosecutions ("NDPP"). I acquired a copy of the statement of Terence John Joubert ("Joubert"), a Risk Specialist contracted to the office of the NPA, confirms this. A copy of Joubert's statement is attached Annexure "JWB 2"

- 6.4 I responded to the allegation and pointed-out that the source of the allegation, Terence John Joubert, had deposed to another affidavit in

which he denied the allegations put-up in the affidavit of Major General Booyesen, and further denied the affidavit (as a whole) annexed to that of that of Major General Booyesen.

7. I understood, both allegations against me to be grounded in the information relayed to Major General Booyesen by Colonel Padayachee and by Mr Terence John Joubert. I consulted with my legal representatives and requested advise with reference to the three options available to me in terms Rule 3.3.6 of the Rules of the Commission.
8. I was advised that Major General Booyesen could not be effectively cross-examined as to the substance and cogency of the information relayed to him by Colonel Padayachee and Mr Terence John Joubert.
9. I was advised, with reference to a ruling of the Commission of 20 September 2018, in respect of an application by former Public Enterprises Minister Lynne Brown, that I would (at best) be permitted to appear and give evidence before the Commission to simply state that the information relate to Major General Booyesen was false.
10. I accepted the advice and answered to the allegations as I did, and as set-out at Para 6 hereinabove, and delivered an answering affidavit to the Commission, on or about 07 May 2019.

Major General Booysen's Replying Affidavit

11. On or about 15 November 2019, the Commission provided me with Major General Booysen's replying affidavit. In the reply, Major General Booysen referred to an affidavit of Colonel Padayachee which was attached as annexure.
12. The referenced affidavit of Colonel Padayachee is dated and deposed to on 01 November 2019. A copy thereof is attached hereto as A1.
13. On 09 July 2020, the Commission provided me with another affidavit of Colonel Padayachee. The relevant affidavit of Colonel Padayachee is dated and deposed to on 12 September 2019, approximately one and half month prior to the affidavit availed first, which was dated and deposed on 01 November 2019. A copy thereof is attached hereto as A2.
14. I briefly refer to the contents of the two affidavits of Colonel Padayachee below:

The affidavit that was availed first, on 15 November 2019

- 14.1 When the above affidavit of Colonel Padayachee was availed, on 15 November 2019, there existed a much more detailed affidavit, which

had been deposed to one and half month earlier, but the relevant affidavit was not availed to me.

14.2 The first affidavit of Major General Booysen, deposed on 02 April 2019, availed to me under cover of Rule 3 Notice, referencing the audio recorded interceptions between me and Mr Panday, had two supporting affidavits deposed to by Colonel Padayachee attached as annexure.

14.3 This implies, objectively, that Colonel Padayachee has always been available to the Commission as a witness, at earliest since 02 April 2019.

14.4 In the affidavit, Colonel Padayachee:

14.4.1 Alleges that during November 2010, when investigating a fraud case, involving the amount R60 million and the 2010 FIFA Soccer World Cup, several calls between me and Mr Panday were intercepted;

14.4.2 Alleges that the communications demonstrate a corrupt relationship between me and Mr Panday, as the communications revealed discussion regarding me taking

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over the investigations of the criminal cases against Mr Panday and Colonel Madhoe.

14.4.3 States that he has been interviewed by the evidence leaders and that a sworn affidavit had been prepared and submitted to the Commission.

14.4.4 He further states that the communication intercepts and transcripts are available and have been reserved for the Commission.

14.5 I reacted to the new allegations in the replying affidavit, by deposing to a supplementary affidavit, and requested that I should be provided with the copies of the referenced recordings.

The affidavit that was availed second, on 09 July 2020

14.6 The earlier affidavit of Colonel Padayachee, which had existed all-along, was presented to me, for the first time on 09 July 2020. This was approximately 10 months after affidavit had been available to the legal team of the Commission.

14.7 The contents of the affidavit are the same word for word, save for the portions where there is a detailed reference to the alleged intercepted audio communications.

14.8 On 10 July 2020, a day after the aforesaid affidavit was availed to me, by electronic mail, I received a notice informing me that I was scheduled to give evidence to the Commission, on 30 July 2020.

PREJUDICE

15. The allegations against me have not been forthrightly directed to me. Instead, the allegations against me, in the Panday matter, were openly and clearly canvassed in affidavit brought to my attention for the first time on 09 July 2020, despite the affidavit having been available since September 2019.

16. I have requested that I be provided with the audio recordings, ever-since, without success until I was informed through my legal representative, on Thursday 23 July 2020, that the recordings are not available despite the express mention in the affidavits of Colonel Padayachee that the recordings are available.

17. The manner in which the case against me has mutated; from the first affidavit of Major General Booysen, to the new case in the replying affidavit and ultimately the improved version of the affidavit of Colonel Padayachee, is such

WSM
S.M.N.

that has deprived me an opportunity to properly consider the options available to me in terms of Rule 3.3.4 of the Rules of the Commission.

18. On account of the foregoing, I am now convinced that I am being systematically driven into an ambush. I submit my apprehension in this regard is reasonable and is further corroborated by events narrated below.

Correspondence with the legal team of the Commission

19. Since receiving the notice of set-down for the hearing of my evidence, my legal representatives telephonically corresponded with the legal team of the Commission requesting clarity in respect of the areas of the testimony, as I was given two Rule 3 Notices, one in respect of the testimony of Major General Booysen and the other in respect of Mr Mxolisi Nxasana.
20. All that was required of the legal team of the Commission was an indication as to whether I was been called in respect of the evidence of Major General Booysen or Mr Mxolisi Nxasana, or in respect of both, so as to enable preparations and consultations. In this regard, I refer to a letter from the legal team of the Commission attached hereto as Annexure A3.
21. The foregoing communication of the legal team did not give any indication as regards the inquiry directed by my legal representative, despite the relatively straightforward nature of the information requested. I accordingly accepted

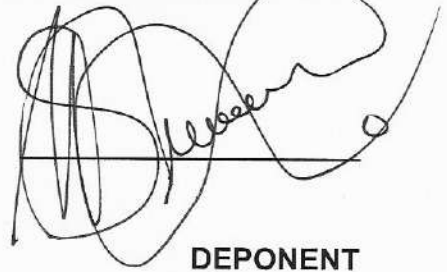
- that the matter will proceed in respect of both Major General Booysen and Mr Mxolisi Nxasana.
22. On Thursday, 23 July 2020, my legal representative directed a telephone call to the legal team of the Commission and requested the audio recordings related to the evidence of Major General Booysen, and he was informed that the recordings were not available.
23. I am told that amongst other things the legal representatives discussed the logistics around my evidence, including the earlier production and delivery of the relevant bundle of evidence, as I would be testifying remotely, and the legal representatives reached an arrangement to facilitate the foregoing.
24. When I was told that the audio recordings were not available, in a telephonic consultation with my legal representative, on Friday 24 July 2020, I directed my legal representatives to request a postponement of the hearing, and to notify the Commission, as soon as possible, that an application will be lodged to that effect.
25. Suddenly, and on Sunday 26 July 2020, the legal team emailed evidence related to the allegations of Mr Mxolisi Nxasana. Even more worrisome is that the evidence comprised of a third affidavit of Mr Terence John Joubert, which was deposed on 24 July 2020.

26. I mention that it is the third affidavit to highlight its importance. In the context of the foregoing I specifically point-out that:
- i) Mr Joubert is alleged to have deposed to an affidavit and implicated me in wrongdoing, on November 2013
 - ii) Mr Joubert subsequently deposed to an affidavit denying the earlier affidavit, on 01 February 2016.
 - iii) Mr Joubert has now deposed to another affidavit, on 24 July 2020, in which he now distances himself from the affidavit of 01 February 2016.
27. The significance of the affidavit is clearly apparent from the foregoing sequence. Yet, the affidavit was not mentioned to my legal representatives during any of the prior telephone correspondence or as soon as it existed.
28. The late presentation of the affidavit of Joubert, taken together with the events of Thursday 24 July 2020, occasions immense prejudice on both the procedural and substantive front.

APPROPRIATE REMEDY

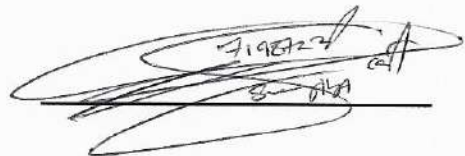
29. In the sum-total of the foregoing I submit that I did not properly exercise my rights in terms of Rule 3.3.4 of the Rules of the Commission, as I did so under the influence of wrong and incorrect information.

30. The allegations against me, from both the evidence of Major General Booysen and Mr Nxasana, has significantly changed based on the most recent updates in the evidence of Mr Joubert and Colonel Padayachee, which occurred on 24 July and 26 July 2020 respectively.
31. I ask for an opportunity to consider, and determine how to approach, the new case presented against me and placed before the Commission.
32. In this regard I would need to search for information and/or documents, not immediately available to me, and decide on how to structure the presentation of my evidence before the Commission having regard to the available information and options in terms of Rule 3.3.4 of the Rules of the Commission.



DEPONENT

THUS SIGNED AND SWORN TO before me at Pretoria on this the 29 day of July 2020 by the Deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of his knowledge and belief and that she/he has no objection to taking the prescribed oath and regards same as binding on his conscience and the administration of the oath complied with the Regulations contained in the Government Gazette No. R1258 of 21 July 1972 as amended.

COMMISSIONER OF OATHS

AFFIDAVIT

Colonel Brian Padayachee
S A Police Services
Crime Intelligence
Provincial Head office
Durban

During November 2010 I conducted a lawful and authorised investigation regarding serious death threats against the investigating officers tasked with the investigation of the 2010 Soccer World Cup corruption *vide* Durban Central CAS 781/06/2010

1.

The investigation confirmed that the death threats were real and the investigators were informed accordingly.

2.

During the course of the investigation large scale corruption was uncovered involving a corrupt businessman Mr Thosan Panday and senior Police Officials.

3.

At the time of this investigation Mr Panday was facing an investigation involving a R60 million Fraud with regard to the 2010 Soccer World Cup, Durban Central Cas 781/06/2010 has bearing.

4.

Several calls were incepted which revealed a corrupt relationship between Mr Panday and senior police officers.

5.

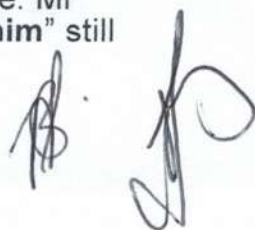
Several of these calls included Colonel WS Mhlongo.

6.

The communication intercepts clearly showed a corrupt relationship between Colonel WS Mhlongo, Colonel N Madhoe (co accused of Mr Panday) and Mr Panday.

7.

The communication intercepts further revealed discussions regarding Colonel WS Mhlongo taking over the investigations of the criminal cases against Mr Panday and Colonel Madhoe. The communication intercepts clearly showed that Colonel Mhlongo was assisting Mr Panday and Colonel Madhoe. Mr Panday even informed Colonel Mhlongo that his "**commitment to him**" still



stands.

8.

I confirm that I physically listened to the above communication intercepts and confirm that these communication intercepts are a true reflection of what is indicated in this statement.

10.

I confirm that the investigation was an authorised investigation and that the Section 18 of Act 70 of 2002 communication intercepts were duly authorised by the Designated Judge under Direction number 235/2010.

11.

I have been interviewed by the "Zondo Commission" evidence leaders and a sworn affidavit has been submitted to the Commission with regard to Corruption and State Capture.

12.

The communication intercepts and transcripts are available and have been reserved for the "Zondo Commission".

13.

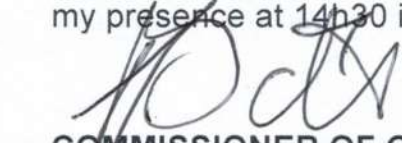
I know and understand the contents of this statement.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.

 **COLONEL**
B PADAYACHEE

I certify that the deponent has acknowledged that he knows and understands the contents of this statement which was submitted by him. This statement was sworn to before me and the deponent's signature was placed thereon in my presence at 14h30 in Durban on 1st November 2019.


COMMISSIONER OF OATHS
WILLEM GERTHUS DOTS
SA POLICE SERVICE
CRIME INTELLIGENCE
PROVINCIAL HEAD OFFICE
DURBAN

AFFIDAVIT

ORIGINAL STATEMENT
RECEIVED BY

Colonel Brian Padayachee
S A Police Services
Crime Intelligence
Provincial Head office
Durban

COLONEL F MOKOENA
DPCI FREE STATE
RECEIVED

1.

During November 2010 I conducted a lawful and authorised investigation regarding serious death threats against the investigating officers tasked with the investigation of the 2010 Soccer World Cup corruption vide Durban Central CAS 781/06/2010

2.

The investigation confirmed that the death threats were real and the investigators were informed accordingly.

3.

During the course of the investigation large scale corruption was uncovered involving a corrupt businessman Mr Thosan Panday and senior Police Officials.

4.

At the time of this investigation Mr Panday was facing an investigation involving a R60 million Fraud with regard to the 2010 Soccer World Cup, Durban Central Cas 781/06/2010 has bearing.

5.

Several calls were incepted which revealed a corrupt relationship between Mr Panday and senior police officers.

6.

Several of these calls included Colonel WS Mhlongo.

7.

The communication intercepts clearly showed a corrupt relationship between Colonel WS Mhlongo, Colonel N Madhoe (co accused of Mr Panday) and Mr Panday.

8.

The communication intercepts revealed discussions regarding

Colonel WS Mhlongo taking over the investigations of the criminal cases against Mr Panday and Colonel Madhoe.

9.

The communication intercepts revealed that Mr Panday contacted a high profile individual and requested him to organise the investigating officer to be changed to Colonel WS Mhlongo. Mr Panday informed this individual that he will get the force number of Colonel WS Mhlongo and send it to him.

I confirm that I physically listened to this communication intercepts and confirmed the voice of Mr Panday and the request.

10.

The communications intercepts also reveal the force number of Colonel WS Mhlongo being given to Mr Panday by Colonel N Madhoe. Panday asked Madhoe if Colonel Mhlongo is reliable and if they can trust him. He does not want to put in the wrong person. Madhoe confirms that Mhlongo can be trusted. Panday states that what ever Colonel Mhlongo needs, he will "sort out". Madhoe confirms to Panday that Mhlongo will assist them and that he got Mhlongo by the "short and curlies".

I have physically listened to this communication intercepts and can confirm that the force number was given to Mr Panday by Colonel Madhoe and that the communications as indicated are true and correct.

11.

Mr Panday contacts Colonel WS Mhlongo and discusses the case as well as a bribe of R550 000 arranged by a colleague of Colonel WS Mhlongo. This payment was to secure a statement which will cause the criminal case against Mr Panday to "collapse". Colonel WS Mhlongo tells Mr Panday that he must only pay the money to this colleague once the statement is produced. The conversations clearly shows a corrupt relationship between Mr Panday and Colonel WS Mhlongo.

I can confirm that I physically listened to the above intercepted communications and confirm the contents as stated.

12.

Further intercepted communications revealed Colonel Mhlongo advising Mr Panday and telling him that the case against him (Panday) is "dying" and that he must not worry. Panday promises Colonel Mhlongo that he will look after him. Panday tells Colonel Mhlongo that his commitment to him still stands regarding a prestige job with a high profile individual and that his position is very clear on the matter.

I can confirm that I physically listened to the above communication intercepts and confirm the above communication.

13.

Further intercepted calls between Mr Panday and Colonel N Madhoe reveal Mr Panday telling Colonel Madhoe that he told Colonel WS Mhlongo that he is going to deal directly through him.

13.

I certify and confirm that I physically listened to the above communication intercepts and that these communication intercepts are a true reflection of what is indicated in this statement.

14.

I confirm that the investigation was an authorised investigation and that the Section 18 of Act 70 of 2002 communication intercepts were duly authorised by the Designated Judge under Direction number 235/2010.

15.

Colonel WS Mhlongo was not a subject/suspect in the investigation. His communication instruments were not intercepted. Colonel Mhlongo's intercepted communications were as a result of targets Mr Panday and Colonel Madhoe, contacting Colonel Mhlongo and "vice versa". The communication instruments of Mr Panday and Colonel Madhoe were lawfully intercepted under Direction 235/2010).

16.

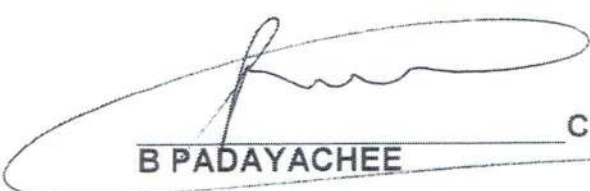
It is very clear from the communication intercepts, that there was a corrupt relationship between Colonel WS Mhlongo, Mr Panday and Colonel Madhoe.

17.

I know and understand the contents of this statement.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.



B PADAYACHEE

COLONEL



I certify that the deponent has acknowledged that he knows and understands the contents of this statement which was submitted by him. This statement was sworn to before me and the deponent's signature was placed thereon in my presence at 15h30 in Durban on 12th September 2019.

W Botes
COMMISSIONER OF OATHS
SA POLICE SERVICE
CRIME INTELLIGENCE
PROVINCIAL HEAD OFFICE
DURBAN

Willem GERHARUS BOTES

SOUTH AFRICAN POLICE SERVICE
PROVINCIAL CRIME INTELLIGENCE
2019 -09- 12
KWAZULU NATAL

Derick de Beer

Subject: Application to lead Evidence: Col WS Mhlongo

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Sent: Friday, 10 July 2020 11:32 PM

To: Joelma@Vodamail.co.za

Cc: Anne Bell <AnneB@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: RE: Application to lead Evidence: Col WS Mhlongo

Dear Mr Maringa

Our telephone conversation of this instant has reference.

You had stated to me that you have some concerns about Col Welcome S Mhlongo's evidence and you would like to have the notice of set down; because you are unsure in relation to which witness Col Mhlongo will be testifying about.

I advised you to put your concerns and desired remedy in writing.

With regard to the latter concern, the notice of set-down will be filed on your office early next week. In the meantime, I have attached hereto for your convenience a copy of the ruling, which may assist your concern.

We look forward to hearing from you.

Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

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From: William Nicholson
Sent: Wednesday, 08 July 2020 16:24
To: 'Joelma@Vodamail.co.za' <Joelma@Vodamail.co.za>
Cc: Anne Bell <AnneB@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Subject: Application to lead Evidence: Col WS Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of this instant has reference.

During the conversation you advised me that:

1. You represent Col WS Mhlongo.
2. You have not as yet been provided with the notice of set down.
3. You have not been provided with your ruling with regard to Colonel Mhlongo's application to adduce evidence.
4. You have not received the affidavits of neither Queen Mhlongo, nor Colonel Padayachee as yet.
5. You have not briefed counsel as yet, and have not ruled out the possibility of counsel being briefed.

I advised you that:

1. The matter is set down for 30 July 2020, for one day.
2. I will ensure the Ruling and Notice of set down is sent to you asap.
3. The ruling provides that you will have an opportunity to adduce evidence in relation to General Johan Booysen but not cross examine him.

Please note further that you should have the following documents/affidavits that will be used during the hearing:

1. The application by Col WS Mhlongo to adduce evidence and the condonation application thereto.
2. The affidavit of General Johan Booysen in answer to Col WS Mhlongo's affidavit.
3. The affidavit of Col WS Mhlongo in answer to General Johan Booysen's affidavit referred to above.
4. The affidavit Col Padyachee
5. The affidavit of Queen Mhlongo.
6. The relevant portions from the transcript of General Johan Booysen's testimony dated 2 and 3 May 2020 in as far as it relates to Col WS Mhlongo's evidence.

Should you require any further information, please feel free to contact me.

Kindly confirm receipt of this email.

Warm Regards



Adv William A.J Nicholson

Legal Team

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01



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Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 2019/07/03

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR: ATTENTION MR P PEDLER

2nd floor, Hillside House

17 Empire road

Parktown

Johannesburg

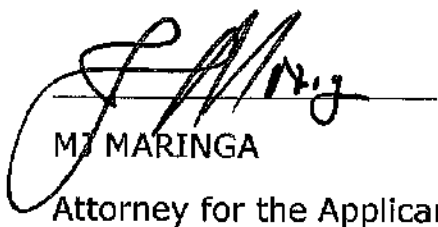
2193

**COLONEL WELCOME SITHEMBISO MHLONGO/ EVIDENCE OF
FORMER NDPP (Mr Mxolisi Nxasana)**

1. We refer herein to the above matter, and address this letter to you
on behalf of Colonel Welcome Sthembiso Mhlongo ("our Client");

2. We confirm that our Client has received a notice in terms of Rule 3.3 of the Rules of the Commission, together with the accompanying documents, whose contents we assume you are familiar with.
3. We are instructed to request that you avail to our Client the video recording of the discussion between our Client and Mr Terence Joubert, whose transcription has been availed to our Client.
4. Our Client wishes to obtain and view the video recording before making an election on any of the options referred to in Para 5 of the notice in terms Rule 3.3.
5. We further are instructed that we request that the computation of the prescribed 14(Fourteen) days within which an election must be made, be pended until the video is availed to our Client.

Regards



MJ MARINGA
Attorney for the Applicant



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310

Pretoria

0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 2019/06/20

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR: ATTENTION MR P PEDLER

2nd floor, Hillside House

17 Empire road

Parktown

Johannesburg

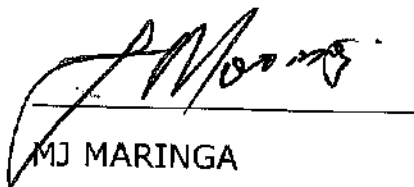
2193

**COLONEL WELCOME SITHEMBISO MHLONGO/ EVIDENCE OF
FORMER NDPP (Mr Mxolisi Nxasana)**

1. We act on behalf of the above named Col. WS Mhlongo, who was implicated by General Booysen in paragraph 42-45 of his affidavit read with annexure JWB2 which were led in evidence before the Commission on 17 April 2019.
2. The respondent (Col. WS Mhlongo) duly exercised his option in terms of sub rule 3.3.6.1 of the rules governing the conduct of proceedings of the judicial Commission into allegations of state

capture, by filing an affidavit at the Commission, in response to the allegations of General Booyesen set out, before the Commission

3. We have noted further that Col. Mhlongo was again implicated before the commission 's hearing by former National Director of Public Prosecutions, on the 12 of June 2019
4. Neither the legal representative nor the implicated client was furnished with rule 3.3 notice prior to the presentation of evidence by witness, "Mr Mxolisi Nxasana" as set out in the said rule governing the conduct of Proceedings
5. Although the evidence of Mr Nxasana is similar to that alleged by General Booyesen, the extent to which the evidence of Mr Nxasana ' goes, exceed that of General Booyesen.
6. We have however noted through the Commission's website, as at date of this letter, an application by the head of Commission's legal team for leave to issue Rule 3.3 notices to implicated persons through the evidence presented by Mr Nxasane, after the witness was led in evidence
7. We thus put on record that as at the date of this letter our client was not accorded an opportunity to exercise an option as per sub rule 3.3.6 at the backdrop of Mr Nxasana 's evidence presented on the 12th of June 2019



MJ MARINGA

Attorney for the Applicant

02

Jonathan J. Heuvel

From: Warren Redcliffe
Sent: Wednesday, 31 July 2019 09:53
To: joelma@vodamail.co.za
Cc: Lionel L. Groenewald; Paul P. Pretorius; Veruschka V. September; Andre J. Lamprecht; Shannon S. Van Vuuren; Trudi T. McCracken; Boipelo B. Ratshikana
Subject: FW: Mr. Nxasana // Rule 3.3 // Col Mhlongo
Attachments: Letter 30 July 2019 signed.pdf

Dear Mr. Maringa.

Thank you for taking my telephone call this morning.

Thank you also for your confirmation that you are the legal representative of Colonel Mhlongo.

Please find urgent correspondence attached for your attention and for onward transmission to your client.

Yours faithfully.

Warren Redcliffe

From: Warren Redcliffe
Sent: Wednesday, 31 July 2019 09:23
To: 'mhlorgows@saps.org.za' <mhlorgows@saps.org.za>
Cc: Paul P. Pretorius <PaulP@commissionsc.org.za>; Veruschka V. September <septemberv@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Boipelo B. Ratshikana <BoipeloR@commissionsc.org.za>; Andre A. Lamprecht <andrel@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>
Subject: FW: Mr. Nxasana // Rule 3.3 // Col Mhlongo

Dear Sir.

Urgent correspondence attached for your attention.

Yours faithfully.

Warren Redcliffe

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: warrenr@commissionsc.org.za | www.sastatecapture.org.za





2nd 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
Web: www.sastatecapture.org.za

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

30 July 2019

Dear Col. Mhlongo.

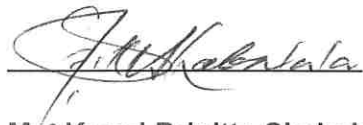
Per e-mail: mhlongows@sapa.org.za

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE
("THE COMMISSION") // RULE 3.3 NOTICE**

1. The Rule 3.3 Notice you received in respect of the evidence of Mr. Mxolisi Sandile Oliver Nxasana refers.
2. You have previously been notified of the allegations made against you in terms of Mr. Nxasana's evidence.
3. Please be advised that due to a change in calendar arrangements, Mr. Nxasana will be again be appearing before the Commission on 19 August 2019.
4. You are reminded that in terms of Rule 3.3.4 of the Rules Governing Proceedings of the Commission, that you are invited to attend on the Commission on the date mentioned above, should you so choose.
5. For the avoidance of doubt, the hearing of the evidence of Mr. Nxasana will take place at or as close as possible to 10am on the 19th of August 2019 at 4th Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg.

6. Please contact Mr. Warren Redcliffe (warrenr@commissionsc.org.za) if you have any queries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'K. Shabalala', written over a horizontal line.

Ms. Kwezi Brigitte Shabalala - Acting Secretary

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

03

Jonathan J. Heuvel

From: Warren Redcliffe
Sent: Wednesday, 31 July 2019 12:10
To: Joel
Cc: Shannon S. Van Vuuren; Derick de Beer
Subject: RE: Mr. Nxasana // Rule 3.3 // Col Mhlongo

Dear Mr Maringa.

Thank you for your e-mail, which included the letter of the 4th of July 2019 that you had previously sent to the Commission.

Could we ask that you confirm who Mr. Terence Joubert is in relation to Colonel Mhlongo.

I look forward to hearing from you, whereupon I shall hopefully be in a position to follow up on your request.

Kind regards.

Warren

From: Joel <Joelma@vodamail.co.za>
Sent: Wednesday, 31 July 2019 11:25
To: Warren Redcliffe <WarrenR@commissionsc.org.za>
Subject: RE: Mr. Nxasana // Rule 3.3 // Col Mhlongo

Dear Mr Redcliffe

We note receipt of your letter as communicated this morning telephonically

We herewith attache a letter we filed at the commission on the 4th July 2019 requesting voice recordings referred to in paragraph 37 of the witness (Mr Nxasana) Affidavit or tilted video recording of the discussion between Col Welcome Mhlongo and Mr Terence Joubert annexed to the Affidavit

Maringa Attorneys
173 Bosman street
Office 201 Sediba house
Pretoria
0002
Joelma@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4672
012 752 9473
Fax 086 606 6061

From: Warren Redcliffe [<mailto:WarrenR@commissionsc.org.za>]

Sent: Wednesday, 31 July 2019 9:53 AM

To: joelma@vodamail.co.za

Cc: Lionel L. Groenewald <LionelG@commissionsc.org.za>; Paul P. Pretorius <PaulP@commissionsc.org.za>; Veruschka V. September <septemberv@commissionsc.org.za>; Andre A. Lamprecht <Andrel@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>; Boipelo B. Ratshikana <BoipeloR@commissionsc.org.za>

Subject: FW: Mr. Nxasana // Rule 3.3 // Col Mhlongo

Dear Mr. Maringa.

Thank you for taking my telephone call this morning.

Thank you also for your confirmation that you are the legal representative of Colonel Mhlongo.

Please find urgent correspondence attached for your attention and for onward transmission to your client.

Yours faithfully.

Warren Redcliffe

From: Warren Redcliffe

Sent: Wednesday, 31 July 2019 09:23

To: 'mhlongows@saps.org.za' <mhlongows@saps.org.za>

Cc: Paul P. Pretorius <PaulP@commissionsc.org.za>; Veruschka V. September <septemberv@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Boipelo B. Ratshikana <BoipeloR@commissionsc.org.za>; Andre A. Lamprecht <andrel@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>

Subject: FW: Mr. Nxasana // Rule 3.3 // Col Mhlongo

Dear Sir.

Urgent correspondence attached for your attention.

Yours faithfully.

Warren Redcliffe

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email:warrenr@commissionsc.org.za | www.sastatecapture.org.za



04

Jonathan J. Heuvel

From: Warren Redcliffe
Sent: Monday, 12 August 2019 08:47
To: Joel
Cc: Andre J. Lamprecht; Shannon S. Van Vuuren; Sabina Lech; Boipelo B. Ratshikana
Subject: Judicial Commission of Inquiry into allegations of State Capture // Booysen // Mhlongo

Dear Maringa.

I refer to the above-mentioned parties.

Your applications to lead evidence, condonation and variation have been noted and forwarded to the relevant evidence leader for their comment.

As soon as the above-mentioned information is available, the Secretariat shall revert to you.

Yours faithfully.

Warren Redcliffe

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: warrenr@commissionsc.org.za | www.sastatecapture.org.za



05

Jonathan J. Heuvel

From: Warren Redcliffe
Sent: Tuesday, 20 August 2019 12:06
To: Paul P. Pretorius; Veruschka V. September
Cc: Andre J. Lamprecht; Lionel L. Groenewald; Shannon S. Van Vuuren; Sabina Lech; Boipelo B. Ratshikana
Subject: FW: Judicial Commission of Inquiry into Allegations of State Capture //
Attachments: Conversation between Joubert and Col Mhlongo.zip; Letter to Maringa re audio recording 20 Aug 2019 .pdf

Dear Paul and Veruschka.

For your records.

Regards.

Warren

From: Warren Redcliffe
Sent: Tuesday, 20 August 2019 11:51
To: 'Joel ' <Joelma@vodamail.co.za>
Cc: Andre J. Lamprecht <andrel@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Sabina Lech <SabinaL@commissionsc.org.za>; Boipelo B. Ratshikana <BoipeloR@commissionsc.org.za>
Subject: Judicial Commission of Inquiry into Allegations of State Capture //

Dear Mr. Maringa.

Please find attached for your attention:

1. Letter from the Acting Secretary of the Commission; and
2. Audio recording of a conversation between Colonel Mhlongo and Mr. T. Joubert of the NPA.

Yours faithfully.

Warren Redcliffe
COMMISSION OF INQUIRY INTO STATE CAPTURE
Hillside House, 17 Empire Road, Parktown,
Johannesburg, 2193 | Gauteng | South Africa |
Email: warrenr@commissionsc.org.za | www.sastatecapture.org.za





2nd floor, Hillside House
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Parktown
Johannesburg
2193
Tel (International): +27 (10) 214-0651
Tel (Tollfree): 0800 222 097
Email: inquiries@sastatecapture.org.za
Web: www.sastatecapture.org.za

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

20 August 2019

To: Mr. Joel Maringa
By email: maringaja@vodamail.co.za
Your ref: SCIZ/01/1

Dear Sirs.

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE
("THE COMMISSION") //**

Audio Recording: Mr Mxolisi Sandile Oliver Nxasana

Your client: Colonel Welcome Sithembiso Mhlongo

Your letter dated 3 July 2019 refers, a copy of which was provided to Advocate Paul Pretorius SC at the hearing on 19 August 2019.

There is no video recording. Please however find herewith the audio recording between your client and Mr Terence Joubert. We confirm that you are already in possession of the transcription of such exchange.

Yours faithfully,

Ms. K.B. Shabalala

Acting Secretary

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

06

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Wednesday, 16 October 2019 16:48
To: joelma@vodamail.co.za
Cc: Andre J. Lamprecht; Warren Redcliffe
Subject: Booyesen: Rule 3.4 application - Mhlongo
Attachments: Application for Condonation and Variation.pdf; Application for leave to present version.pdf

Tracking:	Recipient	Delivery
	joelma@vodamail.co.za	
	Andre J. Lamprecht	Delivered: 16 Oct 2019 16:47
	Warren Redcliffe	Delivered: 16 Oct 2019 16:47

Dear Mr. Maringa

We refer to your client's application in response to the evidence of General Johan Booyesen (electronic copies are attached hereto).

In relation thereto, please find the below communication from the Commission's Legal Team:

"The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission")

Rule 3.4 application: Colonel Welcome Sithembiso Mhlongo ("Your client")

We refer to your client's application to adduce evidence, in addition to ancillary relief, in response to the evidence of General Johan Booyesen ("the witness") which was placed before the Commission.

The supporting affidavit of your client refers to and attaches an annexure marked "Annexure AA2", being an affidavit deposed to by Mr Terence John Joubert dated 1 February 2016. Unfortunately, the Annexure "AA2" does not appear to be initialled by either your client or the relevant commissioner of oaths.

Kindly attend to ensure that your client's supporting affidavit together with the Annexure AA2 to which it refers is duly commissioned.

Noting that your client only applies to adduce evidence, should your client wish to place his evidence before the Commission by way of his affidavit and without testifying, please indicate same in writing for the consideration of the honourable Chairperson of the Commission.

Please be informed that the Commission has since adopted a process which requires your client's application to be sent to the witness for comments, if any."

I am aware that your client's original application was submitted to the Commission. Please arrange collection thereof with me in order to attend to the necessary iro Annexure AA2.

Please be advised that your client's application has been sent to General J. Booyesen for his comments, if any. I will keep you informed as this application moves through the Commission's process.

Feel free to contact me with any queries that you may have in this regard.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



original

1414/2

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

In the matter between

JOHAN WESSEL BOOYSEN

Witness

And

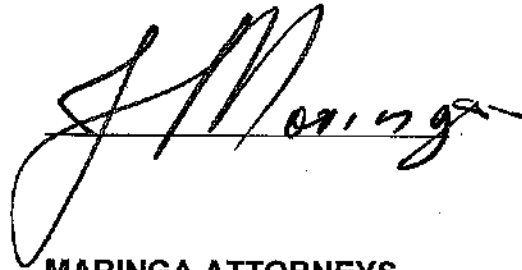
COLONEL MHLONGO

Implicated (Respondent)

Filing Notice

DOCUMENTS TO BE FILED: Original of the Notice of application to lead evidence
(Numbered 13-14) as well as accompanying affidavit
and Annexures (numbered 15-25 and 26-28
respectively)

TAKE FURTHER NOTICE THAT: a copy of the attached original was filed on Friday
the 10th of May 2019 as per paragraph 6.3 of our application for condonation. The filing
of the original is in compliance with paragraph 6.4 of the above application for
condonation



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

The secretary of the Commission

Commission of inquiry into State Capture

2nd floor Hillside house

17 Empire road

Johannes burg

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 MAY 2019

NOTICE OF APPLICATION TO LEAD EVIDENCE

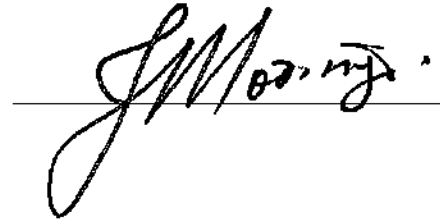
BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to adduce evidence, in response to the evidence of General Johan Booysen, on the backdrop of a notice served upon on 09 April 2019, in terms of Rule 3.3 of the Rules of the Commission.
2. The nature and extent of the evidence to be adduced by Colonel Welcome Sithembiso Mhlongo is set out in an affidavit attached to this notice as **Annexure AA1.**

WSM
LIA M

14

DATED AND SIGNED ON THIS 07 MAY 2019, AT PRETORIA.

A handwritten signature in black ink, appearing to read 'J. Maringa', is written over a horizontal line.

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

W8M
Liam

Annex A A 1
is**AFFIDAVIT**

I, the undersigned:

WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation ("DPIC"), commonly known as HAWKS. I am currently stationed at the Provincial unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. I have been invited as in accordance with paragraph 5 of the notice served upon me, dated 9 April 2019 to exercise an option in terms of Rule 3.3.6 of the Rules governing proceedings of the Judicial Commission of inquiry into allegations of state capture, to either make an application for

WSM
KTM

16

leave to cross-examine, General Booyesen or to lead evidence on matters raised in his testimony as witness or to have another person do so on my behalf.

4. I have made a decision to only limit my participation to leading evidence on the narrow issues brought to my attention by the Secretary of the Commission.
5. I do not intent to set-forth historical background related to the evidence of General Booyesen. I will confine my evidence to the paragraphs to which, my attention has be drawn, by the Commission.

INTRODUCTION

6. I have been advised, per notice from the Commission, to which I have alluded to above, that the allegations in the evidence of General Booyesen could implicate me in, amongst others, the enabling of the capture of the Criminal Justice System.
7. The factual basis advanced in support of the foregoing conclusion appears to be that:

7.1 I had Links with Panday who was being investigated for crimes relating to corruption and Bribery

W. S. M.
L. J. M.

17

- 7.1.1 General Booysen alleges in paragraph 44 of his statement that he had good reason to suspects that I informed Panday where the files were kept.
- 7.1.2 The bases for General Booysen 's suspicion allegedly rest on the alleged communication interception done during their investigation purportedly linking me with Panday
- 7.1.3 It is further alleged in paragraph 42 of General Booysen statement that Panday somehow knew where the files were kept, hence, he approached warrant officer Mostert, who is a member at Cato Manor, to steal the files as well as the exhibits or set alight the building, where the files were kept and thereafter name the price. (apparently for the job done)
- 7.1.4 Paragraph 43 of General Booysen 's affidavit assets an unsuccessful attempt to a sting operation in terms of section 252 (A) of the Criminal Procedure Act due to Panday 's failure

WSM
LTA M

to engage further with warrant officer Mostert
when contacted telephonically

7.2 Affidavits by Terrence John Joubert

7.2.1 In paragraph 45 of his statement General Booyesen narrates how I was implicated by Adv Mxolisi Nxasana in an attempt to tarnish his image at the behest of Jiba.

7.2.2 An affidavit referred to as **Annexure JWB2** alleged to be attested to by Terrence Joubert is used in support of the allegation against me.

8. I am advised that the evidence of General Booyesen as set out above bears the consequence which implicates me to the extend wherefore

8.1 I sought to:-

8.1.1 Unduly interfere in the investigative independence of the National prosecuting Authority, the Directorate for Priority crimes investigations, commonly known as the Haws, and or the South African Police Service

MSM
LTM

8.1.2 Unduly decline and or delay and or obstruct recommended prosecution

8.1.3 Participated in the undue persecution of officials of the NPA, the independent Police Investigative Directorate and or DPCI and

8.1.4 Destabilize the NPA, the DPCI and /or the SAPS

9. My reading General Booyesen 's evidence is that there is no disclosure of the facts on which he relied, to arrive at the conclusion that I informed Panday where the exhibits and the files are kept. His finding is based on mere suspicion derived from an alleged communication interception for which I have no knowledge thereof. Furthermore I am not aware of how the alleged communication interception links me to Panday

10. I submit further that General Booyesen's reliance on the alleged Affidavit of Terrence John Joubert in tarnishing the image of adv. Mxolisi Nxasana is questionable, since , the alleged deponent went public to dissociate himself from the affidavit Annexed and referred to as Annexure JWB2 by General Booyesen in his statement

W. Sun
KAM

20

11. I wish to place before the Commission objective factors to be taken into account in my defense to dispute statement (allegations) put forth before the Commission by General Booysen

11.1 KNOWLEDGE OF WHERE THE PANDAY CASE FILES WERE KEPT

11.1.1 I was never involved in the investigation relating to the Panday's case. Thus I would not have known where the files or exhibits were kept.

11.1.2 At the time of Panday's investigation I was seconded to the NPA within the section of missing persons task team, thus I had no knowledge of anything having to do with files or exhibits of suspects being investigated.

11.1.3 From the onset I have never denied knowing Panday or communicating with him. My knowledge of him is limited to sharing common political views and I have never discussed any matter relating to his investigation with him.

WGM
LKM

21

**11.2 PARTICIPATION IN FINDING DIRT AGAINST
MXOLISI NXASANA**

11.2.1 The source for grounding allegations of participation in finding dirt against Adv. Mxolisi Nxasana is the alleged affidavit by Terrence John Joubert

11.2.2 Terrence Joubert has denied any knowledge or association with the alleged affidavit set forth by General Booysen in his statement. I attache herewith **Annexure AA2** as confirmation to the effect that Terrence John Jourbert rejected being the author and deponent of the alleged affidavit as alleged by General Booysen.

11.2.3 The attached **Annexure AA2** is date stamped 1st February 2016 and counters the alleged affidavit referred to by General Booysen statement titled **Annexure JWB2** and deemed to be deposed of on the 25th Nov 2013

11.2.4 The affidavit I refer to as **Annexure AA2** is in Public Domain and General Booysen should have

WGA
LGM

known about it as it was published in both Sunday times and City press

11.2.5 I therefore deny participating in any manner in the persecution of adv. Mxolisi Nxasana

11.2.6 In paragraph 4 of attached Annexure AA2, John Joubert makes it clear that he denies any knowledge of the alleged instruction from anybody ,including Jiba directing him to investigate anybody outside the scope of his duties

11.2.7 Terrence John Joubert concludes his Affidavit in paragraph 4 by stating that "the information contained in the affidavit is fabricated "

11.2.8 I submit therefore that Joubert refers to General Booysen 's Annexure JWB2 as fabricated and calculated to mislead the Commission

11.2.9 The gist of Joubert 's Affidavit set out as Annexure AA2 implies that General Booysen 's acquired copy of statement alleged to be that of John Joubert or **Annexure JWB2** has no weight as evidence to the allegation in support of adv. Mxolisi Nxasana 's persecution but meant to tarnish my image in various platforms and to mislead the commission

Wesley
BAM

23

CONCLUSION

12. I am struggling to uncover reasons for General Booyesen desire to put my person to disgrace.
13. He uses statements which the alleged deponent denies any knowledge thereof.
14. I submit that it is trivial to allege that because I know Panday or rather as he puts it, that I communicated with Panday, then I am held accountable for informing him about the whereabouts of exhibits or files relating to his investigation. Moreover I was not within the Hawks but seconded to Missing persons Task team at the time General Booyesen carried out the investigation against Panday
15. My encounter at the memorial service
 - 15.1 On the 7 of February 2019 I met General Booyesen at a Memorial Service of a colleagues, warrant officer Siso Musa at Bluff Area in Durban.
 - 15.2 I was making a u turn heading to the exit of the church premises.
 - 15.3 General Booyesen came towards my car and leaned to the driver's window.

WSM
LHM

24

15.4 He then informed me that he is going to tarnish my image at state capture inquiry and he left.

15.5 I never got worried as I had no reason on my part to enable state capture.

15.6 I now realize that he had already made up his mind to implicate me to the extent of using questionable evidence to implicate me.

16. In my capacity as colonel within the Directorate for priority crime and investigation as well as in my capacity of being seconded to the missing person section within the NPA, I submit that I did not enhance the Capture of the Criminal Justice System through:

16.1 Unduly interfering in the investigative independence of the NPA, DPCI and/or SAPS.

16.2 Unduly declining and/or delaying, and/or obstructing recommended prosecutions.

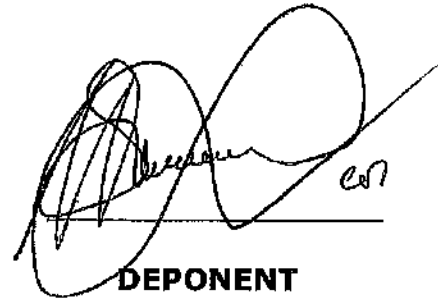
16.3 Participating in the undue persecution of officials of the NPA, IPID and/or the DPCI.

16.4 Destabilizing the NPA, DPCI and/or SAPS.

WSM
Liam

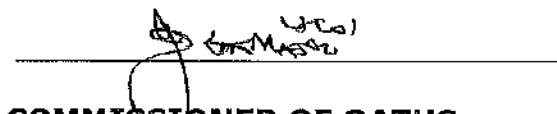
25

17 I accordingly ask for leave to present the above evidence to the Commission.



DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Durban on this 9th day of May 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

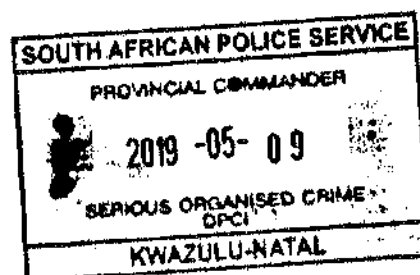


COMMISSIONER OF OATHS

FULL NAMES: LINDWE THEMBEISILE AUDREY MASOZ

CAPACITY: K. Labret

AREA: Durban



Annexie AA2
26

AFFIDAVIT

I, the undersigned;

TERENCE JOHN JOUBERT,

do hereby state under oath and say;

1.

I am employed by the National Prosecuting Authority of South Africa ["the NPA"] and am attached to the Security and Risk Management Unit on the 3rd Floor, Southern Life Building, 88 Joe Slovo Street, Durban.

2.

The facts contained herein are, unless stated otherwise, or the context indicates otherwise, are within my personal knowledge and to the best of belief true and correct.

3.

I wish to state that I dispute the affidavit that Advocate Willie Hofmeyr has submitted and is referring to.

My reasons are as follows:

T.J.
1
P.M.

21

On, or about 22 JUNE 2014, I was contacted by a certain journalist who told me that he was in possession of an affidavit I had attested to and wanted me to confirm the content of the said affidavit. I requested a copy of the said affidavit and he emailed a copy to me. I perused the affidavit and saw that my details were contained in the document as well as a signature which closely resembled mine. I read the contents of the affidavit, and did not recognize any of the information contained therein. I did not associate myself with any of the information contained in the affidavit and, it was clear to me that I had not compiled the affidavit. I have absolutely no knowledge of writing anything contained in it. I suspect that my computer was accessed and my information was used to compile this document without my knowledge. An investigation was instituted to establish the authenticity of the said disputed affidavit. I have not been informed of the outcome of the investigation.

4.

I am rather shocked and surprised to see that the said affidavit is being used during court procedures when an investigation into its authenticity is still underway. I also take offence to the fact that I am being used to fight the personal battles of Advocate Hofmeyr against the National Prosecuting Authority. I hereby deny any knowledge of the alleged instruction from anybody, including Advocate Jiba for me to investigate anybody outside the scope of my duties. The allegations contained in the affidavit are, in my opinion, all fabricated.

P. J.
2 Sep. 14

28

5.

I know and understand the content of this statement.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding to my conscience.

TERENCE J. JOUBERT

I certify that on this day of FEBUARY 2016, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

09702066.410
Commissioner of Oaths



Full Names: 11/11 2016-01-01

Designation: u/p

Area: Dbr

Address: No. 50 Broad

Street Dbr

400

3

P.J.
P.M.

1414/1

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 09 MAY 2019

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
1.	APPLICATION FOR CONDONATION	01-04
2.	APPLICATION FOR LATE FILING OF DOCUMENTS	05-08
	ACCOMPANYING ANNEXURE AA0	9-12
3.	APPLICATION TO LEAD EVIDENCE	13-14
4.	ACCOMPANYING AFFIDAVIT (ANNEXURE AA1)	15-25
5.	ANNEXURE AA2 (Reoffered to as Annexure JWB2 in Booyesen 's statement)	26-28

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 May 2019

EVIDENCE OF JOHAN WESSEL BOOYSEN AGAINST WS MHLONGO APPLICATION FOR CONDONATION

BE PLEASED TO TAKE NOTICE THAT:

- 2 Colonel Welcome Sibusiso Mhlongo, have appointed Maringa Attorneys, whose full particulars appear herein below, as his legal representative, in respect of matter arising from and/or incidental to the work of the Commission.
- 3 The above-named person have received notice, in terms of Rule 3.3 of the Rules of the Commission, to the effect that he has been implicated in the evidence of Johan Wessel Booysen

4 Colonel Welcome Mhlogo received notice as aforesaid on the 09 of April 2019

4.1 Rule 3.3.6, of the Rules of the Commission, directs that any person implicated in the testimony presented before the Commission may exercise any of the options available in terms of the sub-paragraph thereof, within a period two weeks from date of the notice.

4.2 Col Mhlongo received the notice, on 09 April 2019. As such the *dies* for step contemplated in terms of Rule 3.3.6, of the Rules of the Commission, expired on Wednesday, 23 April 2019.

4.3 In the period intervening from 09 April 2019 until 23 April 2019, the 4 (Four) days fell on the weekend and 2 (Two) days were public holidays, of a religious nature.

4.4 Thus, only 9 (Nine) days were effectively available for the formulation of requests contemplated in terms of Rule 3.3.6, of the Rules of the Commission.

4.5 In the 9 (Nine) days that were available, he had to apply, from his employer, for legal assistance. The applications for legal assistance was eventually approved and communicated to the State Attorney, who could only bring the implicated applicant 's request for legal assistant to the attention of the legal representative on the 02nd May 2019

4.6 It appears like the documents sent to state attorney were incomplete and some pages were secured directly from client by

appointed legal representative noting the urgency with which the matter had to be addressed

5 We advance the foregoing factors, in support of a request, for the extension of the time period prescribed in terms of Rule 3.3.6, of the Rules of the Commission.

6 We envisage that:

6.1 Decision to exercise any or more of the options available in terms of Rule 3.3.6, of the Rules of the Commission, will be made by no later Friday, 05 May 2019.

6.2 The formulation of the necessary application(s), including the compilation of the supporting annexure, will be completed by Wednesday, 08 May 2019.

6.3 Copy of the application will thus be delivered to the Secretary of the Commission, by no later than 16h00, on Friday, 10 May 2019.

6.4 Noting that Colonel Mhlongo is stationed in KZN and his legal representative is in Pretoria it is requested that the original affidavits be filed on 13 May 2019 to the secretary of the Commission

7 Thus, we ask for the variation of the period prescribed in terms of the notice, delivered in terms of Rule 3.3 of the Rules of the Commission, as set-out above in paragraph 4 subsection 4.1 above.

DATED AND SIGNED ON THIS 07 April 2019, AT PRETORIA.



A handwritten signature in black ink, appearing to read 'J. Maringa', is written over a horizontal line.

4

MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

5

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

In the matter between

JOHAN WESSEL BOOYSEN

Witness

And

COLONEL MHLONGO

Implicated (Respondent)

**APPLICATION FOR LATE FILING OF STATEMENTS REQUIRED IN TERMS OF
RULE 5 OF THE RULES OF THE COMMISSION**

I, the undersigned

MASHABA JOEL MARINGA

Do hereby make an oath and say that:

1. I am an adult male Attorney of the High Court of South Africa practicing as such under the title of Maringa Attorneys, located at 173 Bosman Street, Office 201 Sediba House, Pretoria. I am the attorney of record to implicated Respondent in the statements of **Johan Wessel Booysen** before the Commission.

M.J.

2. I am authorised to depose to this affidavit, and to bring the present application on behalf of the implicated Respondent. The facts deposed to hereunder are within my personal knowledge, save where otherwise stated, and are to the best of my belief both true and correct.
3. This affidavit accompanies an application for condonation dated 07/05/2019 addressed to the Secretary of the Commission, for variation of the period prescribed for submission of statements on behalf of the implicated person to the commission as in accordance with Rule 3.3.6 read with Rule 3.4 of the Rules of the Commission.

THE DELAY

4. The Respondent is implicated in the testimony tendered before the above Commission, As such he had to exercise the option provided for in accordance with rule 3.3.6 within fourteen calendar days of receiving notices in terms of Rule 3.3 of the Rules of the Commission.
5. The affidavits would be filed 14 (fourteen) days after the lapse of the prescribed days. The reasons for the delay are addressed in the request attached hereto and marked as **Annexure AA0**.

M. J.

7

IMPORTANCE OF THE MATTER

8. The work of the Commission is of national importance. The allegations made against the Respondent are extremely serious, and will have devastating consequences for him, should they be accepted as they are.
9. The evidence to be tendered by the implicated Respondent will greatly assist the Commission in the execution of its task.
10. Witnesses will not be prejudiced should the application for condonation be granted. The statements to be filed are very brief and concise to the relevant issues.
11. On the other hand, if condonation were to be refused, the implicated Respondents will suffer irreparable prejudice, in that the rights in terms of Section 34 of the Constitution would have been suppressed.
12. I submit that the delay is minimal, particularly when compared with the gravity of the overall circumstances. The evidence of Johan Wessel Booysens was finalised on the 03 May 2019.

Wherefore I ask the late filling of the affidavits, together with the associate applications be condoned as requested in this affidavit, read together with its Annexure.

M. J.

J. Morry
DEPONENT

I CERTIFY that this affidavit was signed and sworn to before me at Pretoria on this 10th day of May 2019 by the deponent who acknowledged that he knows and understood the contents of this affidavit, had no objection to taking prescribed oath, Considers the oath to be binding on his conscience and uttered the following words "I swear that the contents of this affidavit are true, so help me God"

Commissioner of oaths

Name: *Mosses Mabotale Thusego Trevor*

Address: *518 Grostuv Street, Hercules*

Capacity: *Constable*

Ek sertifiseer dat boestande verklarings deur my
afgelees is en dat verklarings saken dat
hysy vertroude is met die inhoud van hysy ver-
klaring en dit begryp. Hierdie verklaring is
voor my teken deur die deponent en is in my teen-
woordigheid aangelees.

I certify that the above statement was taken
by me and that the deponent has acknowl-
edged that he/she knows and understands the
contents of this statement. This statement was
taken in my presence and the deponent's
signature and stamp was placed thereon
in my presence.

te *Hercules* op *2019-05-10* om *09:50*
af *Mosses Mabotale Thusego Trevor*

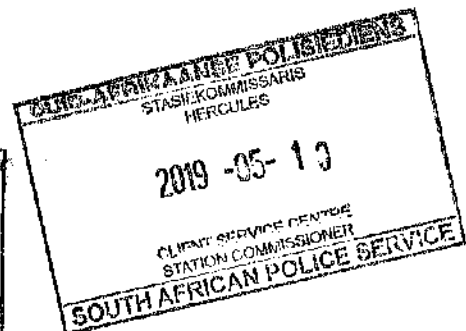
(SIGNATURE OF COMMISSIONER OF OATHS)
Mabotale Thusego Trevor

FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS
518 Grostuv Str, Hercules

PRECISE LOCATION (STREET ADDRESS)
Pretoria

Constable

RANG/RANK
SA POLISIEDIENS
SA POLICE SERVICE



Annex AAO 9

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 May 2019

**EVIDENCE OF JOHAN WESSEL BOOYSEN AGAINST WS MHLONGO
APPLICATION FOR CONDONATION**

BE PLEASED TO TAKE NOTICE THAT:

- 2 Colonel Welcome Sibusiso Mhlongo, have appointed Maringa Attorneys, whose full particulars appear herein below, as his legal representative, in respect of matter arising from and/or incidental to the work of the Commission.
- 3 The above-named person have received notice, in terms of Rule 3.3 of the Rules of the Commission, to the effect that he has been implicated in the evidence of Johan Wessel Booysen

M.S.

MT9

4 Colonel Welcome Mhlogo received notice as aforesaid on the 09 of April 2019

4.1 Rule 3.3.6, of the Rules of the Commission, directs that any person implicated in the testimony presented before the Commission may exercise any of the options available in terms of the sub-paragraph thereof, within a period two weeks from date of the notice.

4.2 Col Mhlongo received the notice, on 09 April 2019. As such the *dies* for step contemplated in terms of Rule 3.3.6, of the Rules of the Commission, expired on Wednesday, 23 April 2019.

4.3 In the period intervening from 09 April 2019 until 23 April 2019, the 4 (Four) days fell on the weekend and 2 (Two) days were public holidays, of a religious nature.

4.4 Thus, only 9 (Nine) days were effectively available for the formulation of requests contemplated in terms of Rule 3.3.6, of the Rules of the Commission.

4.5 In the 9 (Nine) days that were available, he had to apply, from his employer, for legal assistance. The applications for legal assistance was eventually approved and communicated to the State Attorney, who could only bring the implicated applicant's request for legal assistant to the attention of the legal representative on the 02nd May 2019

4.6 It appears like the documents sent to state attorney were incomplete and some pages were secured directly from client by

M.S.

MT9

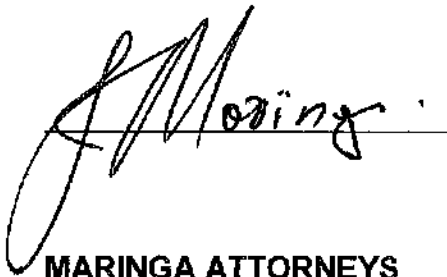
appointed legal representative noting the urgency with which the matter had to be addressed

- 5 We advance the foregoing factors, in support of a request, for the extension of the time period prescribed in terms of Rule 3.3.6, of the Rules of the Commission.
- 6 We envisage that:
 - 6.1 Decision to exercise any or more of the options available in terms of Rule 3.3.6, of the Rules of the Commission, will be made by no later Friday, 05 May 2019.
 - 6.2 The formulation of the necessary application(s), including the compilation of the supporting annexure, will be completed by Wednesday, 08 May 2019.
 - 6.3 Copy of the application will thus be delivered to the Secretary of the Commission, by no later than 16h00, on Friday, 10 May 2019.
 - 6.4 Noting that Colonel Mhlongo is stationed in KZN and his legal representative is in Pretoria it is requested that the original affidavits be filed on 13 May 2019 to the secretary of the Commission
- 7 Thus, we ask for the variation of the period prescribed in terms of the notice, delivered in terms of Rule 3.3 of the Rules of the Commission, as set-out above in paragraph 4 subsection 4.1 above.

DATED AND SIGNED ON THIS 07 April 2019, AT PRETORIA.

MJ.

MTT



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

113

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

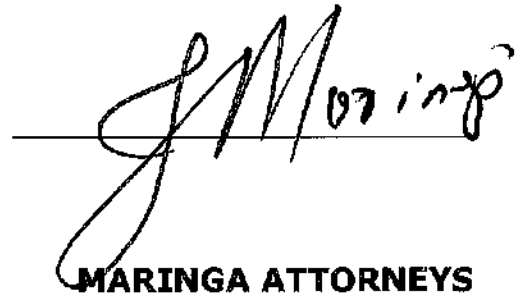
DATE: 07 MAY 2019

NOTICE OF APPLICATION TO LEAD EVIDENCE

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to adduce evidence, in response to the evidence of General Johan Booyesen, on the backdrop of a notice served upon on 09 April 2019, in terms of Rule 3.3 of the Rules of the Commission.
2. The nature and extent of the evidence to be adduced by Colonel Welcome Sithembiso Mhlongo is set out in an affidavit attached to this notice as **Annexure AA1**.

DATED AND SIGNED ON THIS 07 MAY 2019, AT PRETORIA.

A handwritten signature in black ink, appearing to read 'J. Maringa', is written over a horizontal line.

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

Annexure

AA /

15

AFFIDAVIT

I, the undersigned:

WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation ("DPIC"), commonly known as HAWKS. I am currently stationed at the Provincial unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. I have been invited as in accordance with paragraph 5 of the notice served upon me, dated 9 April 2019 to exercise an option in terms of Rule 3.3.6 of the Rules governing proceedings of the Judicial Commission of inquiry into allegations of state capture, to either make an application for

WSM
KEM

16

leave to cross-examine, General Booyesen or to lead evidence on matters raised in his testimony as witness or to have another person do so on my behalf.

4. I have made a decision to only limit my participation to leading evidence on the narrow issues brought to my attention by the Secretary of the Commission.
5. I do not intent to set-forth historical background related to the evidence of General Booyesen. I will confine my evidence to the paragraphs to which, my attention has be drawn, by the Commission.

INTRODUCTION

6. I have been advised, per notice from the Commission, to which I have alluded to above, that the allegations in the evidence of General Booyesen could implicate me in, amongst others, the enabling of the capture of the Criminal Justice System.
7. The factual basis advanced in support of the foregoing conclusion appears to be that:

7.1 I had Links with Panday who was being investigated for crimes relating to corruption and Bribery

WEM
Liam

17

7.1.1 General Booyesen alleges in paragraph 44 of his statement that he had good reason to suspects that I informed Panday where the files were kept.

7.1.2 The bases for General Booyesen 's suspicion allegedly rest on the alleged communication interception done during their investigation purportedly linking me with Panday

7.1.3 It is further alleged in paragraph 42 of General Booyesen statement that Panday somehow knew where the files were kept, hence, he approached warrant officer Mostert, who is a member at Cato Manor, to steal the files as well as the exhibits or set alight the building, where the files were kept and thereafter name the price. (apparently for the job done)

7.1.4 Paragraph 43 of General Booyesen 's affidavit asserts an unsuccessful attempt to a sting operation in terms of section 252 (A) of the Criminal Procedure Act due to Panday 's failure

WSM
KAM

to engage further with warrant officer Mostert
when contacted telephonically

7.2 Affidavits by Terrence John Joubert

7.2.1 In paragraph 45 of his statement General Booyesen narrates how I was implicated by Adv Mxolisi Nxasana in an attempt to tarnish his image at the behest of Jiba.

7.2.2 An affidavit referred to as **Annexure JWB2** alleged to be attested to by Terrence Joubert is used in support of the allegation against me.

8. I am advised that the evidence of General Booyesen as set out above bears the consequence which implicates me to the extend wherefore

8.1 I sought to:-

8.1.1 Unduly interfere in the investigative independence of the National prosecuting Authority, the Directorate for Priority crimes investigations, commonly known as the Hawks, and or the South African Police Service

*MSM
LTM*

19

8.1.2 Unduly decline and or delay and or obstruct recommended prosecution

8.1.3 Participated in the undue persecution of officials of the NPA, the Independent Police Investigative Directorate and or DPCI and

8.1.4 Destabilize the NPA, the DPCI and /or the SAPS

9. My reading General Booyesen 's evidence is that there is no disclosure of the facts on which he relied, to arrive at the conclusion that I informed Panday where the exhibits and the files are kept. His finding is based on mere suspicion derived from an alleged communication interception for which I have no knowledge thereof. Furthermore I am not aware of how the alleged communication interception links me to Panday

10. I submit further that General Booyesen's reliance on the alleged Affidavit of Terrence John Joubert in tarnishing the image of adv. Mxolisi Nxasana is questionable, since , the alleged deponent went public to dissociate himself from the affidavit Annexed and referred to as Annexure JWB2 by General Booyesen in his statement

W. S. M.
L. A. M.

20

11. I wish to place before the Commission objective factors to be taken into account in my defense to dispute statement (allegations) put forth before the Commission by General Booyesen

**11.1 KNOWLEDGE OF WHERE THE PANDAY CASE FILES
WERE KEPT**

11.1.1 I was never involved in the investigation relating to the Panday's case. Thus I would not have known where the files or exhibits were kept.

11.1.2 At the time of Panday's investigation I was seconded to the NPA within the section of missing persons task team, thus I had no knowledge of anything having to do with files or exhibits of suspects being investigated.

11.1.3 From the onset I have never denied knowing Panday or communicating with him. My knowledge of him is limited to sharing common political views and I have never discussed any matter relating to his investigation with him.

WSON
LIRM

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**11.2 PARTICIPATION IN FINDING DIRT AGAINST
MXOLISI NXASANA**

11.2.1 The source for grounding allegations of participation in finding dirt against Adv. Mxolisi Nxasana is the alleged affidavit by Terrence John Joubert

11.2.2 Terrence Joubert has denied any knowledge or association with the alleged affidavit set forth by General Booysen in his statement. I attach herewith **Annexure AA2** as confirmation to the effect that Terrence John Joubert rejected being the author and deponent of the alleged affidavit as alleged by General Booysen.

11.2.3 The attached **Annexure AA2** is date stamped 1st February 2016 and counters the alleged affidavit referred to by General Booysen statement titled **Annexure JWB2** and deemed to be deposed of on the 25th Nov 2013

11.2.4 The affidavit I refer to as **Annexure AA2** is in Public Domain and General Booysen should have

WBA
LH

22

known about it as it was published in both Sunday times and City press

11.2.5 I therefore deny participating in any manner in the persecution of adv. Mxolisi Nxasana

11.2.6 In paragraph 4 of attached Annexure AA2, John Joubert makes it clear that he denies any knowledge of the alleged instruction from anybody ,including Jiba directing him to investigate anybody outside the scope of his duties

11.2.7 Terrence John Joubert concludes his Affidavit in paragraph 4 by stating that "the information contained in the affidavit is fabricated "

11.2.8 I submit therefore that Joubert refers to General Booyesen 's Annexure JWB2 as fabricated and calculated to mislead the Commission

11.2.9 The gist of Joubert 's Affidavit set out as Annexure AA2 implies that General Booyesen 's acquired copy of statement alleged to be that of John Joubert or **Annexure JWB2** has no weight as evidence to the allegation in support of adv. Mxolisi Nxasana 's persecution but meant to tarnish my image in various platforms and to mislead the commission

WGB
BAM

23

CONCLUSION

12. I am struggling to uncover reasons for General Booyesen desire to put my person to disgrace.
13. He uses statements which the alleged deponent denies any knowledge thereof.
14. I submit that it is trivial to allege that because I know Panday or rather as he puts it, that I communicated with Panday, then I am held accountable for informing him about the whereabouts of exhibits or files relating to his investigation. Moreover I was not within the Hawks but seconded to Missing persons Task team at the time General Booyesen carried out the investigation against Panday
15. My encounter at the memorial service
 - 15.1 On the 7 of February 2019 I met General Booyesen at a Memorial Service of a colleagues, warrant officer Siso Musa at Bluff Area in Durban.
 - 15.2 I was making a u turn heading to the exit of the church premises.
 - 15.3 General Booyesen came towards my car and leaned to the driver's window.

WSM
LIAM

24

15.4 He then informed me that he is going to tarnish my image at state capture inquiry and he left.

15.5 I never got worried as I had no reason on my part to enable state capture.

15.6 I now realize that he had already made up his mind to implicate me to the extent of using questionable evidence to implicate me.

16. In my capacity as colonel within the Directorate for priority crime and investigation as well as in my capacity of being seconded to the missing person section within the NPA, I submit that I did not enhance the Capture of the Criminal Justice System through:

16.1 Unduly interfering in the investigative independence of the NPA, DPCI and/or SAPS.

16.2 Unduly declining and/or delaying, and/or obstructing recommended prosecutions.

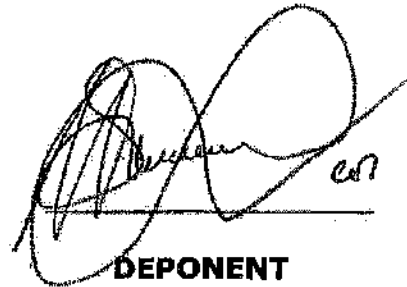
16.3 Participating in the undue persecution of officials of the NPA, IPID and/or the DPCI.

16.4 Destabilizing the NPA, DPCI and/or SAPS.

WSM
DAM

25

17 I accordingly ask for leave to present the above evidence to the Commission.



DEPONENT

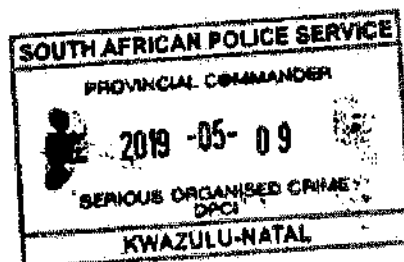
I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Durban on this 9th day of May 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.


COMMISSIONER OF OATHS

FULL NAMES: LINDWE FEMELIKE AUBREY MASOZ

CAPACITY: Lt Colonel

AREA: Durban



D n n e y r e

A A 2

26

AFFIDAVIT

I, the undersigned;

TERENCE JOHN JOUBERT,

do hereby state under oath and say;

1.

I am employed by the National Prosecuting Authority of South Africa ["the NPA"] and am attached to the Security and Risk Management Unit on the 3rd Floor, Southern Life Building, 88 Joe Slovo Street, Durban.

2.

The facts contained herein are, unless stated otherwise, or the context indicates otherwise, are within my personal knowledge and to the best of belief true and correct.

3.

I wish to state that I dispute the affidavit that Advocate Willie Hofmeyr has submitted and is referring to.

My reasons are as follows:

T.J.
J.P.M.

27

On, or about 22 JUNE 2014, I was contacted by a certain journalist who told me that he was in possession of an affidavit I had attested to and wanted me to confirm the content of the said affidavit. I requested a copy of the said affidavit and he emailed a copy to me. I perused the affidavit and saw that my details were contained in the document as well as a signature which closely resembled mine. I read the contents of the affidavit, and did not recognize any of the information contained therein. I did not associate myself with any of the information contained in the affidavit and, it was clear to me that I had not compiled the affidavit. I have absolutely no knowledge of writing anything contained in it. I suspect that my computer was accessed and my information was used to compile this document without my knowledge. An investigation was instituted to establish the authenticity of the said disputed affidavit. I have not been informed of the outcome of the investigation.

4.

I am rather shocked and surprised to see that the said affidavit is being used during court procedures when an investigation into its authenticity is still underway. I also take offence to the fact that I am being used to fight the personal battles of Advocate Hofmeyr against the National Prosecuting Authority. I hereby deny any knowledge of the alleged instruction from anybody, including Advocate Jiba for me to investigate anybody outside the scope of my duties. The allegations contained in the affidavit are, in my opinion, all fabricated.

P. S.
SP. M

28

5.

I know and understand the content of this statement.

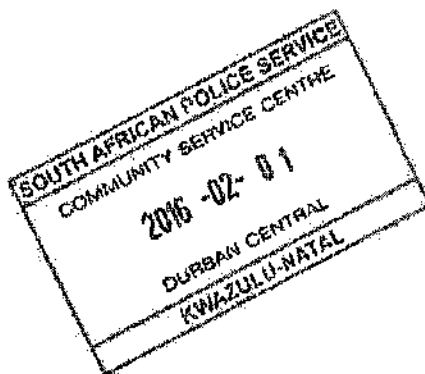
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding to my conscience.

TERENCE J. JOUBERT

I certify that on this day of FEBRUARY 2016, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

Commissioner of Oaths



Full Names: A. J. J. J. J. J.

Designation: W/O

Area: Dbm

Address: No. 50 Broad

Street Dbm

UPD

3

P. J.
P.M.

07

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Friday, 15 November 2019 15:23
To: Veruschka V. September
Cc: Thandi T. Norman; Lionel L. Groenewald
Subject: FW: Booysen: Rule 3.4 application - Mhlongo
Attachments: Booysen Answer - Mhlongo.pdf; CONFIRMATORY AFFIDAVIT BOOYSEN WS NOV 2019 SIGNED.PDF; CONFIRMATORY AFFIDAVIT BOOYSEN WS NOV 2019 SIGNED.pdf

Hello Veruschka

FYI - Booysen's answering affidavit iro Mhlongo has been sent on to Mr Maringa.

Veruschka, I have also sent Mr Maringa the Confirmatory Affidavit of Colonel Brian Padayachee (please find the email from Peter attached hereto) which relates to the answering affidavit.

Kind regards,
Shannon

From: Shannon S. Van Vuuren
Sent: Friday, 15 November 2019 14:20
To: 'joelma@vodamail.co.za' <joelma@vodamail.co.za>
Cc: Andre J. Lamprecht <andrel@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Subject: RE: Booysen: Rule 3.4 application - Mhlongo

Dear Mr Maringa

We refer to your client's application in respect of the evidence of General Johan Booysen.

Please find attached hereto General Johan Booysen's comments in answer to this application as well as the Confirmatory Affidavit of Colonel Brian Padayachee.

Please provide your client's written comments thereto, if any, within 7 (seven) calendar days of receipt hereof.

Yours faithfully,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support
COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,
Johannesburg, 2193 | Gauteng | South Africa |
Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



From: Shannon S. Van Vuuren
Sent: Wednesday, 16 October 2019 16:48
To: 'joelma@vodamail.co.za' <joelma@vodamail.co.za>

Cc: Andre J. Lamprecht <andrel@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Subject: Booysen: Rule 3.4 application - Mhlongo

Dear Mr. Maringa

We refer to your client's application in response to the evidence of General Johan Booysen (electronic copies are attached hereto).

In relation thereto, please find the below communication from the Commission's Legal Team:

***"The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission")
 Rule 3.4 application: Colonel Welcome Sithembiso Mhlongo ("Your client")***

We refer to your client's application to adduce evidence, in addition to ancillary relief, in response to the evidence of General Johan Booysen ("the witness") which was placed before the Commission.

The supporting affidavit of your client refers to and attaches an annexure marked "Annexure AA2", being an affidavit deposed to by Mr Terence John Joubert dated 1 February 2016. Unfortunately, the Annexure "AA2" does not appear to be initialled by either your client or the relevant commissioner of oaths.

Kindly attend to ensure that your client's supporting affidavit together with the Annexure AA2 to which it refers is duly commissioned.

Noting that your client only applies to adduce evidence, should your client wish to place his evidence before the Commission by way of his affidavit and without testifying, please indicate same in writing for the consideration of the honourable Chairperson of the Commission.

Please be informed that the Commission has since adopted a process which requires your client's application to be sent to the witness for comments, if any."

I am aware that your client's original application was submitted to the Commission. Please arrange collection thereof with me in order to attend to the necessary iro Annexure AA2.

Please be advised that your client's application has been sent to General J. Booysen for his comments, if any. I will keep you informed as this application moves through the Commission's process.

Feel free to contact me with any queries that you may have in this regard.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



AFFIDAVIT BY JOHAN WESSEL BOOYSEN

I, the undersigned,

JOHAN WESSEL BOOYSEN

Do hereby make oath and state that;

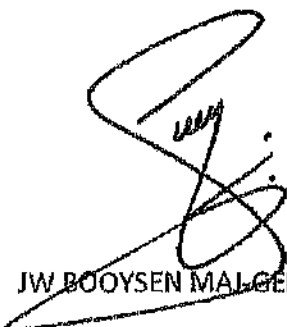
1. I am a major male South African Citizen.
2. The facts contained in this affidavit are true and correct and are unless the contrary appears from the context, within my personal knowledge.
3. During April 2019 I gave evidence at the Judicial Commission of Inquiry into allegations of State capture. Hereafter referred to as the Zondo Inquiry.
4. In response to my evidence Colonel WS Mhlongo ("Mhlongo") has deposed to an affidavit to the Zondo Inquiry.
5. I now deal with Mhlongo's response. This affidavit is not an *ad seriatim* response to Mhlongo's affidavit. If I do not deny any specific submission by Mhlongo, it should not be interpreted that I agree to or admit that submission.
6. Mhlongo essentially denies the following:
 - That he had links with Thoshan Panday ("Panday") who was investigated for crimes relating to corruption, other than having shared political views with Panday.
 - That he colluded with any-one to compromise the investigation against Panday.

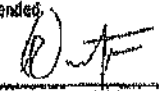


- That he colluded with any-one to 'find dirt on the erstwhile National Director of Public Prosecutions, Advocate Mxolisi Nxasana. ("Nxasana")
7. With regards to **Mhlongo's** denial of wrongful links with **Panday** my response is as follows:
8. During the investigations of corruption against **Panday**, telephonic communications of **Panday** were lawfully intercepted by **Colonel Brian Padayachee** ("Padayachee") from **Crime Intelligence**. I was informed by **Padayachee** that interceptions of **Panday's** calls revealed that there were attempts to remove the investigation against **Panday** and to have it allocated to **Mhlongo**. According to **Padayachee**, **Mhlongo** and **Panday** discussed myself during one of these calls. According to **Padayachee** there were also conversations between **Colonel Navin Madhoe** ("Madhoe") whose communications were also lawfully intercepted, and **Mhlongo**.
9. **Mhlongo's** explanation that his communications with **Panday** were innocuous and confined to sharing 'political views' is contradicted by what **Padayachee** informed me. **Mhlongo's** conversations with **Panday** should be seen in context with other intercepted conversations of **Panday** such as those of **Madhoe**.
10. On 22 October 2019 I phoned **Padayachee** to confirm what I have stated above, which he did. **Padayachee** advised me that the intercepted recordings will establish that **Mhlongo** did indeed attempt to collude with **Panday** in order to compromise the investigation against **Panday**.
11. With regards to the attempts to find dirt on Advocate Mxolisi Nxasana ("Nxasana") by **Mhlongo** and the statement of **Terrence Joubert** ("Joubert"), both which **Mhlongo** denies, my response is as follows:



12. Advocate Nxasana confirmed with me that he was approached by Joubert who informed him that Mhlongo informed him, Joubert, that he had to find 'dirt' on Nxasana. Joubert later sent him a recording of the conversation between him and Mhlongo wherein Mhlongo is heard saying he had to find 'dirt' against Nxasana. According to Nxasana this recording is still available.
13. I do not have any reason to 'put the person of Mhlongo to disgrace' as imputed by him.
14. Mhlongo's allegation that I told him at a funeral that I intended to tarnish his name at state capture inquiry (sic) is denied.
15. I know and understand the contents of this declaration
16. I have no objection to take the prescribed oath.
17. I consider the oath to be binding on my conscience.


JW BOOYSEN MAL GEN (Ret)

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, that he/she does not have any objection to taking the oath, and that he/she considers it to be binding on his/her conscience, and which was sworn to and signed before me and that the administering of the oath complied with the regulations contained in the Government Gazette 160, R3288 of 23 July 1972, as amended.	
	
SIGNATURE - RIAAN COETZEE CA (S=)	
COMMISSIONER OF OATHS	
Designation: Chartered Accountant (SA) SAICA Number: 05004862	
Date	22 10 2019
Place	M d r a n d
Business address: 57 Laberna, 152 Althea Avenue, Lyttelton, Capetown, 0157	

08

Jonathan J. Heuvel

From: Joel <Joelma@vodamail.co.za>
Sent: Wednesday, 27 November 2019 15:31
To: Shannon S. Van Vuuren
Subject: col Mhlongo reply to Gen Booyesen Replication
Attachments: Col Mhlongo Reply to Booyesen replication.pdf

Dear Ms S Van Vuuren

Attached please find Col Mhlongo 's reply to Gen Booyesen

I will deliver the original shortly

Kind Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

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

In the matter between

COLONEL WS MHLONGO

RESPONDENT

And

GENERAL BOOYSEN

WITNESS

Filing Notice

DOCUMENTS TO BE FILED: Affidavit in reply to General Booysen 's response to
replying affidavit of Colonel WS Mhlongo filed on 12th
May 2019

DATED AT PRETORIA ON 27TH OF NOVEMBER 2019

A handwritten signature in black ink, appearing to read 'J. Maringa', is written over a horizontal line.

MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

The secretary of the Commission

Commission of inquiry into State Capture

2nd floor Hillside house

17 Empire road

Johannes burg

AFFIDAVIT

I, the undersigned:

WELCOME SITHEMBISO MHLOGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation (DPCI), commonly known as HAWKS. I am currently stationed at the Provincial Unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. The purpose of this affidavit is in compliance with a request from the Commission 's investigating team inviting me to reply to General Booysen 's response to my Affidavit filed at the Commission on the 12th of May 2019, after being served with Notice in terms of Rule 3.3 of the Commission 's Rules for regulating conduct of proceedings

WSM
S.S.M

4. in paragraph 5 of his affidavit, General Booysen state that, his affidavit is not an *ad seriatim* response to My affidavit whereas in the same paragraph, from his first sentence he narrates that, "I now deal with Mhlongo 's response".
5. I am advised that General Booysen 's current Affidavit follows the affidavit I caused to be filed at the commission, on the 13th of May 2019, emanating from Rule 3.3 Notice served upon me directing that attention be drawn to paragraph 42- 45 of General Booysen 's founding Affidavit
6. I will therefore object to any new evidence presented or raised by him in his response to my replying affidavit particularly as that carries the potential to cause me prejudice, (for example the need to request some disclosures) considering that, the omission of such evidence in his founding affidavit , deprived me of an opportunity to address such evidence from the onset , in my replying Affidavit.
7. I am particularly concerned about General Booysen 's last sentence in paragraph 5 which reads "if I do not deny any specific submission by Mhlongo, it should not be interpreted that I agree to or admit that submission". My submission here is that it is clear that General Booysen is unsure about what he presents before the commission about me and only hopes that his fishing expedition might be successful.
8. I object to the content of paragraph 8 for the following reasons

MSM
S.S.M

8.1 The alleged intercepted conversation was not disclosed to me and I have no knowledge or recollection of such conversation

8.2 There is no evidence to show that the alleged interception was authorized

8.3 The entire content of the alleged intercepted conversation was never raised either in General Booyesen 's Founding Affidavit or evidence presented orally, before the Commission. Furthermore, the paragraph constitutes hearsay information as General Booyesen clearly articulates what he was informed by Padayachee.

9 I am unable to comment on what Padayachee informed General Booyesen as articulated in paragraph 9 of his Affidavit. I can however make a submission to the effect that the whole paragraph remains hearsay, but for what I already stated in my replying Affidavit, on how I knew Mr. Panday

10 In as far as paragraph 10 of his affidavit, it sounds to me like, General Booyesen is running a parallel commission of inquiry. I expected that he would have verified all the information prior to his presentation of evidence for hearing before the commission or at least before filing of his founding affidavit.

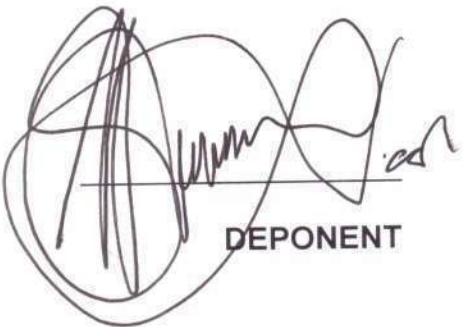
I am unable to comprehend the motives behind his approach of presenting the evidence first and verifying afterwards. The allegation that he phoned Padayachee on the 22 October 2019 to verify his facts puzzles me because his evidence was already presented in April /May 2019

WSM
S.S.M

11 General Booysen in his paragraph 10, tries to introduce Mr. Padayachee as witness to the Commission through the backdoor. My submission in this regard is that If Mr. Padayachee wants to implicate me, he should properly approach the Commission so that I can be served with the necessary Notice in terms of the Commission 's Rules. Furthermore, he should provide the evidence which I believe will be fairly disclosed to me so that I can answer. I am, as result thereof, unable to respond to the alleged intercepted communication, that I know nothing about and thus object to Padayachee 's affidavit in its entirety

12 On the matter of Mr. Nxasana as articulated in paragraph 11 of General Booysen 's Affidavit. My submission is that, at the risk of repeating what I already stated in the last sentence of sub-paragraph 8.3, General Booysen relies much on what he heard, hence my submission that, this could be attempts to put me to disgrace

13 With regard to paragraph 13 and 14 of General Booysen 's affidavit I stand by what I already said in my replying affidavit



DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and

sworn to before me at Pretoria on this 27 day of November 2019 and
that the Regulations contained in Government Notice R1258 of 21 July 1972,
as amended, have been complied with.

Mhlungos.S
Capt

COMMISSIONER OF OATHS

FULL NAMES: Siyabonga Simphiwe Mhlungo

CAPACITY: Captain

AREA: 15 Bram Fisher Road, Seruames Building
Durban

09

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Thursday, 28 November 2019 19:26
To: Joelma@vodamail.co.za
Cc: Andre J. Lamprecht; Warren Redcliffe; Boipelo B. Ratshikana
Subject: RE: col Mhlongo reply to Gen Booysen Replication
Attachments: Z1. Johan Wessel Booysen - Extract Par 204 & Annexure JWB26.pdf

Tracking:	Recipient	Delivery	Read
	Joelma@vodamail.co.za		
	Andre J. Lamprecht	Delivered: 28 Nov 2019 19:26	Read: 28 Nov 2019 22:46
	Warren Redcliffe	Delivered: 28 Nov 2019 19:26	
	Boipelo B. Ratshikana	Delivered: 28 Nov 2019 19:26	Read: 29 Nov 2019 08:49

Dear Mr Maringa

Please find the below correspondence from the Commission's Legal Team:

"We acknowledge receipt of your client's replying papers."

Please note that Colonel Padayachee submitted affidavits which were referenced in paragraph 204 of General Johan Booysen's main affidavit and attached as annexure JWB26 thereto. Whilst all the evidence placed before the Commission by General Booysen is publicly available online at URL: <https://www.sastatecapture.org.za>, for your ease of reference, the attachment to this email encloses a copy of the affidavits.

Accordingly, your client is hereby invited to supplement his replying papers within 7 (seven) calendar days of the date of receipt hereof, should he wish to do so."

Please notify the Commission should your client intend on supplementing his replying papers.

We look forward to hearing from you in this regard.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



From: Shannon S. Van Vuuren

Sent: Wednesday, 27 November 2019 19:19

To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>

Cc: Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: RE: col Mhlongo reply to Gen Booysen Replication

Dear Mr Maringa

Thank you, I acknowledge receipt hereof.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



From: Joel [<mailto:Joelma@vodamail.co.za>]

Sent: Wednesday, 27 November 2019 15:31

To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>

Subject: col Mhlongo reply to Gen Booysen Replication

Dear Ms S Van Vuuren

Attached please find Col Mhlongo 's reply to Gen Booysen

I will deliver the original shortly

Kind Regards

MARINGA ATTORNEYS

173 BOSMAN STREET

OFFICE 201 SEDIBA HOUSE

JoelMa@vodamail.co.za

Ringas.joel@yahoo.com

061 775 4962

082 753 6719

10

Jonathan J. Heuvel

From: Joel <Joelma@vodamail.co.za>
Sent: Monday, 02 December 2019 14:38
To: Shannon S. Van Vuuren
Subject: Supplementary Affidavit Mhlongo
Attachments: Mhlongo supplementary Affidavit pdf.pdf; Mhlongo affidavit combined with supplementary.pdf; Filing Notice supplementary Affidavit pdf.pdf

Dear Ms S Van Vuuren

Attached supplementary affidavit of Mhlongo WS .
I am awaiting originals from client to be couriered

Kind regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

11

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Tuesday, 14 January 2020 20:14
To: Susan Wentzel; Lionel L. Groenewald
Cc: Thandi T. Norman; Veruschka V. September; Andre J. Lamprecht; Warren Redcliffe; Trudi T. McCracken
Subject: Application //Col Van Loggenberg // Col Mhlongo
Attachments: Application to place Evidence Van Loggenberg V Mhlongo.pdf

Hello Susan & Lionel

I am busy catching up with emails received over the holiday season.

Please find attached herewith an application brought by Colonel Mhlongo iro Col Van Loggenberg's evidence. He is applying to give evidence by way of affidavit and without testifying.

It is a short affidavit – whereby he denies the allegation(s) that he tipped off Col Madhoe about a pending Hawks search (he also denies these allegation(s) as contained in Col. Moodley's affidavit).

He states, amongst a few other reasons, that he was not a part of the team vested with the authority to execute the search and that he was not aware of any information pertaining to the time frames of their action plans.

I will ensure that a hard copy of this application is brought over to you at the hearing venue tomorrow so that you can put this version to the witness should you choose to deal with it in open hearing.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,
Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



From: Joel [mailto:Joelma@vodamail.co.za]
Sent: Wednesday, 01 January 2020 18:59
To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>
Subject: secretary@commissionsc.org.za

Dear Ms Van Vuuren

Attached Notice to place evidence in respect of the matter of Col Van Loggenberg V/s Col Mhlongo

Kind Regards

MARINGA ATTORNEYS

173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

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

TO: ACTING-SECRETARY OF THE COMMISSION

FOR ATTENTION Ms SHANNON VAN VUUREN

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 01 JANUARY 2020

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
1.	NOTICE OF APPLICATION TO LEAD EVIDENCE	01-02
2.	ACCOMPANYING AFFIDAVIT	03-08
3.	FLING NOTICE- To place evidence by affidavit	9-10
4.	OPTION TO PLACE EVIDENCE BY WAY OF SUBMITTED AFFIDAVIT ONLY	11-12

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

TO: **ACTING-SECRETARY OF THE COMMISSION**

C/O Ms Shannon Van Vuuren

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: **24 DECEMBER 2019**

NOTICE OF APPLICATION TO LEAD EVIDENCE

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to adduce evidence by way of an affidavit, in response to the evidence of Mr. Johannes Van Loggerenberg, on the backdrop of a notice served upon on 19th December 2019, in terms of Rule 3.3 of the Rules of the Commission.
2. The nature and extent of the evidence to be adduced by Colonel Welcome Sithembiso Mhlongo is set out in an affidavit attached to this notice as **Annexure AA1**.

WSM HKB

2

DATED AND SIGNED ON THIS 24 DECEMBER 2019, AT
PRETORIA.



MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

WSM HNB

AFFIDAVIT

I, the undersigned:

WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation ("DPCI"), commonly known as HAWKS. I am currently stationed at the Provincial unit for Serious Organized Crime as Acting Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. I have been invited as in accordance with paragraph 6 of the notice served upon me, dated 19 December 2019 to exercise an option in terms of Rule 3.3.6 of the Rules governing proceedings of the Judicial Commission of inquiry into allegations of state capture, to either make an application for

W 8m HXB

4

leave to cross-examine, Col. Johannes Van Loggerenberg or to lead evidence on matters raised in his testimony as witness or to have another person do so on my behalf.

4. I have made a decision to only limit my participation to leading evidence by way of an affidavit on the narrow issues brought to my attention by the Secretary of the Commission.
5. I do not intent to set-forth historical background related to the evidence of Col. Van Loggerenberg.

I will confine my evidence to the paragraph which, my attention has be drawn, by the Commission.

INTRODUCTION

6. I have been advised, per notice from the Commission, from which I have alluded to above, that the allegations in the evidence of Mr. Johannes Van Loggerenberg could implicate me in, amongst others, allegations of participating in various acts of corruption, bribery fraud, money laundering and or tax evasion .
7. The factual basis advanced in support of the foregoing conclusion appears to be that:

W8M HAB

S

- 7.1 **Col. Van Loggerenberg alleges that he was advised by Colonel Soobromoney that Colonel Madhoe informed her that I and Colonel Clarence Jones tipped Colonel Madhoe about the pending search within their crime intelligence offices prior to its actual occurrence.**
- 7.1.1 Col. Johannes Van Loggerenberg alleges in paragraph 9, sub- paragraph 9.12.4 of his affidavit that 'Col Madhoe informed her (presumably Col Soobramoney) the evening before the DPCI came to search their Financial offices at SAPS, that he had been informed by Col. Clarence Jones and Col WS Mhlongo, that her Offices were to be searched the next day".
- 7.1.2 I have no knowledge of the allegations set forth by Mr. Van Loggerenberg and advance the following facts in support of my stance
- 7.1.2.1 I was not part of the team vested with authority to execute the search at Col Madhoe 's Offices, neither

WSM

HAB

did I know or carry information regarding the time frames of their action plan.

7.1.2.2 During the period in which the search took place, I was seconded to the NPA within the section of missing persons task team, thus I had no knowledge of anything having to do with Search warrants earmarked to be carried out at the Crime Intelligence offices

7.1.2.3 The evidence of Col. Van Loggerenberg in this regard further constitute to hearsay as he talks about what he heard from Col Soobramoney without even substantiating how and where the alleged tip took place

7.1.2.4 I cannot vouch for the allegations against Col Clarence Jones; however, my submission is that Mr. Johannes Van Loggerenberg 's allegation is far from assisting the commission in that nothing is being said about how each party effected the alleged tipping of Col Madhoe.

8 I note further with concern that the affidavit deposed to by Col Yogavelli Moodley attached to the Rule 3.3 notice sent to me, marked "B" and titled Annexure "JVL3" also echoes similar sentiments whereby, Col Madhoe allegedly informed Col Moodley that he got a tip from me about the pending search by the Hawks to their offices prior to the actual search

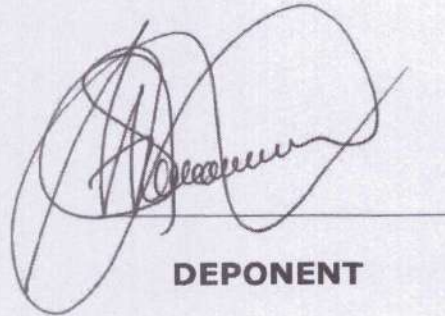
Wsu

HMB

- 9 I deny Col. Moodley 's allegations on the same reasons advanced in paragraph 7 above in my response to Col Johannes Van Loggerenberg as if referring to Col Moodley.
- 10 I am advised that the evidence of Col Johannes Van Loggerenberg as set out above bears the consequence which implicates me to the extend wherefore
- 10.1 I allegedly participated in acts of: -
- 10.1.1 Corruption
 - 10.1.2 Bribery
 - 10.1.3 Fraud
 - 10.1.4 Money Laundering and or Tax evasion
11. I deny all the allegations set forth against me above and view that as a deliberate attempt to fit me within the umbrella of participation of alleged unlawful conduct.
12. My submission is therefore that the allegations have no bases and carries the potential to tarnish my reputation

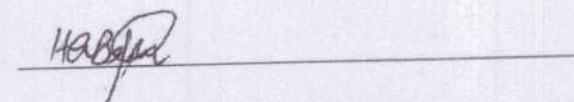
WSM 17/03

13. Should it be pleasing to the commission, I am satisfied in presenting my evidence by way of affidavit without the necessity of presenting oral evince



DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at DURBAN on this 30TH day of December 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Hloniphele ANGEL Bontela

CAPACITY: CAPTAIN

AREA: DURBAN

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

In the matter between

COL. JOHANNES VAN LOGGERENBERG

RESPONDENT

And

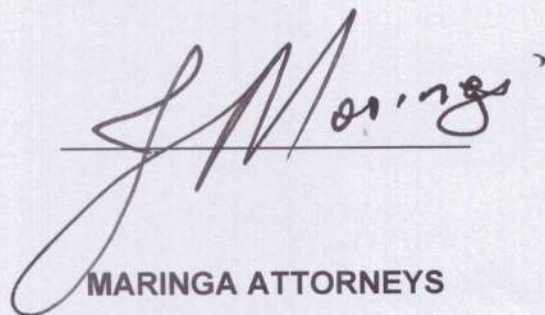
COLONEL WS MHLONGO

WITNESS

Filing Notice

DOCUMENTS TO BE FILED: Option to place evidence by way of affidavit without the necessity to testify

DATED AT PRETORIA ON 1st JANUARY 2020



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

10

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

The secretary of the Commission
Commission of inquiry into State Capture
2nd floor Hillside house
17 Empire road
Johannes burg

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

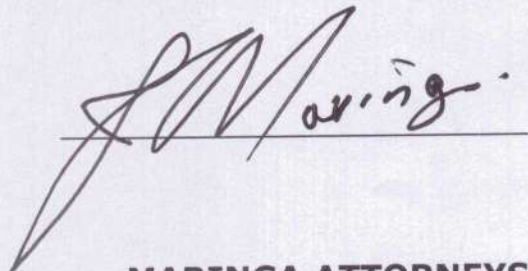
DATE: 1 JANUARY 2020

**NOTICE OF APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION
BY WAY OF AFFIDAVIT**

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to place his evidence before the commission by way of affidavit without testifying should it be pleasing to the chairperson of the commission

DATED AND SIGNED ON THIS 1ST JANUARY 2020, AT PRETORIA.

A handwritten signature in black ink, appearing to read 'Maringa', is written over a horizontal line.

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

12

Received: Shannon Van Vuuren

Secretariat: Legal Support Services

23 October 2019

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

B

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 09 MAY 2019

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
1.	APPLICATION FOR CONDONATION	01-04
2.	APPLICATION FOR LATE FILING OF DOCUMENTS	05-08
	ACCOMPANYING ANNEXURE AA0	9-12
3.	APPLICATION TO LEAD EVIDENCE	13-14
4.	ACCOMPANYING AFFIDAVIT (ANNEXURE AA1)	15-25
5.	ANNEXURE AA2 (Reoffered to as Annexure JWB2 in Booyesen 's statement)	26-28
6	FILING NOTICE	29-30
7	SUPPLEMENTARY AFFIDAVIT (including commissioned and initialed Affidavit of col Mhlongo)	31-43
8	Annexure AA2 Properly initialed and commissioned	44-46
9	APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION BY WAY OF AN AFFIDAVIT	47-48

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 May 2019

**EVIDENCE OF JOHAN WESSEL BOOYSEN AGAINST WS MHLONGO
APPLICATION FOR CONDONATION**

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sibusiso Mhlongo, have appointed Maringa Attorneys, whose full particulars appear herein below, as his legal representative, in respect of matter arising from and/or incidental to the work of the Commission.
- 2 The above-named person received notice, in terms of Rule 3.3 of the Rules of the Commission, to the effect that he has been implicated in the evidence of Johan Wessel Booysen

3 Colonel Welcome Mhlogo received notice as aforesaid on the 09 of April 2019

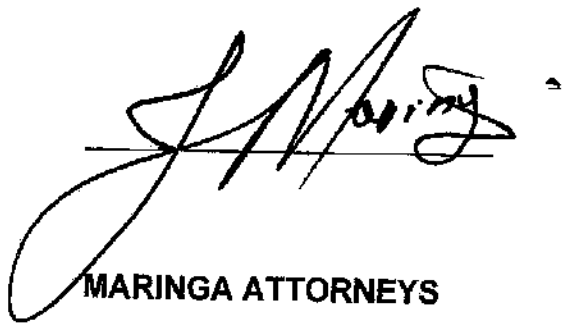
- 3.1 Rule 3.3.6, of the Rules of the Commission, directs that any person implicated in the testimony presented before the Commission may exercise any of the options available in terms of the sub-paragraph thereof, within a period two weeks from date of the notice.
- 3.2 Col Mhlongo received the notice, on 09 April 2019. As such the *dies* for step contemplated in terms of Rule 3.3.6, of the Rules of the Commission, expired on Wednesday, 23 April 2019.
- 3.3 In the period intervening from 09 April 2019 until 23 April 2019, the 4 (Four) days fell on the weekend and 2 (Two) days were public holidays, of a religious nature.
- 3.4 Thus, only 9 (Nine) days were effectively available for the formulation of requests contemplated in terms of Rule 3.3.6, of the Rules of the Commission.
- 3.5 In the 9 (Nine) days that were available, he had to apply, from his employer, for legal assistance. The applications for legal assistance was eventually approved and communicated to the State Attorney, who could only bring the implicated applicant 's request for legal assistant to the attention of the legal representative on the 02nd May 2019
- 3.6 It appears like the documents sent to state attorney were incomplete and some pages were secured directly from client by

appointed legal representative noting the urgency with which the matter had to be addressed

- 4 We advance the foregoing factors, in support of a request, for the extension of the time period prescribed in terms of Rule 3.3.6, of the Rules of the Commission.
- 5 We envisage that:
 - 5.1 Decision to exercise any or more of the options available in terms of Rule 3.3.6, of the Rules of the Commission, will be made by no later Friday, 05 May 2019.
 - 5.2 The formulation of the necessary application(s), including the compilation of the supporting annexure, will be completed by Wednesday, 08 May 2019.
 - 5.3 Copy of the application will thus be delivered to the Secretary of the Commission, by no later than 16h00, on Friday, 10 May 2019.
 - 5.4 Noting that Colonel Mhlongo is stationed in KZN and his legal representative is in Pretoria it is requested that the original affidavits be filed on 13 May 2019 to the secretary of the Commission
- 6 Thus, we ask for the variation of the period prescribed in terms of the notice, delivered in terms of Rule 3.3 of the Rules of the Commission, as set-out above in paragraph 4 subsection 4.1 above.

DATED AND SIGNED ON THIS 07 April 2019, AT PRETORIA.

4



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

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

In the matter between

JOHAN WESSEL BOOYSEN

Witness

And

COLONEL MHLONGO

Implicated (Respondent)

**APPLICATION FOR LATE FILING OF STATEMENTS REQUIRED IN TERMS OF
RULE 5 OF THE RULES OF THE COMMISSION**

I, the undersigned

MASHABA JOEL MARINGA

Do hereby make an oath and say that:

1. I am an adult male Attorney of the High Court of South Africa practicing as such under the title of Maringa Attorneys, located at 173 Bosman Street, Office 201 Sediba House, Pretoria. I am the attorney of record to implicated Respondent in the statements of **Johan Wessel Booysen** before the Commission.

M.J.

6

2. I am authorised to depose to this affidavit, and to bring the present application on behalf of the implicated Respondent. The facts deposed to hereunder are within my personal knowledge, save where otherwise stated, and are to the best of my belief both true and correct.
3. This affidavit accompanies an application for condonation dated 07/05/2019 addressed to the Secretary of the Commission, for variation of the period prescribed for submission of statements on behalf of the implicated person to the commission as in accordance with Rule 3.3.6 read with Rule 3.4 of the Rules of the Commission.

THE DELAY

4. The Respondent is implicated in the testimony tendered before the above Commission, As such he had to exercise the option provided for in accordance with rule 3.3.6 within fourteen calendar days of receiving notices in terms of Rule 3.3 of the Rules of the Commission.
5. The affidavits would be filed 14 (fourteen) days after the lapse of the prescribed days. The reasons for the delay are addressed in the request attached hereto and marked as Annexure AA0.

M.S.

IMPORTANCE OF THE MATTER

7

8. The work of the Commission is of national importance. The allegations made against the Respondent are extremely serious, and will have devastating consequences for him, should they be accepted as they are.
9. The evidence to be tendered by the implicated Respondent will greatly assist the Commission in the execution of its task.
10. Witnesses will not be prejudiced should the application for condonation be granted. The statements to be filed are very brief and concise to the relevant issues.
11. On the other hand, if condonation were to be refused, the implicated Respondents will suffer irreparable prejudice, in that the rights in terms of Section 34 of the Constitution would have been suppressed.
12. I submit that the delay is minimal, particularly when compared with the gravity of the overall circumstances. The evidence of Johan Wessel Booysens was finalised on the 03 May 2019.

Wherefore I ask the late filing of the affidavits, together with the associate applications be condoned as requested in this affidavit, read together with its Annexure.

M-J.

J. M. Mose
DEPONENT

I CERTIFY that this affidavit was signed and sworn to before me at Pretoria on this 10th day of May 2019 by the deponent who acknowledged that he knows and understood the contents of this affidavit, had no objection to taking prescribed oath, Considers the oath to be binding on his conscience and uttered the following words "I swear that the contents of this affidavit are true, so help me God"

Commissioner of oaths

Name: *Mossie Mabotale Thungo Prvor*

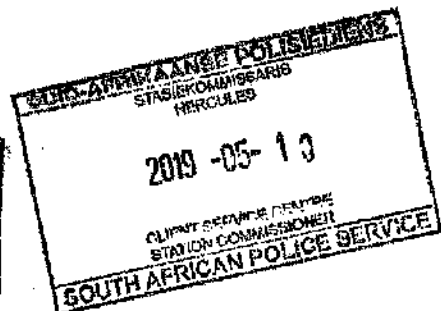
Address: *518 Gastuv Street, Hercules*

Capacity *Constable*

Ik sertifiseer dat bestaande verklaring deur my
afgelees is en dat verklarende erken dat
hy/zy vertrouwd is met die inhoud van hierdie ver-
klaring en de bygevoegde dokumente wat in
voer my teenwoordigheid is en verklaar dat
handtekening en/of stempel is in my teen-
woordigheid daarop aangebring.

I certify that the above statement was made
by me and that the deponent has acknow-
ledged that he/she knows and understands the
contents of this statement. This statement was
before me and the deponent's
signature and stamp was placed thereon
in my presence.

to *Hercules* on *2019-05-10* at *09:50*
by *Mossie Mabotale Thungo Prvor*
(Signature of Commissioner of Oaths)
Mabotale Thungo Prvor
FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS
518 Gastuv Str, Hercules
(DEPONENT'S ADDRESS)
Prvor
BUSINESS ADDRESS (STREET ADDRESS)
Constable
RANG/RANK SA POLISIEDIENS
SA POLICE SERVICE



Annex AAO

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 May 2019

**EVIDENCE OF JOHAN WESSEL BOOYSEN AGAINST WS MHLONGO
APPLICATION FOR CONDONATION**

BE PLEASED TO TAKE NOTICE THAT:

- 2 Colonel Welcome Sibusiso Mhlongo, have appointed Maringa Attorneys, whose full particulars appear herein below, as his legal representative, in respect of matter arising from and/or incidental to the work of the Commission.
- 3 The above-named person have received notice, in terms of Rule 3.3 of the Rules of the Commission, to the effect that he has been implicated in the evidence of Johan Wessel Booysen

M.S

MTT

4 Colonel Welcome Mhlogo received notice as aforesaid on the 09 of April 2019

- 4.1 Rule 3.3.6, of the Rules of the Commission, directs that any person implicated in the testimony presented before the Commission may exercise any of the options available in terms of the sub-paragraph thereof, within a period two weeks from date of the notice.
- 4.2 Col Mhlongo received the notice, on 09 April 2019. As such the *dies* for step contemplated in terms of Rule 3.3.6, of the Rules of the Commission, expired on Wednesday, 23 April 2019.
- 4.3 In the period intervening from 09 April 2019 until 23 April 2019, the 4 (Four) days fell on the weekend and 2 (Two) days were public holidays, of a religious nature.
- 4.4 Thus, only 9 (Nine) days were effectively available for the formulation of requests contemplated in terms of Rule 3.3.6, of the Rules of the Commission.
- 4.5 In the 9 (Nine) days that were available, he had to apply, from his employer, for legal assistance. The applications for legal assistance was eventually approved and communicated to the State Attorney, who could only bring the implicated applicant's request for legal assistant to the attention of the legal representative on the 02nd May 2019
- 4.6 It appears like the documents sent to state attorney were incomplete and some pages were secured directly from client by

M.S.

MT9

//

appointed legal representative noting the urgency with which the matter had to be addressed

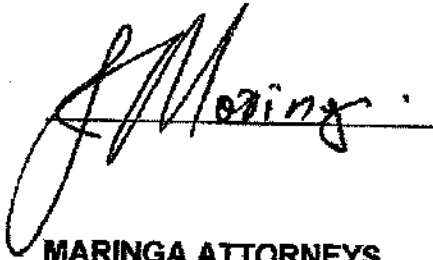
- 5 We advance the foregoing factors, in support of a request, for the extension of the time period prescribed in terms of Rule 3.3.6, of the Rules of the Commission.
- 6 We envisage that:
 - 6.1 Decision to exercise any or more of the options available in terms of Rule 3.3.6, of the Rules of the Commission, will be made by no later Friday, 05 May 2019.
 - 6.2 The formulation of the necessary application(s), including the compilation of the supporting annexure, will be completed by Wednesday, 08 May 2019.
 - 6.3 Copy of the application will thus be delivered to the Secretary of the Commission, by no later than 16h00, on Friday, 10 May 2019.
 - 6.4 Noting that Colonel Mhlongo is stationed in KZN and his legal representative is in Pretoria it is requested that the original affidavits be filed on 13 May 2019 to the secretary of the Commission
- 7 Thus, we ask for the variation of the period prescribed in terms of the notice, delivered in terms of Rule 3.3 of the Rules of the Commission, as set-out above in paragraph 4 subsection 4.1 above.

DATED AND SIGNED ON THIS 07 April 2019, AT PRETORIA.

M.J.

MTT

12



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

MTT

113

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 07 MAY 2019

NOTICE OF APPLICATION TO LEAD EVIDENCE

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to adduce evidence, in response to the evidence of General Johan Booysen, on the backdrop of a notice served upon on 09 April 2019, in terms of Rule 3.3 of the Rules of the Commission.
2. The nature and extent of the evidence to be adduced by Colonel Welcome Sithembiso Mhlongo is set out in an affidavit attached to this notice as **Annexure AA1**.

14

DATED AND SIGNED ON THIS 07 MAY 2019, AT PRETORIA.



A handwritten signature in black ink, appearing to read 'J. Maringa', is written over a horizontal line.

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

Annexure

A A /

15

AFFIDAVIT

I, the undersigned:

WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation ("DPIC"), commonly known as HAWKS. I am currently stationed at the Provincial unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. I have been invited as in accordance with paragraph 5 of the notice served upon me, dated 9 April 2019 to exercise an option in terms of Rule 3.3.6 of the Rules governing proceedings of the Judicial Commission of Inquiry into allegations of state capture, to either make an application for

WSM
GEM

16

leave to cross-examine, General Booyesen or to lead evidence on matters raised in his testimony as witness or to have another person do so on my behalf.

4. I have made a decision to only limit my participation to leading evidence on the narrow issues brought to my attention by the Secretary of the Commission.
5. I do not intent to set-forth historical background related to the evidence of General Booyesen. I will confine my evidence to the paragraphs to which, my attention has be drawn, by the Commission.

INTRODUCTION

6. I have been advised, per notice from the Commission, to which I have alluded to above, that the allegations in the evidence of General Booyesen could implicate me in, amongst others, the enabling of the capture of the Criminal Justice System.
7. The factual basis advanced in support of the foregoing conclusion appears to be that:

- 7.1 **I had Links with Panday who was being investigated for crimes relating to corruption and Bribery**

WEM
LSAM

17

- 7.1.1 General Booyesen alleges in paragraph 44 of his statement that he had good reason to suspects that I informed Panday where the files were kept.
- 7.1.2 The bases for General Booyesen 's suspicion allegedly rest on the alleged communication interception done during their investigation purportedly linking me with Panday
- 7.1.3 It is further alleged in paragraph 42 of General Booyesen statement that Panday somehow knew where the files were kept, hence, he approached warrant officer Mostert, who is a member at Cato Manor, to steal the files as well as the exhibits or set alight the building, where the files were kept and thereafter name the price. (apparently for the job done)
- 7.1.4 Paragraph 43 of General Booyesen 's affidavit assets an unsuccessful attempt to a sting operation in terms of section 252 (A) of the Criminal Procedure Act due to Panday 's failure

W.S. van
W.A.M.

18

to engage further with warrant officer Mostert
when contacted telephonically

7.2 Affidavits by Terrence John Joubert

7.2.1 In paragraph 45 of his statement General Booyesen narrates how I was implicated by Adv Mxolisi Nxasana in an attempt to tarnish his image at the behest of Jiba.

7.2.2 An affidavit referred to as **Annexure JWB2** alleged to be attested to by Terrence Joubert is used in support of the allegation against me.

8. I am advised that the evidence of General Booyesen as set out above bears the consequence which implicates me to the extend wherefore

8.1 I sought to:-

8.1.1 Unduly interfere in the investigative independence of the National prosecuting Authority, the Directorate for Priority crimes Investigations, commonly known as the Hawks, and or the South African Police Service

W/Sur
Liam

19

8.1.2 Unduly decline and or delay and or obstruct recommended prosecution

8.1.3 Participated In the undue persecution of officials of the NPA, the Independent Police Investigative Directorate and or DPCI and

8.1.4 Destabilize the NPA, the DPCI and /or the SAPS

9. My reading General Booysen 's evidence is that there is no disclosure of the facts on which he relied, to arrive at the conclusion that I informed Panday where the exhibits and the files are kept. His finding is based on mere suspicion derived from an alleged communication interception for which I have no knowledge thereof. Furthermore I am not aware of how the alleged communication interception links me to Panday

10. I submit further that General Booysen's reliance on the alleged Affidavit of Terrence John Joubert in tarnishing the image of adv. Mxolisi Nxasana is questionable, since , the alleged deponent went public to dissociate himself from the affidavit Annexed and referred to as Annexure JWB2 by General Booysen in his statement

as seen
LHM

20

11. I wish to place before the Commission objective factors to be taken into account in my defense to dispute statement (allegations) put forth before the Commission by General Booyesen

11.1 KNOWLEDGE OF WHERE THE PANDAY CASE FILES WERE KEPT

11.1.1 I was never involved in the investigation relating to the Panday's case. Thus I would not have known where the files or exhibits were kept.

11.1.2 At the time of Panday's investigation I was seconded to the NPA within the section of missing persons task team, thus I had no knowledge of anything having to do with files or exhibits of suspects being investigated.

11.1.3 From the onset I have never denied knowing Panday or communicating with him. My knowledge of him is limited to sharing common political views and I have never discussed any matter relating to his investigation with him.

WJG
BKM

21

**11.2 PARTICIPATION IN FINDING DIRT AGAINST
MXOLISI NXASANA**

- 11.2.1 The source for grounding allegations of participation in finding dirt against Adv. Mxolisi Nxasana is the alleged affidavit by Terrence John Joubert
- 11.2.2 Terrence Joubert has denied any knowledge or association with the alleged affidavit set forth by General Booysen in his statement. I attache herewith **Annexure AA2** as confirmation to the effect that Terrence John Joubert rejected being the author and deponent of the alleged affidavit as alleged by General Booysen.
- 11.2.3 The attached **Annexure AA2** is date stamped 1st February 2016 and counters the alleged affidavit referred to by General Booysen statement titled **Annexure JWB2** and deemed to be deposed of on the 25th Nov 2013
- 11.2.4 The affidavit I refer to as **Annexure AA2** is in Public Domain and General Booysen should have

WJW
LHM

22

known about it as it was published in both Sunday
times and City press

11.2.5 I therefore deny participating in any manner in the
persecution of adv. Mxolisi Nxasana

11.2.6 In paragraph 4 of attached Annexure AA2, John
Joubert makes it clear that he denies any
knowledge of the alleged instruction from anybody
,including Jiba directing him to investigate
anybody outside the scope of his duties

11.2.7 Terrence John Joubert concludes his Affidavit in
paragraph 4 by stating that "the information
contained in the affidavit is fabricated "

11.2.8 I submit therefore that Joubert refers to General
Booyesen 's Annexure JWB2 as fabricated and
calculated to mislead the Commission

11.2.9 The gist of Joubert 's Affidavit set out as Annexure
AA2 implies that General Booyesen 's acquired copy
of statement alleged to be that of John Joubert or
Annexure JWB2 has no weight as evidence to the
allegation in support of adv. Mxolisi Nxasana 's
persecution but meant to tarnish my image in
various platforms and to mislead the commission

WSH
BAM

23

CONCLUSION

12. I am struggling to uncover reasons for General Booyesen desire to put my person to disgrace.
13. He uses statements which the alleged deponent denies any knowledge thereof.
14. I submit that It is trivial to allege that because I know Panday or rather as he puts it, that I communicated with Panday, then I am held accountable for informing him about the whereabouts of exhibits or files relating to his investigation. Moreover I was not within the Hawks but seconded to Missing persons Task team at the time General Booyesen carried out the investigation against Panday
15. My encounter at the memorial service
 - 15.1 On the 7 of February 2019 I met General Booyesen at a Memorial Service of a colleagues, warrant officer Siso Musa at Bluff Area in Durban.
 - 15.2 I was making a u turn heading to the exit of the church premises.
 - 15.3 General Booyesen came towards my car and leaned to the driver's window.

WSM
LTM

24

15.4 He then informed me that he is going to tarnish my image at state capture inquiry and he left.

15.5 I never got worried as I had no reason on my part to enable state capture.

15.6 I now realize that he had already made up his mind to implicate me to the extent of using questionable evidence to implicate me.

16. In my capacity as colonel within the Directorate for priority crime and investigation as well as in my capacity of being seconded to the missing person section within the NPA, I submit that I did not enhance the Capture of the Criminal Justice System through:

16.1 Unduly interfering in the investigative independence of the NPA, DPCI and/or SAPS.

16.2 Unduly declining and/or delaying, and/or obstructing recommended prosecutions.

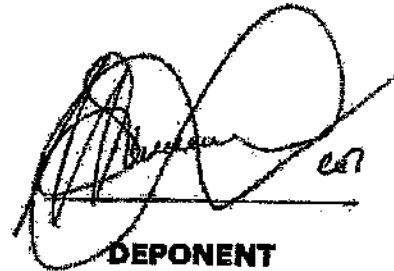
16.3 Participating in the undue persecution of officials of the NPA, IPID and/or the DPCI.

16.4 Destabilizing the NPA, DPCI and/or SAPS.

WJS
LHM

25

17 I accordingly ask for leave to present the above evidence to the Commission.



DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Durban on this 9th day of May 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

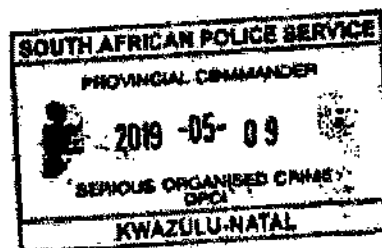


COMMISSIONER OF OATHS

FULL NAMES: LINDWE THERESA AUGREY MASO

CAPACITY: in Cabinet

AREA: Durban



Dmcture

AAZ

26

AFFIDAVIT

I, the undersigned;

TERENCE JOHN JOUBERT,

do hereby state under oath and say;

1.

I am employed by the National Prosecuting Authority of South Africa ("the NPA") and am attached to the Security and Risk Management Unit on the 3rd Floor, Southern Life Building, 88 Joe Slovo Street, Durban.

2.

The facts contained herein are, unless stated otherwise, or the context indicates otherwise, are within my personal knowledge and to the best of belief true and correct.

3.

I wish to state that I dispute the affidavit that Advocate Willie Hofmeyr has submitted and is referring to.

My reasons are as follows:

T.J.
PPM

27

On, or about 22 JUNE 2014, I was contacted by a certain journalist who told me that he was in possession of an affidavit I had attested to and wanted me to confirm the content of the said affidavit. I requested a copy of the said affidavit and he emailed a copy to me. I perused the affidavit and saw that my details were contained in the document as well as a signature which closely resembled mine. I read the contents of the affidavit, and did not recognize any of the information contained therein. I did not associate myself with any of the information contained in the affidavit and, it was clear to me that I had not compiled the affidavit. I have absolutely no knowledge of writing anything contained in it. I suspect that my computer was accessed and my information was used to compile this document without my knowledge. An investigation was instituted to establish the authenticity of the said disputed affidavit. I have not been informed of the outcome of the investigation.

4.

I am rather shocked and surprised to see that the said affidavit is being used during court procedures when an investigation into its authenticity is still underway. I also take offence to the fact that I am being used to fight the personal battles of Advocate Hofmeyr against the National Prosecuting Authority. I hereby deny any knowledge of the alleged instruction from anybody, including Advocate Jiba for me to investigate anybody outside the scope of my duties. The allegations contained in the affidavit are, in my opinion, all fabricated.

P. J.
SP. M

28

5.

I know and understand the content of this statement.

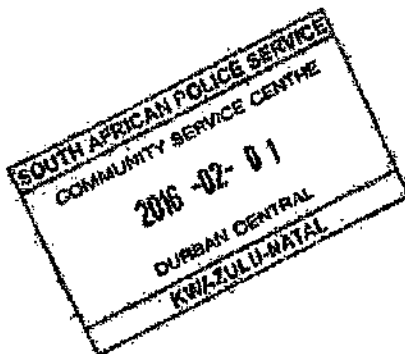
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding to my conscience.

TERENCE J. JOUBERT

I certify that on this day of FEBRUARY 2016, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

[Signature]
Commissioner of Oaths



Full Names: 11111 1111 1111

Designation: W/O

Area: Dhaka

Address: No. 50 Broad

Street Dhaka

1111

3
L.J.
P.M.

Joel

From: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>
Sent: Wednesday, 16 October 2019 4:47 PM
To: joelma@vodamail.co.za
Cc: Andre J. Lamprecht; Warren Redcliffe
Subject: Booyesen: Rule 3.4 application - Mhlongo
Attachments: Application for Condonation and Variation.pdf; Application for leave to present version.pdf

Dear Mr. Maringa

We refer to your client's application in response to the evidence of General Johan Booyesen (electronic copies are attached hereto).

In relation thereto, please find the below communication from the Commission's Legal Team:

***"The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission")
 Rule 3.4 application: Colonel Welcome Sithembiso Mhlongo ("Your client")***

We refer to your client's application to adduce evidence, in addition to ancillary relief, in response to the evidence of General Johan Booyesen ("the witness") which was placed before the Commission.

The supporting affidavit of your client refers to and attaches an annexure marked "Annexure AA2", being an affidavit deposed to by Mr Terence John Joubert dated 1 February 2016. Unfortunately, the Annexure "AA2" does not appear to be initialled by either your client or the relevant commissioner of oaths.

Kindly attend to ensure that your client's supporting affidavit together with the Annexure AA2 to which it refers is duly commissioned.

Noting that your client only applies to adduce evidence, should your client wish to place his evidence before the Commission by way of his affidavit and without testifying, please indicate same in writing for the consideration of the honourable Chairperson of the Commission.

Please be informed that the Commission has since adopted a process which requires your client's application to be sent to the witness for comments, if any."

I am aware that your client's original application was submitted to the Commission. Please arrange collection thereof with me in order to attend to the necessary iro Annexure AA2.

Please be advised that your client's application has been sent to General J. Booyesen for his comments, if any. I will keep you informed as this application moves through the Commission's process.

Feel free to contact me with any queries that you may have in this regard.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,

Johannesburg, 2193 | Gauteng | South Africa |

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za

29

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

In the matter between

JOHAN WESSEL BOOYSEN

WITNESS

AND

COLONEL MHLONGO

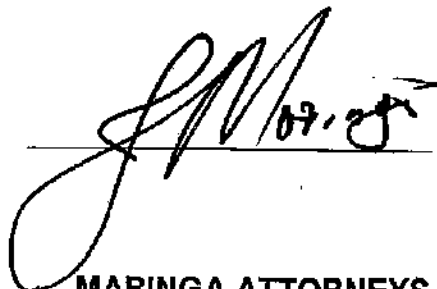
IMPLICATED (RESPONDENT)

FILING NOTICE

DOCUMENTS TO BE FILED: SUPPLIMENTARY AFFIDAVIT

TAKE FURTHER NOTICE THAT: The supplementary affidavit is in response to a query by the commission 's legal team emanating from Deponent in the main answering affidavit as well as the Commissioner of oaths, omitting to initial the accompanying **Annexure AA2** to the main answering affidavit, referred to as Terrence Joubert 's affidavit

DATED AND SIGNED ON THIS October 2019, AT PRETORIA.


MARINGA ATTORNEYS

*Wes
SSM*

30

(Attorney for Col Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

The secretary of the commission

Commission of Inquiry into state capture

2nd floor hillside house

17 Empire road Johannesburg

W&A
SS M

31

SUPPLIMENTARY AFFIDAVIT

I, the undersigned:

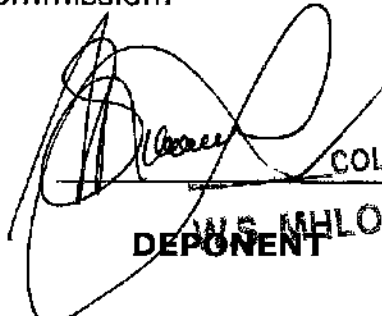
WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

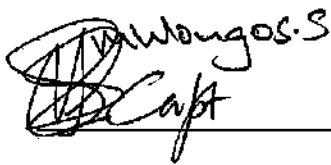
1. I deposed to an affidavit in response to the allegations of General Johan Booysen on the 09th of May 2019 as per invitation in accordance with the commission's Notice in terms of Rule 3.3
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. On reflection upon **Annexure AA2** attached to my main answering affidavit filed on the 13th of May 2019, I realized that neither myself nor the Commissioner of oath who assisted me initialed **Annexure AA2**
4. I depose to this supplementary affidavit to include the initialed **Annexure AA2** to remedy the omission prevailing in the main answering affidavit

WSM
SSM

5. I accordingly ask for leave to present the evidence in my main answering affidavit, supplemented by the attached properly initialed **Annexure AA2**, as my evidence before the commission, without the necessity of testifying, should it be pleasing to the chairperson of the Commission.


COLONEL
W.S. MHLONGO
DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Durban on this 17 day of October 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.


Capt

COMMISSIONER OF OATHS

FULL NAMES: Siyabonga Simphiwe Mhlongo

CAPACITY: Captain

AREA: KZN DPCI

W.S.M.
SS.M

33

AFFIDAVIT

I, the undersigned:

WELCOME SITHEMBISO MHLONGO

Hereby state as follows, under oath:

1. I am an adult person with full legal capacity, employed as Colonel in the Directorate for Priority Crime Investigation ("DPIC"), commonly known as HAWKS. I am currently stationed at the Provincial unit for Serious Organized Crime as Provincial Commander in KZN
2. The facts deposed to hereunder are within my personal knowledge and are, to the best of my belief both true and correct.
3. I have been invited as in accordance with paragraph 5 of the notice served upon me, dated 9 April 2019 to exercise an option in terms of Rule 3.3.6 of the Rules governing proceedings of the Judicial Commission of inquiry into allegations of state capture, to either make an application for

WBM
S.S.M

34

leave to cross-examine, General Booyesen or to lead evidence on matters raised in his testimony as witness or to have another person do so on my behalf.

4. I have made a decision to only limit my participation to leading evidence on the narrow issues brought to my attention by the Secretary of the Commission.
5. I do not intent to set-forth historical background related to the evidence of General Booyesen. I will confine my evidence to the paragraphs to which, my attention has be drawn, by the Commission.

INTRODUCTION

6. I have been advised, per notice from the Commission, to which I have alluded to above, that the allegations in the evidence of General Booyesen could implicate me in, amongst others, the enabling of the capture of the Criminal Justice System.
7. The factual basis advanced in support of the foregoing conclusion appears to be that:

7.1 I had Links with Panday who was being investigated for crimes relating to corruption and Bribery

W. S. M.
S.S.M.

35

- 7.1.1 General Booysen alleges in paragraph 44 of his statement that he had good reason to suspects that I informed Panday where the files were kept.
- 7.1.2 The bases for General Booysen 's suspicion allegedly rest on the alleged communication interception done during their investigation purportedly linking me with Panday
- 7.1.3 It is further alleged in paragraph 42 of General Booysen statement that Panday somehow knew where the files were kept, hence, he approached warrant officer Mostert, who is a member at Cato Manor, to steal the files as well as the exhibits or set alight the building, where the files were kept and thereafter name the price. (apparently for the job done)
- 7.1.4 Paragraph 43 of General Booysen 's affidavit assets an unsuccessful attempt to a sting operation in terms of section 252 (A) of the Criminal Procedure Act due to Panday 's failure

W.S.M.
S.S.M.

36

to engage further with warrant officer Mostert
when contacted telephonically

7.2 **Affidavits by Terrence John Joubert**

7.2.1 In paragraph 45 of his statement General Booyesen narrates how I was implicated by Adv Mxolisi Nxasana in an attempt to tarnish his image at the behest of Jiba.

7.2.2 An affidavit referred to as **Annexure JWB2** alleged to be attested to by Terrence Joubert is used in support of the allegation against me.

8. I am advised that the evidence of General Booyesen as set out above bears the consequence which implicates me to the extend wherefore

8.1 I sought to:-

8.1.1 Unduly interfere in the investigative independence of the National prosecuting Authority, the Directorate for Priority crimes investigations, commonly known as the Haws, and or the South African Police Service

WBM
S.S.M

8.1.2 Unduly decline and or delay and or obstruct recommended prosecution

8.1.3 Participated in the undue persecution of officials of the NPA, the independent Police Investigative Directorate and or DPCI and

8.1.4 Destabilize the NPA, the DPCI and /or the SAPS

9. My reading General Booysen 's evidence is that there is no disclosure of the facts on which he relied, to arrive at the conclusion that I informed Panday where the exhibits and the files are kept. His finding is based on mere suspicion derived from an alleged communication interception for which I have no knowledge thereof. Furthermore I am not aware of how the alleged communication interception links me to Panday

10. I submit further that General Booysen's reliance on the alleged Affidavit of Terrence John Joubert in tarnishing the image of adv. Mxolisi Nxasana is questionable, since , the alleged deponent went public to dissociate himself from the affidavit Annexed and referred to as Annexure JWB2 by General Booysen in his statement

W. S. M.

388

11. I wish to place before the Commission objective factors to be taken into account in my defense to dispute statement (allegations) put forth before the Commission by General Booysen

11.1 KNOWLEDGE OF WHERE THE PANDAY CASE FILES WERE KEPT

11.1.1 I was never involved in the investigation relating to the Panday's case. Thus I would not have known where the files or exhibits were kept.

11.1.2 At the time of Panday's investigation I was seconded to the NPA within the section of missing persons task team, thus I had no knowledge of anything having to do with files or exhibits of suspects being investigated.

11.1.3 From the onset I have never denied knowing Panday or communicating with him. My knowledge of him is limited to sharing common political views and I have never discussed any matter relating to his investigation with him.

W. S. M.

39

11.2 PARTICIPATION IN FINDING DIRT AGAINST MXOLISI NXASANA

- 11.2.1 The source for grounding allegations of participation in finding dirt against Adv. Mxolisi Nxasana is the alleged affidavit by Terrence John Joubert
- 11.2.2 Terrence Joubert has denied any knowledge or association with the alleged affidavit set forth by General Booysen in his statement. I attache herewith **Annexure AA2** as confirmation to the effect that Terrence John Jourbert rejected being the author and deponent of the alleged affidavit as alleged by General Booysen.
- 11.2.3 The attached **Annexure AA2** is date stamped 1st February 2016 and counters the alleged affidavit referred to by General Booysen statement titled **Annexure JWB2** and deemed to be deposed of on the 25th Nov 2013
- 11.2.4 The affidavit I refer to as **Annexure AA2** is in Public Domain and General Booysen should have

*W.S.M.
S.S.M.*

40

known about it as it was published in both Sunday times and City press

11.2.5 I therefore deny participating in any manner in the persecution of adv. Mxolisi Nxasana

11.2.6 In paragraph 4 of attached Annexure AA2, John Joubert makes it clear that he denies any knowledge of the alleged instruction from anybody ,including Jiba directing him to investigate anybody outside the scope of his duties

11.2.7 Terrence John Joubert concludes his Affidavit in paragraph 4 by stating that "the information contained in the affidavit is fabricated "

11.2.8 I submit therefore that Joubert refers to General Booyesen 's Annexure JWB2 as fabricated and calculated to mislead the Commission

11.2.9 The gist of Joubert 's Affidavit set out as Annexure AA2 implies that General Booyesen 's acquired copy of statement alleged to be that of John Joubert or **Annexure JWB2** has no weight as evidence to the allegation in support of adv. Mxolisi Nxasana 's persecution but meant to tarnish my image in various platforms and to mislead the commission

Wg
S.S.M

41

CONCLUSION

12. I am struggling to uncover reasons for General Booyesen desire to put my person to disgrace.
13. He uses statements which the alleged deponent denies any knowledge thereof.
14. I submit that it is trivial to allege that because I know Panday or rather as he puts it, that I communicated with Panday, then I am held accountable for informing him about the whereabouts of exhibits or files relating to his investigation. Moreover I was not within the Hawks but seconded to Missing persons Task team at the time General Booyesen carried out the investigation against Panday
15. My encounter at the memorial service
 - 15.1 On the 7 of February 2019 I met General Booyesen at a Memorial Service of a colleagues, warrant officer Siso Musa at Bluff Area In Durban.
 - 15.2 I was making a u turn heading to the exit of the church premises.
 - 15.3 General Booyesen came towards my car and leaned to the driver's window.

W.S.M.
S.S.M.

42

15.4 He then informed me that he is going to tarnish my image at state capture inquiry and he left.

15.5 I never got worried as I had no reason on my part to enable state capture.

15.6 I now realize that he had already made up his mind to implicate me to the extent of using questionable evidence to implicate me.

16. In my capacity as colonel within the Directorate for priority crime and investigation as well as in my capacity of being seconded to the missing person section within the NPA , I submit that I did not enhance the Capture of the Criminal Justice System through:

16.1 Unduly interfering in the investigative independence of the NPA, DPCI and/or SAPS.

16.2 Unduly declining and/or delaying, and/or obstructing recommended prosecutions.

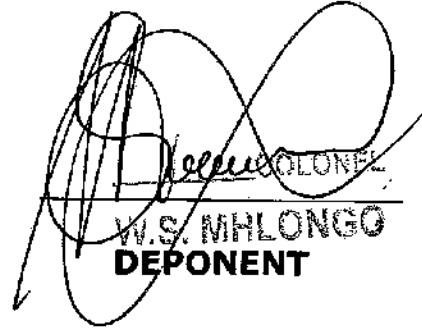
16.3 Participating in the undue persecution of officials of the NPA, IPID and/or the DPCI.

16.4 Destabilizing the NPA, DPCI and/or SAPS.

W. S. M.
S.S.M.

43

17 I accordingly ask for leave to present the above evidence to the Commission.



W.S. MHLONGO
DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Durban on this 17 day of May 2019 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

Mhlongo S.S.
Capt

COMMISSIONER OF OATHS

FULL NAMES: Siyabonga Simphiwe Mhlongo

CAPACITY: Captain

AREA: KZN DPCI

W.S.M.
S.S.M.

44

AFFIDAVIT

I, the undersigned;

TERENCE JOHN JOUBERT,

do hereby state under oath and say;

1.

I am employed by the National Prosecuting Authority of South Africa ["the NPA"] and am attached to the Security and Risk Management Unit on the 3rd Floor, Southern Life Building, 88 Joe Slovo Street, Durban.

2.

The facts contained herein are, unless stated otherwise, or the context indicates otherwise, are within my personal knowledge and to the best of belief true and correct.

3.

I wish to state that I dispute the affidavit that Advocate Willie Hofmeyr has submitted and is referring to.

My reasons are as follows:

T.J.
PPM
W. Hofmeyr
S.S.M.

45

On, or about 22 JUNE 2014, I was contacted by a certain journalist who told me that he was in possession of an affidavit I had attested to and wanted me to confirm the content of the said affidavit. I requested a copy of the said affidavit and he emailed a copy to me. I perused the affidavit and saw that my details were contained in the document as well as a signature which closely resembled mine. I read the contents of the affidavit, and did not recognize any of the information contained therein. I did not associate myself with any of the information contained in the affidavit and, it was clear to me that I had not compiled the affidavit. I have absolutely no knowledge of writing anything contained in it. I suspect that my computer was accessed and my information was used to compile this document without my knowledge. An investigation was instituted to establish the authenticity of the said disputed affidavit. I have not been informed of the outcome of the investigation.

4.

I am rather shocked and surprised to see that the said affidavit is being used during court procedures when an investigation into its authenticity is still underway. I also take offence to the fact that I am being used to fight the personal battles of Advocate Hofmeyr against the National Prosecuting Authority. I hereby deny any knowledge of the alleged instruction from anybody, including Advocate Jiba for me to investigate anybody outside the scope of my duties. The allegations contained in the affidavit are, in my opinion, all fabricated.

WSM
SS.MP.J.
SP.M

46

5.

I know and understand the content of this statement.

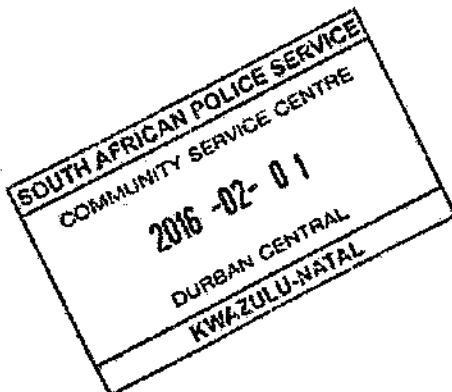
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding to my conscience.

TERENCE J. JOUBERT

I certify that on this day of FEBUARY 2016, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

[Signature]
Commissioner of Oaths



Full Names: 11/12/2011 22/11/2011

Designation: W/O

Area: Dbr

Address: NO. 50 Broad

Street Dbr

400

3

[Signature]

W8M

P.M

47

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

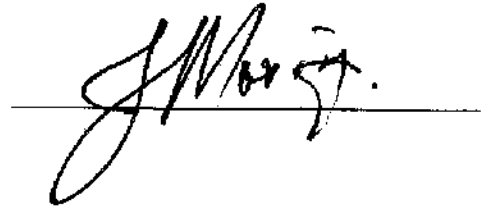
DATE: 22 OCTOBER 2019

**NOTICE OF APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION
BY WAY OF AFFIDAVIT**

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to place his evidence before the commission by way of affidavit without testifying, should it be pleasing to the chairperson of the commission
2. The above option is being made on the backdrop of a correspondence received from the legal team of the commission on 16/ 10/ 2019 for client to make an election

DATED AND SIGNED ON THIS 22 OCTOBER 2019, AT PRETORIA.



48

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

13

Jonathan J. Heuvel

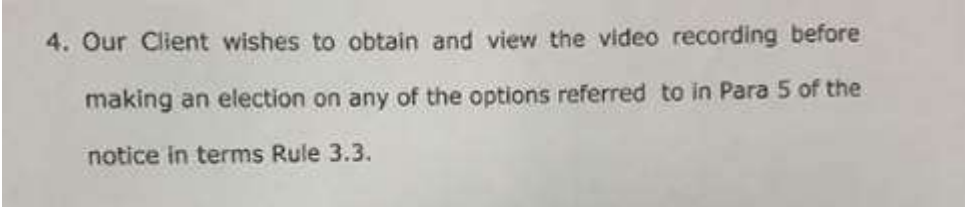
From: Shannon S. Van Vuuren
Sent: Tuesday, 24 March 2020 10:46
To: Lionel L. Groenewald
Subject: Nxasana / Maringa Letter - Audio Recording / Mhlongo
Attachments: file-6.jpeg; file1.jpeg; Judicial Commission of Inquiry into Allegations of State Capture //

Importance: High

Hi Lionel

Referring to our telecom:-

Maringa's letter dated July 2019 is attached hereto. The relevant snip is below:



4. Our Client wishes to obtain and view the video recording before making an election on any of the options referred to in Para 5 of the notice in terms Rule 3.3.

We sent the audio and no election to bring a Rule 3.4 application was communicated through to the Commission (by Mhlongo iro Nxasana's evidence).

Kind regards,
S

From: Veruschka V. September
Sent: Monday, 19 August 2019 16:17
To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Cc: Paul P. Pretorius <PaulP@commissionsc.org.za>; Andre J. Lamprecht <AndreL@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>
Subject: Nxasana: Maringa Letter - Audio Recording
Importance: High

Dear Shannon and Warren

I refer to the attached which a copy of the letter that we received from Mr Maringa at the hearing today.

There is no video recording. There is an audio recording which I understand from Lionel, who is copied on this email, is already in your possession.

Please provide the audio recording to Mr Maringa under cover of a letter by the Acting Secretary which reads:

"Dear Sirs

Audio Recording: Mr Mxolisi Sandile Oliver Nxasana
Your client: Colonel Welcome Sithembiso Mhlongo

Your letter dated 3 July 2019 refers, a copy of which was provided to Advocate Paul Pretorius SC at the hearing on 19 August 2019.

There is no video recording. Please however find herewith the audio recording between your client and Mr Terence Joubert. We confirm that you are already in possession of the transcription of such exchange.

Yours faithfully"

Kind regards

Veruschka

From: Veruschka V. September <septemberv@commissionsc.org.za>
Sent: Monday, 19 August 2019 16:03
To: Veruschka V. September <septemberv@commissionsc.org.za>
Subject: Fwd: Maringa Letter

Get [Outlook for iOS](#)

----- Forwarded message -----

From: "**Veruschka V. September**" <septemberv@commissionsc.org.za>
Date: Mon, Aug 19, 2019 at 2:37 PM +0200
Subject: Maringa Letter
To: "Veruschka September" <yseptember@counsel.co.za>

Get [Outlook for iOS](#)

14

Jonathan J. Heuvel

From: Joel <Joelma@vodamail.co.za>
Sent: Wednesday, 01 April 2020 22:02
To: Shannon S. Van Vuuren
Subject: Gen Booysen v Col Mhlongo
Attachments: acknowledgement in response to letter dated 25 March 2020.pdf

Dear Colleague

Attached acknowledgement letter as discussed .

Apologies for the lines on the documents I can only fix my scanner after the lapse of the lockdown, however I have the originals which show clear copies

Kind Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310
Pretoria
0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 30th March 2020

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR: Ms KB SHABALALA

2nd floor, Hillside House

17 Empire road

Parktown

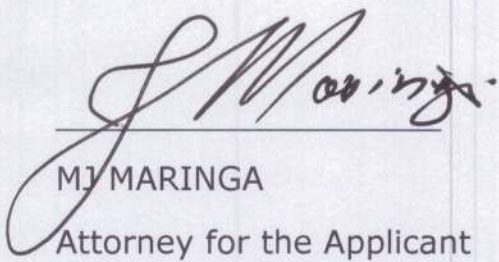
Johannesburg

2193

IN THE MATTER OF -Gen Booysen and Col Mhlongo

1. We herewith acknowledge receipt of your letter dated 25 March 2020 in terms of which:
 - 1.1 Our application for condonation was granted
 - 1.2 Leave to adduce evidence was also granted
2. With consideration to sub-paragraph 1.1(c) of your letter, Kindly note that as per your email dated 16 October 2019, our client was given the option to place his evidence before the Commission by way of an affidavit and without testifying

3. On the backdrop of the option as aforesaid, Col Mhlongo expressed his wish to place evidence before the Commission by way of Affidavit without testifying.
4. A written submission in view of his option was attached to the supplementary affidavit filed at the commission on the 23rd October 2019 and is indexed item 9 page 47-48
5. We attache herewith a copy of the submission referred to in paragraph 4 above



MJ MARINGA
Attorney for the Applicant

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

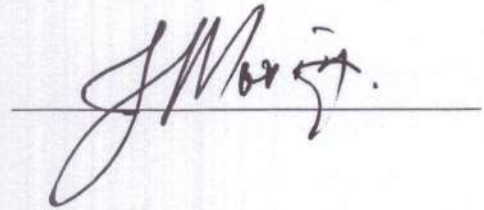
DATE: 22 OCTOBER 2019

**NOTICE OF APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION
BY WAY OF AFFIDAVIT**

BE PLEASED TO TAKE NOTICE THAT:

1. Colonel Welcome Sithembiso Mhlongo herewith applies for leave to place his evidence before the commission by way of affidavit without testifying should it be pleasing to the chairperson of the commission
2. The above option is being made on the backdrop of a correspondence received from the legal team of the commission on 16/ 10/ 2019 for client to make an election

DATED AND SIGNED ON THIS 22 OCTOBER 2019, AT PRETORIA.



48

MARINGA ATTORNEYS

(Attorney for Mhlongo)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF: MJ MARINGA

15

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Wednesday, 08 July 2020 17:11
To: William Nicholson; Andre J. Lamprecht; Trudi T. McCracken; Warren Redcliffe
Cc: Anne Bell; Garth Hulley; Susan Wentzel; Lionel L. Groenewald
Subject: RE: Application to lead Evidence: Col WS Mhlongo
Attachments: Gen Booysen v Col Mhlongo ; COLONEL WELCOME MHLONGO // JOHAN BOOYSEN; RE: col Mhlongo reply to Gen Booysen Replication ; FW: Supplementary Affidavit Mhlongo ; RE: Colonel Welcome S Mhlongo; FW: Application //Col Van Loggenberg // Col Mhlongo

Hello William

Please find the attached for your conversation with Andre.

Please also see my comments below on the matters that I dealt with (Point 1 and 2).

Kind regards,
 Shannon

From: William Nicholson
Sent: Wednesday, July 8, 2020 4:40 PM
To: Andre J. Lamprecht <AndreL@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Cc: Anne Bell <AnneB@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>
Subject: RE: Application to lead Evidence: Col WS Mhlongo

Dear Andre et al

I trust that this email finds you well.

I had copied Warren in the trailing email of this instant.

Please note that Mr Maringa, Col Mhlongo's attorney has indicated that he has not received the following;

1. The Ruling; **It was sent, Maringa's acknowledgement letter was sent to you (wherein Maringa also mentions that his client opted to give evidence by way of affidavit).**
2. Col Padyachee's affidavit **an affidavit was sent to Maringa, and Mhlongo supplemented his replying papers as a result. These supplemented papers have been sent to you.**
3. Queen Mhlongo's affidavit
4. The notice of set down for 30 July 2020.

Kindly ensure that the aforementioned are sent to Mr Maringa.

Regards

William Nicholson

From: William Nicholson

Sent: Wednesday, 08 July 2020 16:24

To: 'Joelma@Vodamail.co.za' <Joelma@Vodamail.co.za>

Cc: Anne Bell <AnneB@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: Application to lead Evidence: Col WS Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of this instant has reference.

During the conversation you advised me that:

1. You represent Col WS Mhlongo.
2. You have not as yet been provided with the notice of set down.
3. You have not been provided with your ruling with regard to Colonel Mhlongo's application to adduce evidence.
4. You have not received the affidavits of neither Queen Mhlongo, nor Colonel Padayachee as yet.
5. You have not briefed counsel as yet, and have not ruled out the possibility of counsel being briefed.

I advised you that:

1. The matter is set down for 30 July 2020, for one day.
2. I will ensure the Ruling and Notice of set down is sent to you asap.
3. The ruling provides that you will have an opportunity to adduce evidence in relation to General Johan Booysen but not cross examine him.

Please note further that you should have the following documents/affidavits that will be used during the hearing:

1. The application by Col WS Mhlongo to adduce evidence and the condonation application thereto.
2. The affidavit of General Johan Booysen in answer to Col WS Mhlongo's affidavit.
3. The affidavit of Col WS Mhlongo in answer to General Johan Booysen's affidavit referred to above.
4. The affidavit Col Padyachee
5. The affidavit of Queen Mhlongo.
6. The relevant portions from the transcript of General Johan Booysen's testimony dated 2 and 3 May 2020 in as far as it relates to Col WS Mhlongo's evidence.

Should you require any further information, please feel free to contact me.

Kindly confirm receipt of this email.

Warm Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
Johannesburg, 2193, Gauteng South Africa,

Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

16

Jonathan J. Heuvel

From: William Nicholson
Sent: Friday, 10 July 2020 23:33
To: Joelma@Vodamail.co.za
Cc: Anne Bell; Garth Hulley; Susan Wentzel; Lionel L. Groenewald; Warren Redcliffe
Subject: RE: Application to lead Evidence: Col WS Mhlongo
Attachments: Ruling.pdf

Dear Mr Maringa

Our telephone conversation of this instant has reference.

You had stated to me that you have some concerns about Col Welcome S Mhlongo's evidence and you would like to have the notice of set down; because you are unsure in relation to which witness Col Mhlongo will be testifying about.

I advised you to put your concerns and desired remedy in writing.

With regard to the latter concern, the notice of set-down will be filed on your office early next week. In the meantime, I have attached hereto for your convenience a copy of the ruling, which may assist your concern.

We look forward to hearing from you.

Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
Johannesburg, 2193, Gauteng South Africa,

Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

From: William Nicholson
Sent: Wednesday, 08 July 2020 16:24
To: 'Joelma@Vodamail.co.za' <Joelma@Vodamail.co.za>

Cc: Anne Bell <AnneB@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: Application to lead Evidence: Col WS Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of this instant has reference.

During the conversation you advised me that:

1. You represent Col WS Mhlongo.
2. You have not as yet been provided with the notice of set down.
3. You have not been provided with your ruling with regard to Colonel Mhlongo's application to adduce evidence.
4. You have not received the affidavits of neither Queen Mhlongo, nor Colonel Padayachee as yet.
5. You have not briefed counsel as yet, and have not ruled out the possibility of counsel being briefed.

I advised you that:

1. The matter is set down for 30 July 2020, for one day.
2. I will ensure the Ruling and Notice of set down is sent to you asap.
3. The ruling provides that you will have an opportunity to adduce evidence in relation to General Johan Booysen but not cross examine him.

Please note further that you should have the following documents/affidavits that will be used during the hearing:

1. The application by Col WS Mhlongo to adduce evidence and the condonation application thereto.
2. The affidavit of General Johan Booysen in answer to Col WS Mhlongo's affidavit.
3. The affidavit of Col WS Mhlongo in answer to General Johan Booysen's affidavit referred to above.
4. The affidavit Col Padyachee
5. The affidavit of Queen Mhlongo.
6. The relevant portions from the transcript of General Johan Booysen's testimony dated 2 and 3 May 2020 in as far as it relates to Col WS Mhlongo's evidence.

Should you require any further information, please fee free to contact me.

Kindly confirm receipt of this email.

Warm Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
Johannesburg, 2193, Gauteng South Africa,

Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za



2nd 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
Web: www.sastatecapture.org.za

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

25 March 2020

To: Colonel Mhlongo

Per email: joelma@vodamail.co.za

And to: Major-General Booysen

Per email: jwbooyesen@icloud.com

APPLICATION FOR LEAVE TO ADDUCE EVIDENCE

Applicant: Colonel Welcome Sithembiso Mhlongo

Witness implicating the applicant: Major-General Booysen

1. The above-mentioned applicant and witness are thereby notified that the Chairperson of the Commission has made the following decision in the applicant's application for leave to adduce evidence before the Commission in connection with the above-mentioned witness's evidence or statement.

1.1. Chairperson's decision:

- (a) "In as far as the applicant may have failed to timeously deliver his/her application for leave to adduce evidence and applied for condonation, condonation is hereby granted.
- (b) The applicant is hereby granted leave to adduce evidence.
- (c) The date when the applicant will adduce evidence will be communicated to both the applicant and the above-mentioned witness in due course."

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ms KB Shabalala', written in a cursive style.

Ms KB SHABALALA

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

17

Jonathan J. Heuvel

From: Boipelo B. Ratshikana
Sent: Friday, 10 July 2020 15:49
To: joelma@vodamail.co.za
Subject: Notice of Set Down//Col Mhlongo
Attachments: Notice of Set Down Mhlongo 10 July.pdf

Dear Col Mhlongo

Please find the attached notice for your attention and kindly acknowledge receipt.

Kind Regards,

Boipelo Ratshikana
Executive Assistant to the Secretary
COMMISSION OF INQUIRY INTO STATE CAPTURE
Hillside House, 2nd Floor, 17 Empire Road, Parktown, Johannesburg, 2193
Tel: 010 214 0651 | Mobile: 071 319 7843 | [Email: boipelor@commissionsc.org.za](mailto:boipelor@commissionsc.org.za) | www.sastatecapture.org.za





17 Empire Road
Hillside House
Parktown
Johannesburg
2193
Tel (International): +27 (10) 214-0651
Tel (Tollfree): 0800 222 097
Email: inquiries@sastatecapture.org.za
Web: www.sastatecapture.org.za

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

NOTICE OF SET DOWN

COLONEL WELCOME MHLONGO

10 July 2020

To: Mr. Joel Maringa
Maringa Attorneys

Client: Colonel Welcome Sithembiso Mhlongo (hereinafter referred to as
"your client")

By Email: Joelma@vodamail.co.za

Dear Mr. Maringa

1. Please be advised that:

Thursday, 30 July 2020 at 10h00

has been set down as the date on which your client is required to appear before the Commission to give evidence and answer questions.

2. The Commission's hearing venue is located at:
City of Johannesburg Old Council Chamber, 158 Civic Boulevard, Braamfontein.

3. Please contact the Secretariat of the Commission (shannonv@commissionsc.org.za) and (secretary@commissionsc.org.za) regarding any queries relating to this matter.

Yours faithfully



Ms. Brigitte Shabalala

Acting Secretary

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

18

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Sunday, 12 July 2020 10:28
To: Lionel L. Groenewald; Garth Hulley; William Nicholson; Susan Wentzel; Frank F. Dutton; Anne Bell
Cc: Andre J. Lamprecht; Anne Bell; Trudi T. McCracken; Warren Redcliffe
Subject: RE: Colonel Welcome S Mhlongo // Padayachee
Attachments: RE: Booysen: Rule 3.4 application - Mhlongo; RE: Booysen: Rule 3.4 application - Mhlongo; Re: Col Mhlongo reply to Gen Booysen Replication ; RE: col Mhlongo reply to Gen Booysen Replication ; RE: Application to lead Evidence: Col WS Mhlongo

Hello William

Mhlongo tried this tactic before (that Padayachee's affidavits are 'new' evidence) Veruschka handled this and Mhlongo supplemented his replying papers to the application as a result.

To illustrate this, please find attached hereto the following correspondence:

1. We sent Maringa Booysen's answer to Mhlongo's application (with confirmatory affidavit of Padayachee). This is attached hereto - also attached, Maringa acknowledgement of receipt.
2. Email from VS (28 Nov 2019) which attached Mhlongo's reply dated 27 Nov 2019 – wherein she states that Mhlongo complains that Padayachee's evidence is new but that in fact it is not. She refers to a discussion with the DCJ where she provided the DCJ with a copy of those two Padayachee affidavits at his request.
3. Our email to Maringa – whereby we attach Padayachee/Booyesen affidavits and invited Mhlongo to supplement his replying papers.
4. My email to you on 8th July 2020, where I attach Mhlongo's supplemented papers (including the application order which Maringa also claims he did not receive – as well as his acknowledgement letter reminding us that his client wishes to give evidence by way of affidavit without testifying).

I trust this assists.

I cannot advise on Queen Mhlongo's affidavit. I cannot recall any prior correspondence regarding this.

Kind regards,
 Shannon

From: Lionel L. Groenewald
Sent: Saturday, July 11, 2020 9:34 AM
To: Garth Hulley <GarthH@commissionsc.org.za>; William Nicholson <WilliamN@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>
Cc: Andre J. Lamprecht <AndreL@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>
Subject: RE: Colonel Welcome S Mhlongo

Noted All. Mhlongo and Joubert are going to give us the run around. I have known them for years and they are both unsavoury characters.

From: Garth Hulley
Sent: Saturday, 11 July 2020 05:43
To: William Nicholson <WilliamN@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L.

Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>

Cc: Andre J. Lamprecht <AndreL@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: RE: Colonel Welcome S Mhlongo

Hi William

Confirm your discussion with him in writing. Ask him to put any concerns in writing. Advise him that we are here to assist him where necessary.

Regards,

Garth I. Hulley, SC

COMMISSION OF INQUIRY INTO STATE CAPTURE | Hillside House, 3rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193 | Gauteng | South Africa |
mobile: (083) 442-8291 | email: GarthH@commissionsc.org.za | www.sastatecapture.org.za



From: William Nicholson

Sent: Friday, 10 July 2020 23:20

To: Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>

Cc: Andre J. Lamprecht <AndreL@commissionsc.org.za>; Anne Bell <AnneB@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Trudi T. McCracken <TrudiM@commissionsc.org.za>; Warren Redcliffe <WarrenR@commissionsc.org.za>

Subject: Colonel Welcome S Mhlongo

Dear Garth

I trust that this email finds you well.

I received a call from Mr Maringa, the attorney representing Colonel Welcome S Mhlongo.

He stated that:

- He was concerned that he has just recently received the affidavits of Queen Mhlongo and Colonel Padayachee.
- Therefore, Col Mhlongo may not be in a position to give evidence on 30 July 2020 because he would need to consult with him, and perhaps draft a reply.
- His difficulty is that Mhlongo is in Durban and he is in Gauteng.

- He is of the view that this is new evidence. I pointed out that Padaychee is clearly referred to in Booysen's evidence. He then complained that since it was not a confirmatory to Booysen's evidence, it is a separate piece of evidence that deserves independent consideration.

I asked him in which way we can assist but he would not say. I assume that he wants some kind of adjournment.

He further queried the witness that Mhlongo will be appearing for, and asked for the notice of set down as it should have those details.

I advised him that it was regarding the evidence of General Booysen, the notice of set down will be served on him early next week; and he should put both his concerns and desired remedy in writing before we will be in a position to advise him further.

Regards

William

19

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Tuesday, 14 July 2020 16:40
To: Garth Hulley; William Nicholson; Susan Wentzel
Cc: Frank F. Dutton; Lionel L. Groenewald; Herby H.C. Heap; Andre J. Lamprecht; Warren Redcliffe
Subject: MARINGA ATTORNEYS - MHLONGO // XABA
Attachments: Gen Booysen v Col Mhlongo ; FW: filing Notice option to lplace evidence by way of Affidavits ; Booysen: Rule 3.4 application - Mhlongo

Hello Garth & William

I just got a call from Mr Maringa. He wants to know what the outcome is regarding his clients' option (application) to give evidence by way of affidavit and without testifying (Mhlongo & Xaba).

I informed him that he would need to send us formal correspondence in this regard so that we can process for a response from the Evidence Leaders. Further he said that Advocate Nicholson has not seen his letter.

I attach Maringa's correspondence (again) iro Mhlongo and Xaba. Also, for further background, I attach our correspondence sent to Maringa on 16 October 2019. **RE: MHLONGO**, we said:

"Noting that your client only applies to adduce evidence, should your client wish to place his evidence before the Commission by way of his affidavit and without testifying, please indicate same in writing for the consideration of the honourable Chairperson of the Commission."

To my knowledge, I do not think that these have been placed before the Chairperson as yet. As indicated previously, Veruschka was dealing with this matter, also the DCJ's files were not supplemented with these papers before the DCJ granted the applications in chambers.

I will send on the formal correspondence from Maringa once I receive same.

Feel free to call me to discuss.

Kind regards,
Shannon

20

Jonathan J. Heuvel

From: Joel <Joelma@vodamail.co.za>
Sent: Tuesday, 14 July 2020 20:41
To: Shannon S. Van Vuuren; manalae@law.co.za
Cc: William Nicholson; boipeloR@commisionsc.org.za
Subject: evidence by affidavits without testifying Xaba and Mhlongo
Attachments: Mhlongo and Xaba Notice of setdown comments.pdf

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310
Pretoria
0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 2020/07/14

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR: Adv William A.J Nicholson / Ms Shannon Van Vuuren

2nd floor, Hillside House

17 Empire road

Parktown

Johannesburg

2193

COLONEL WS MHLONGO AND BRIGDIER XABA NOTICES OF SETDOWN

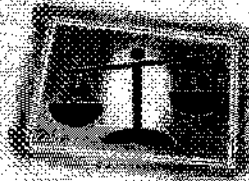
1. We herewith acknowledge notices of set down for the above-named officials set for 28 and 30 July respectively
2. Please note that the two officials have made formal applications opting to place their evidence before the commission by way of affidavits without testifying.
3. We are instructed to secure feedback relating to the decision of the commission 's chairperson on their applications referred to in paragraph 2 above

4. Kindly note further that Notice of set down in respect of Brigadier Xaba does not specify the party involved as witness to the commission in the matter
5. We attache herewith copies of correspondence which are also at your disposal detailing applications set forth for leave to place their evidence by way of affidavits only



MJ MARINGA

Attorney for the Applicant



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310

Pretoria

0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref.

Tel : 012 752 9473

Date : 30th March 2020

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR: Ms KB SHABALALA

2nd floor, Hillside House

17 Empire road

Parktown

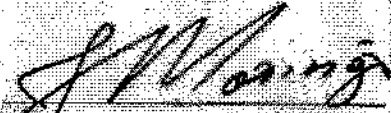
Johannesburg

2193

IN THE MATTER OF -Brigadier Nyameko Xaba and Gen Booysen

1. We herewith acknowledge receipt of your letter dated 25 March 2020 in terms of which:
 - 1.1 Our application for condonation was granted
 - 1.2 Leave to adduce evidence was also granted
2. With consideration to sub-paragraph 1.1(c) of your letter, Kindly note that as per your email dated 22 October 2019, our client was given the option to place his evidence before the Commission by way of an affidavit and without testifying

3. On the backdrop of the option as aforesaid, Brigadier Xaba expressed his wish to place evidence before the Commission by way of Affidavit without testifying.
4. A written submission in view of his option was filed by way of an e-mail to your respective selves on the 30 October 2019. We attach a copy thereof for swift reference



M.J. MARINGA

Attorney for the Applicant

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

In the matter between

JOHAN WESSEL BOOYSEN

Witness

And

BRIGADIER NYAKO XABA

Implicated (Respondent)

Filing Notice

DOCUMENTS TO BE FILED: APPLICATION TO PLACE EVIDENCE BEFORE
THE COMMISSION BY WAY OF AFFIDAVIT



MARINGA ATTORNEYS

(Attorney for the implicated persons)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobile: 061 775 4962

082 753 6719

Tel : 012 752 9473

EMAIL: Joelma@vodamail.co.za

REF : MJ MARINGA

The secretary of the Commission

Commission of inquiry into State Capture

2nd floor Hillside house

17 Empire road

Johannes burg

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

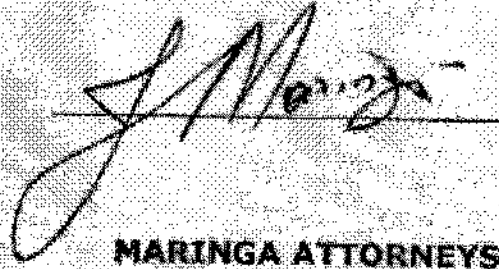
DATE: 30 OCTOBER 2019

**NOTICE OF APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION
BY WAY OF AFFIDAVIT**

BE PLEASED TO TAKE NOTICE THAT:

1. **BRIGADIER NYAMEKO XABA** herewith applies for leave to place his evidence before the commission by way of affidavit without testifying should it be pleasing to the chairperson of the commission
2. The above option is being made on the backdrop of a correspondence received from the legal team of the commission on 22/ 10/ 2019 for client to make an election

DATED AND SIGNED ON THIS 30 OCTOBER 2019, AT PRETORIA.



MARINGA ATTORNEYS

(Attorney for LT Gen Matakata)

201 SEDIBA HOUSE

173 BOSMAN STREET

Mobila: 061 775 4962/082 753 6719

Tel: 012 752 9473

EMAIL: joelma@vodamail.co.za

REF: MJ MARINGA

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

TO: ACTING-SECRETARY OF THE COMMISSION

MR P PEDLAR

2ND FLOOR, HILLSIDE HOUSE

17 EMPIRE ROAD, PARKTOWN

JOHANNESBURG, 2193

DATE: 09 MAY 2019

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
1.	PPLICATION FOR CONDONATION	01-04
2.	APPLICATION FOR LATE FILING OF DOCUMENTS	05-08
	ACCOMPANYING ANNEXURE AA0	9-12
3.	APPLICATION TO LEAD EVIDENCE	13-14
4.	ACCOMPANYING AFFIDAVIT (ANNEXURE AA1)	15-25
5.	ANNEXURE AA2 (Reoffered to as Annexure JWB2 in Booysen 's statement)	26-28
6	FILING NOTICE	29-30
7	SUPPLEMENTARY AFFIDAVIT (including commissioned and initialed Affidavit of col Mhlongo)	31-43
8	Annexure AA2 Properly initialed and commissioned	44-46
9	APPLICATION TO PLACE EVIDENCE BEFORE THE COMMISSION BY WAY OF AN AFFIDAVIT	47-48

Mhlongo w

21

Jonathan J. Heuvel

From: William Nicholson
Sent: Thursday, 16 July 2020 16:12
To: Joelma@vodamail.co.za
Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren; Garth Hulley; Susan Wentzel; Lionel L. Groenewald; Frank F. Dutton
Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo
Attachments: RE: col Mhlongo reply to Gen Booysen Replication

Dear Mr Maringa

I trust that this email finds you well.

Your letter dated 14 July 2020 has reference.

We noted your concerns in your letter.

I have investigated your concerns and such investigations revealed that the chairperson of the commission has issued his rulings, as indicated, after considering the applications of your clients.

In the circumstances, Brigadier Xaba and Colonel WS Mhlongo are required to present themselves to the hearing on 28 and 30 July 2020 respectively, as indicated in the notices of set down.

During our telephonic conversation of this instant, you mentioned that you may need an adjournment. I advised you that any adjournment must be made to the Chairperson in writing by way of a substantive application.

Further with regard to your assertion that you received Brian Padayachee's affidavits just recently. This affidavit was part of General Johan Booysen's affidavit, which is at present on the state capture Inquiry website.

Also see attached an email sent on 28 November 2020 where the aforementioned was brought to your attention.

Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
Johannesburg, 2193, Gauteng South Africa,

Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

From: Joel <Joelma@vodamail.co.za>

Sent: Tuesday, 14 July 2020 20:41

To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; manalae@law.co.za

Cc: William Nicholson <WilliamN@commissionsc.org.za>; boipeloR@commisionsc.org.za

Subject: evidence by affidavits without testifying Xaba and Mhlongo

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

22

Jonathan J. Heuvel

From: William Nicholson
Sent: Sunday, 19 July 2020 23:53
To: Joelma@vodamail.co.za
Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren; Garth Hulley; Susan Wentzel; Lionel L. Groenewald; Frank F. Dutton
Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of 17 July 2020 has reference.

You stated that:

1. Colonel Welcome S Mhlongo has been cautioned by his medical doctor to self-isolate in consequence of his underlying medical conditions. Accordingly, you would prefer that Colonel Mhlongo testifies remotely; and
2. You need the bundle of documents that will be used during Colonel Mhlongo's testimony.

I advised you that:

1. A formal application would need to be made to testify remotely and such application should include a letter from Colonel Mhlongo's doctor.
2. All the documents that will be used are already in your possession and includes: the Rule 3.4 application, General Booysen's answering affidavit (which includes that affidavits of Colonel Brian Padayachee and Queen Mhlongo), and Colonel Mhlongo's reply thereto.
3. I further advised you that the indexed and paginated bundle is likely to be available during the course of the coming week.

I trust that all is in order.

Warm Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
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Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>
Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

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Regards



Adv William A.J Nicholson

Legal Team

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Subject: evidence by affidavits without testifying Xaba and Mhlongo

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

23

Jonathan J. Heuvel

From: Joel <Joelma@vodamail.co.za>
Sent: Monday, 20 July 2020 09:45
To: William Nicholson
Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren; Garth Hulley; Susan Wentzel; Lionel L. Groenewald; Frank F. Dutton
Subject: Col Mhlongo and General Booysen matter
Attachments: Letter and medical Report to Deputy- Chief Justice.pdf

Dear Adv Nicholson

Following our Discussion on Saturday regarding Colonel Mhlongo 's Health status please find attached doctor 's report and a letter to the Deputy Chief Justice .

Kindly acknowledge receipt

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

From: William Nicholson <WilliamN@commissionsc.org.za>
Sent: Sunday, 19 July 2020 11:53 PM
To: Joelma@vodamail.co.za
Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>
Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

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3. I further advised you that the indexed and paginated bundle is likely to be available during the course of the coming week.

I trust that all is in order.

Warm Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
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Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

From: William Nicholson

Sent: Thursday, 16 July 2020 16:13

To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>

Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>

Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

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Regards



Adv William A.J Nicholson

Legal Team

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Cc: William Nicholson <WilliamN@commissionsc.org.za>; boipeloR@commissionsc.org.za

Subject: evidence by affidavits without testifying Xaba and Mhlongo

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS

173 BOSMAN STREET

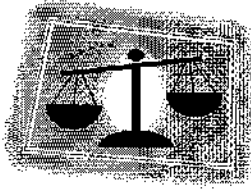
OFFICE 201 SEDIBA HOUSE

JoelMa@vodamail.co.za

Ringas.joel@yahoo.com

061 775 4962

082 753 6719



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310
Pretoria
0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 2020/07/20

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR ATT: Adv William A.J Nicholson

2nd floor, Hillside House, 17 Empire road

Parktown

Johannesburg

2193

GENERAL BOOYSEN/ COLONEL WS MHLONGO

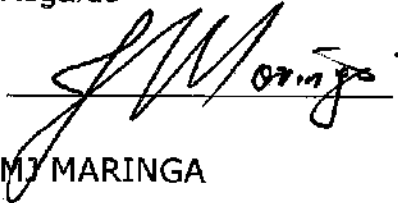
Dear Deputy-Chief Justice

1. We address this letter to you, on behalf of Colonel Welcome Mhlongo, who is scheduled and appear before the Commission to give evidence and answer questions, on 30 July 2020 at 10h00.
2. We are instructed to inform and advice you that Colonel Welcome Mhlongo has 3 (Three) severe comorbid conditions that would severely affect his health should he contract the Covid-19 virus. The relevant medical note is attached hereto and delivered evenly herewith, for ease of reference.

3. Accordingly, we request that alternative arrangements for a remote hearing be made available for the purpose of Colonel Welcome Mhlongo's evidence.

We trust the above to be in good order

Regards

A handwritten signature in black ink, appearing to read 'MJ Maringa', is written over a horizontal line.

MJ MARINGA

Attorney for Col. Mhlongo

Dr F.W.Hart (MbChB)

Practice No: 1488945

Residence:

349 Marine Drive

Bluff

4052

Tel +27(0) 314662992

E-mail: hart@pixie.co.za

Surgery:

204 Tara Road

Bluff

4052

Tel +27(0)314672051

Fax +27(0)314672216

Cell-0837762992

15 July 2020

Dear Reader

Re. Mr. Welcome Mhlongo

This patient has 3 severe comorbid conditions that would severely affect his health if he should get the COVID virus.

He must please be allowed to work remotely from home as a matter of urgency to protect him.

Please could you assess his case with the above information at your disposal?

Thank you.



Dr F.W.Hart

24

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Friday, 24 July 2020 11:04
To: Joelma@vodamail.co.za
Cc: Andre J. Lamprecht; William Nicholson
Subject: RE: col Mhlongo reply to Gen Booysen Replication
Attachments: Booysen response to Mhlongo Reply dated 29 Nov 2019.pdf

Tracking:	Recipient	Delivery	Read
	Joelma@vodamail.co.za		
	Andre J. Lamprecht	Delivered: 24 Jul 2020 11:04	Read: 24 Jul 2020 11:32
	William Nicholson	Delivered: 24 Jul 2020 11:04	

Dear Mr Maringa

We refer to your client's replying affidavit, dated 27 November 2019, in his application brought in response to Johan Booysen's evidence.

Your client thereafter filed a supplementary replying affidavit dealing with Col. Padayachee's affidavits.

Before your client's supplementary replying affidavit was filed with the Commission, we received a further affidavit from Johan Booysen wherein he responds to your client's replying affidavit dated 27 November 2019. Should this have not been sent to you previously, please find this affidavit attached hereto for your client's consideration.

Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,
 Johannesburg, 2193 | Gauteng | South Africa |

Cell: 060 749 5687

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



Please consider the environment before printing

This email, and its attachments if any, is highly confidential. If you are not the intended recipient and have received this email in error, please notify the sender immediately and then delete this email. Please do not copy this email, disclose its contents or use it for any purpose.

From: Joel [mailto:Joelma@vodamail.co.za]
Sent: Wednesday, 27 November 2019 15:31
To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>
Subject: col Mhlongo reply to Gen Booysen Replication

Dear Ms S Van Vuuren

Attached please find Col Mhlongo 's reply to Gen Booysen

I will deliver the original shortly

Kind Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

JOHAN WESSEL BOOYSEN

Herby state as follows, under oath;

1. I have made previous statements to the Inquiry into State Capture. I also gave evidence at the inquiry.
2. I have responded to a statement deposed by Colonel WS Mhlongo (**"Mhlongo"**) to the inquiry.
3. Mhlongo in turn has responded to my reply.
4. In response thereto this is my reply.
5. From the onset I would like to draw the attention of the honorable Deputy Judge President, Mister Justice Zondo to the following facts.
6. I drafted my own statement to the Commission of Inquiry. In my statement I have implicated a number of individuals whom I believe are implicated in State Capture. Unlike these individuals, I do not have the luxury, which they have, to respond and litigate at the expense and time of the taxpayer. I do so in my own time and at my own expense. It is indeed ironic and disturbing that Mhlongo be afforded legal assistance at taxpayers' expense. None of the allegations I leveled against him were consequent or as a result of the execution of his duties.
7. With this in mind I now respond to Mhlongo's response.
8. I reject Mhlongo's assertion that I am on a 'fishing expedition'. Mhlongo appears to be deliberately obtuse how he interprets what I say in par 5 of my previous affidavit. Paragraph 5 is unambiguous. Therein I inform Mhlongo that I am not responding to each of his assertions and if I do not respond to some of his assertions it cannot

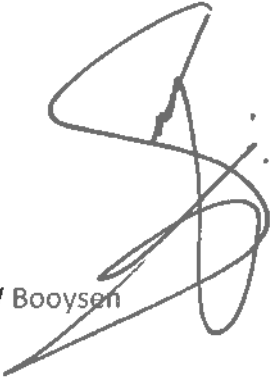
A handwritten signature in black ink, consisting of a stylized 'S' followed by a vertical line and a small flourish at the top.

necessary follow that I admit or deny the paragraphs which I do not respond to.

There is nothing sinister about this. I simply did so to avoid prolixity at the time.

9. Mhlongo is being disingenuous through obfuscation in claiming to be oblivious to the intercepted phone calls. It is clear from my evidence and what is stated in paragraph 44 of my first affidavit that there were authorized interception in term of Act 70 of 2002.
10. Mhlongo mistakenly imputes that I am introducing 'new' evidence and that I am doing so through the 'back door'. He also refers to the evidence as 'hearsay evidence'. Mhlongo is not in a position to assume so. I am aware that Colonel Padayachee has deposed to a detailed affidavit to the Commission in which he corroborates what I stated.
11. Mhlongo's assumption that, I 'verified' what was already conveyed to me by Padayachee previously, means I only verified it after I testified, is a fallacious argument. I re-verified with Padayachee as to what he had told me earlier as a matter of caution.
12. There is no reason for me to put Mhlongo to 'disgrace'. I therefore deny Mhlongo's unsubstantiated speculation.
13. In conclusion. I have placed evidence before the Commission which I believe is true. There is no reason why I should want to present evidence to falsely implicate Mhlongo or any-one else.
14. My primary motive is to assist the Commission in establishing the facts in the inquiry into State Capture.
15. I know and understand the contents of this declaration. I have no objection to take the prescribed oath. I consider the oath to be binding on my conscience.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a vertical line and a small flourish at the top.



JW Booysen

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, that he/she does not have any objection to taking the oath, and that he/she considers it to be binding on his/her conscience, and which was sworn to and signed before me and that the administering of the oath complied with the regulations contained in the Government Gazette No. R1256 of 23 July 1972, as amended.



SIGNATURE - RIAAN COETZEE CA (SA)

COMMISSIONER OF OATHS

Designation: Chartered Accountant CA(SA) SAICA Number: 05004962

Date 29/11/2019

Place Midrand

Business address: 57 Laborie, 152 Alethea Avenue, Lyttelton, Centurion, 0157

25

Jonathan J. Heuvel

From: Shannon S. Van Vuuren
Sent: Friday, 24 July 2020 12:21
To: Joelma@vodamail.co.za
Cc: Andre J. Lamprecht; William Nicholson
Subject: FW: Supplementary Affidavit Mhlongo
Attachments: Mhlongo supplementary Affidavit pdf.pdf; Mhlongo affidavit combined with supplementary.pdf; Filing Notice supplementary Affidavit pdf.pdf

Tracking:	Recipient	Delivery	Read
	Joelma@vodamail.co.za		
	Andre J. Lamprecht	Delivered: 24 Jul 2020 12:21	
	William Nicholson	Delivered: 24 Jul 2020 12:21	Read: 24 Jul 2020 12:27

Dear Mr Maringa

I refer to your client's supplementary replying papers, attached hereto, and sent to the Commission by your email below.

I refer to our telecon around that time where I informed you that the PDF titled "Mhlongo affidavit combined with supplementary" is not commissioned. You confirmed that this aforementioned PDF is a combination of the first and supplementary affidavits, which combination you didn't need to do. You then confirmed that we can just refer to the supplementary affidavit, PDF titled "Mhlongo Supplementary Affidavit", which is signed and duly commissioned.

This supplementary affidavit appears to be missing pages (jumps from paragraph 4 to paragraph 8.4).

Please urgently send us the complete scanned copy of your client's signed and commissioned supplementary affidavit (dated 2 December 2019).

Thank you & kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,
 Johannesburg, 2193 | Gauteng | South Africa |
 Cell: 060 749 5687

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



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From: Joel [mailto:Joelma@vodamail.co.za]
Sent: Monday, 02 December 2019 14:38
To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>
Subject: Supplementary Affidavit Mhlongo

Dear Ms S Van Vuuren

Attached supplementary affidavit of Mhlongo WS .
I am awaiting originals from client to be couriered

Kind regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
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26

Jonathan J. Heuvel

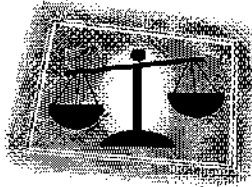
From: Joel <Joelma@vodamail.co.za>
Sent: Friday, 24 July 2020 21:56
To: Shannon S. Van Vuuren; William Nicholson
Subject: Forthcoming Application for Postponement Mhlongo Matter
Attachments: Forthcoming Application for Postponement.pdf

Dear Colleagues

Attached please find a letter on behalf of Mhlongo

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719



MARINGA ATTORNYES

173 Bosman Street, Office 201. SEDIBA HOUSE
Pretoria 0001

P o Box 1310

Pretoria

0001

Enquiries: MJ MARINGA :

My Ref : SCIZ/01/19

E-mail: Joelma@vodamail.co.za

Your Ref:

Tel : 012 752 9473

Date : 2020/07/24

Mobile: 061 775 4962 / 0827536719

The secretary of the commission

Judicial commission of enquiry into state capture

FOR ATT: Adv William A.J Nicholson

2nd floor, Hillside House, 17 Empire road

Parktown

Johannesburg

2193

GENERAL BOOYSEN/ COLONEL WS MHLONGO

Dear Deputy-Chief Justice

APPLICATION(S) FOR POSTPONMENT

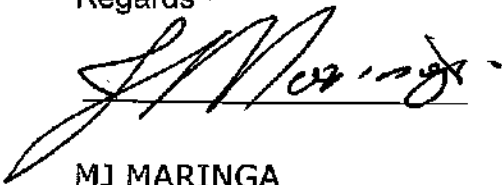
1. Please be advised that we act on behalf of Colonel MHLONGO, who is scheduled to testify on Thursday 30 July 2020.
2. We are instructed to present an application for postponement of hearing of his evidence. We have noted from Rules of the Commission that the request of our Client ought to be presented by way of a substantive application, and we intent

to file the respective applications over the weekend and at latest by Monday, 27 July 2020.

3. We address this letter to bring the impending application to the attention of the Commission, as soon as possible, so as to enable the Commission to plan for its programme with the knowledge that the application is forthcoming.

We deeply regret the inconvenience occasioned.

Regards

A handwritten signature in black ink, appearing to read 'MJ Maringa', is written over a horizontal line.

MJ MARINGA

Attorney for Col. Mhlongo

27

Jonathan J. Heuvel

From: William Nicholson
Sent: Thursday, 23 July 2020 12:21
To: Joelma@vodamail.co.za
Cc: Garth Hulley; Susan Wentzel; Lionel L. Groenewald; Frank F. Dutton
Subject: Remote Evidence; Colonel Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of 22 July 2020 has reference.

The Chairperson of the State Capture Commission has approved the leading of evidence of Colonel Mhlongo by remote means.

There are however some conditions:

1. Colonel Mhlongo must have a secure connection and a sufficient data.
2. He must testify alone without assistance, the usual assistance of his legal representatives is permitted.
3. He must testify from a quiet location.
4. He must agree to present himself before the commission when he is able too, to take the oath before the chairperson.

Regards

William Nicholson

From: William Nicholson
Sent: Sunday, 19 July 2020 23:54
To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>
Cc: 'boipeloR@commissionsc.org.za' <boipeloR@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>
Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of 17 July 2020 has reference.

You stated that:

1. Colonel Welcome S Mhlongo has been cautioned by his medical doctor to self-isolate in consequence of his underlying medical conditions. Accordingly, you would prefer that Colonel Mhlongo testifies remotely; and
2. You need the bundle of documents that will be used during Colonel Mhlongo's testimony.

I advised you that:

1. A formal application would need to be made to testify remotely and such application should include a letter from Colonel Mhlongo's doctor.
2. All the documents that will be used are already in your possession and includes: the Rule 3.4 application, General Booyesen's answering affidavit (which includes that affidavits of Colonel Brian Padayachee and Queen Mhlongo), and Colonel Mhlongo's reply thereto.
3. I further advised you that the indexed and paginated bundle is likely to be available during the course of the coming week.

I trust that all is in order.

Warm Regards



Adv William A.J Nicholson

Legal Team

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 2nd Floor, 17 Empire Road, Parktown,
Johannesburg, 2193, Gauteng South Africa,

Tel: +27 (0) 31 301 5269 (Dbn)

Cell: +27(0) 81 531 5373

Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

From: William Nicholson

Sent: Thursday, 16 July 2020 16:13

To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>

Cc: boipeloR@commissionsc.org.za; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>

Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

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Your letter dated 14 July 2020 has reference.

We noted your concerns in your letter.

I have investigated your concerns and such investigations revealed that the chairperson of the commission has issued his rulings, as indicated, after considering the applications of your clients.

In the circumstances, Brigadier Xaba and Colonel WS Mhlongo are required to present themselves to the hearing on 28 and 30 July 2020 respectively, as indicated in the notices of set down.

During our telephonic conversation of this instant, you mentioned that you may need an adjournment. I advised you that any adjournment must be made to the Chairperson in writing by way of a substantive application.

Further with regard to your assertion that you received Brian Padayachee's affidavits just recently. This affidavit was part of General Johan Booysen's affidavit, which is at present on the state capture Inquiry website.

Also see attached an email sent on 28 November 2020 where the aforementioned was brought to your attention.

Regards



Adv William A.J Nicholson

Legal Team

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Fax: +27 (0) 31 306 6163

Email: WilliamN@commissionsc.org.za

Website: www.sastatecapture.org.za

From: Joel <Joelma@vodamail.co.za>

Sent: Tuesday, 14 July 2020 20:41

To: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; manalae@law.co.za

Cc: William Nicholson <WilliamN@commissionsc.org.za>; boipeloR@commissionsc.org.za

Subject: evidence by affidavits without testifying Xaba and Mhlongo

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE
JoelMa@vodamail.co.za
Ringas.joel@yahoo.com
061 775 4962
082 753 6719

28

Derick de Beer

From: Shannon S. Van Vuuren
Sent: 25 July 2020 12:46
To: Joelma@vodamail.co.za
Cc: William Nicholson; Susan Wentzel; Andre J. Lamprecht
Subject: Supplementary Replying Papers Mhlongo
Attachments: Col Mhlongo Reply to Booysen replication.pdf; Filing Notice supplementary Affidavit pdf.pdf; Mhlongo supplementary Affidavit pdf.pdf

Hello Mr Maringa

Our telecons earlier refer.

You mentioned that all that is new appears from par 8.1 – 8.6.

I have had another look at your client's reply dated 27 Nov 2019, and same includes par 8.1 – 8.3.

His supplementary to this reply states that he is supplementing his affidavit with **par 8.4, 8.5 and 8.6**.

If this is the case, then this supplementary affidavit dated 2 Dec 2019 is in order and is in fact not missing any pages?

My apologies, it appeared as though it was missing pages (and without page numbers I wasn't sure) and I think we have gotten confused trying to recall events around this matter.

Please confirm that the attached filing notice (dated 2 Dec 2019) and attached supplementary replying affidavit dated 2 Dec 2019 (3 pages) contains all that you client wishes to add to his Reply (dated 27 Nov 2019 – which is also attached hereto).

If this is so, then we do not need to make any further arrangements regarding this supplementary replying affidavit.

Thank you & Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

COMMISSION OF INQUIRY INTO STATE CAPTURE

Hillside House, 17 Empire Road, Parktown,
 Johannesburg, 2193 | Gauteng | South Africa |

Cell: 060 749 5687

Email: shannonv@commissionsc.org.za | www.sastatecapture.org.za



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29

Derick de Beer

From: Joel <Joelma@vodamail.co.za>
Sent: 25 July 2020 13:39
To: Shannon S. Van Vuuren
Subject: RE: Supplementary Replying Papers Mhlongo

Good Afternoon Shannon

Yes thank you . we are on the same page now . our intention is to add subparagraphs to paragraph 8 of the affidavit filed on the 27 November

Have a great day

From: Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>
Sent: Saturday, 25 July 2020 12:46 PM
To: Joelma@vodamail.co.za
Cc: William Nicholson <WilliamN@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Andre J. Lamprecht <AndreL@commissionsc.org.za>
Subject: Supplementary Replying Papers Mhlongo

Hello Mr Maringa

Our telecons earlier refer.

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I have had another look at your client's reply dated 27 Nov 2019, and same includes par 8.1 – 8.3.

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Thank you & Kind regards,

Shannon Van Vuuren

Legal Advisor: Operations & Investigative Support

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30

Derick de Beer

From: William Nicholson
Sent: 27 July 2020 02:20
To: Joelma@vodamail.co.za
Cc: Susan Wentzel; Shannon S. Van Vuuren
Subject: RE: Remote Evidence; Colonel Mhlongo
Attachments: Affidavit Terrence J Joubert dated 24 July 2020.pdf

Dear Mr Maringa

Kindly find attached the recent affidavit of Terence Joubert.

The annexures will be sent to you in due course.

This affidavit will be included in the bundle.

Regards

William Nicholson

From: William Nicholson
Sent: Saturday, 25 July 2020 12:10
To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>
Subject: RE: Remote Evidence; Colonel Mhlongo

Dear Mr Malinga

Please find further issues that are part of the bundle.

Regards

William Nicholson

From: William Nicholson
Sent: Thursday, 23 July 2020 12:21
To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>
Cc: Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>
Subject: Remote Evidence; Colonel Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of 22 July 2020 has reference.

The Chairperson of the State Capture Commission has approved the leading of evidence of Colonel Mhlongo by remote means.

There are however some conditions:

1. Colonel Mhlongo must have a secure connection and a sufficient data.
2. He must testify alone without assistance, the usual assistance of his legal representatives is permitted.
3. He must testify from a quiet location.
4. He must agree to present himself before the commission when he is able too, to take the oath before the chairperson.

Regards

William Nicholson

From: William Nicholson

Sent: Sunday, 19 July 2020 23:54

To: 'Joelma@vodamail.co.za' <Joelma@vodamail.co.za>

Cc: 'boipeloR@commissionsc.org.za' <boipeloR@commissionsc.org.za>; Shannon S. Van Vuuren <ShannonV@commissionsc.org.za>; Garth Hulley <GarthH@commissionsc.org.za>; Susan Wentzel <SusanW@commissionsc.org.za>; Lionel L. Groenewald <LionelG@commissionsc.org.za>; Frank F. Dutton <FrankD@commissionsc.org.za>

Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Our telephone conversation of 17 July 2020 has reference.

You stated that:

1. Colonel Welcome S Mhlongo has been cautioned by his medical doctor to self-isolate in consequence of his underlying medical conditions. Accordingly, you would prefer that Colonel Mhlongo testifies remotely; and
2. You need the bundle of documents that will be used during Colonel Mhlongo's testimony.

I advised you that:

1. A formal application would need to be made to testify remotely and such application should include a letter from Colonel Mhlongo's doctor.
2. All the documents that will be used are already in your possession and includes: the Rule 3.4 application, General Booysen's answering affidavit (which includes that affidavits of Colonel Brian Padayachee and Queen Mhlongo), and Colonel Mhlongo's reply thereto.

3. I further advised you that the indexed and paginated bundle is likely to be available during the course of the coming week.

I trust that all is in order.

Warm Regards



Adv William A.J Nicholson

Legal Team

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Subject: RE: evidence by affidavits without testifying Xaba and Mhlongo

Dear Mr Maringa

I trust that this email finds you well.

Your letter dated 14 July 2020 has reference.

We noted your concerns in your letter.

I have investigated your concerns and such investigations revealed that the chairperson of the commission has issued his rulings, as indicated, after considering the applications of your clients.

In the circumstances, Brigadier Xaba and Colonel WS Mhlongo are required to present themselves to the hearing on 28 and 30 July 2020 respectively, as indicated in the notices of set down.

During our telephonic conversation of this instant, you mentioned that you may need an adjournment. I advised you that any adjournment must be made to the Chairperson in writing by way of a substantive application.

Further with regard to your assertion that you received Brian Padayachee's affidavits just recently. This affidavit was part of General Johan Booysen's affidavit, which is at present on the state capture Inquiry website.

Also see attached an email sent on 28 November 2020 where the aforementioned was brought to your attention.

Regards



Adv William A.J Nicholson

Legal Team

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Subject: evidence by affidavits without testifying Xaba and Mhlongo

Adv Nicholson/ Ms Shannon Van Vuuren

Kindly attend to the attached letter as a matter of urgency

Regards

MARINGA ATTORNEYS
173 BOSMAN STREET
OFFICE 201 SEDIBA HOUSE

JoelMa@vodamail.co.za

Ringas.joel@yahoo.com

061 775 4962

082 753 6719

31

Derick de Beer

From: Boipelo B. Ratshikana
Sent: 27 July 2020 15:38
To: joelma@vodamail.co.za
Subject: Letter to Maringa Attorneys//Col Mhlongo
Attachments: RE: Booysen: Rule 3.4 application - Mhlongo; RE: col Mhlongo reply to Gen Booysen Replication ; Conversation between Joubert and Col Mhlongo.zip; Transcription - Mhlongo & Joubert.pdf; Letter to Mhlongo 27 July Settled.pdf

Dear Sir/Madam

Please find the attached letter for your attention and kindly acknowledge receipt.

Kind Regards,

Boipelo Ratshikana
Executive Assistant to the Secretary
COMMISSION OF INQUIRY INTO STATE CAPTURE
Hillside House, 2nd Floor, 17 Empire Road, Parktown, Johannesburg, 2193
Tel: 010 214 0651 | Mobile: 071 319 7843 | [Email: boipelor@commissionsc.org.za](mailto:boipelor@commissionsc.org.za) | www.sastatecapture.org.za

