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FIRST COMPLAINT AGAINST MLAMBO JP  
UNDER SECTION 14 OF THE JUDICIAL SERVICE COMMISSION ACT

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I, Anthony Brink, affirm:

1. I am an advocate of the High Court of South Africa, admitted to practice on 12 April 1983. I reside at 25 Balcomb Avenue, Zini River Estate, Mtunzini, KwaZulu-Natal. My email address is anthonybrink.sa@gmail.com and my cellphone number is 0837794174. I am the complainant.
2. This is a complaint brought under section 14 of the Judicial Service Commission Act 9 of 1994 against Dunstan Mlambo JP, head of the Gauteng Division of the High Court, and chairperson of the Board of Directors of Legal Aid South Africa ('LASA'), hereinafter 'the respondent'.
3. I charge the respondent with suborning perjury to defeat the ends of justice, an act of 'gross misconduct, as envisaged in section 177(1)(a) of the Constitution', per section 14(4)(a) of the said Act.
4. Although the gross misconduct to be described below was committed by the respondent in his capacity as LASA Board chairperson, and not as a judge, the Judicial Service Commission ('JSC') has jurisdiction to deal with this complaint by virtue of Articles 5 and 6 of the Code of Judicial Conduct and its Notes, which require judges 'always, and not only in the discharge of official duties, [to] act honourably and in a manner befitting judicial office ... in a manner that enhances public trust in, or respect for, the judiciary and the judicial system ... [to] avoid impropriety or the appearance of impropriety in all the judge's activities', and 'at all times, also in relation to extra-judicial conduct, [to] comply with the law of the land.'

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5. On 31 October 2012, I sued the respondent under section 25 of the Supreme Court Act 59 of 1959 for leave to subpoena him for cross-examination at the trial of my claim against LASA in the Durban Labour Court. The nature of the claim and my reason for wishing to cross-examine the respondent will be detailed later in this affidavit.
6. Redacted for relevance to this complaint and annexed hereto marked 'A' is a material excerpt of the 'RESPONDENT'S ANSWERING AFFIDAVIT' opposing my application, deposed to by LASA's lead in-house attorney, Corporate Services Executive Thembile Mtati.
7. Paragraph 4 records that the respondent 'duly authorised' Mtati to make his answering affidavit on his behalf, and that before he did so he'd had 'consultations' with him.
8. The affidavit was saturated with objectively demonstrable perjury, to be treated in separate complaints.
9. Paragraph 51 makes the following allegation:

The most disturbing, reprehensible and brazen act of disrespect came recently when the Applicant left the KZN province and attended unannounced and without warning at the office of the Respondent in the South Gauteng High Court. The Respondent did not take kindly to the Applicant's conduct. In the face of litigation where the Legal Aid SA is represented the Applicant's conduct amounts to professional misconduct.

10. This allegation on oath was false in every particular.
11. In truth, I've no idea where the 'South Gauteng High Court' is, much less have I ever set foot in it, never having litigated there or gone there for any

other reason, as any CCTV records will bear out; and the claim that I 'left the KZN province and attended unannounced and without warning at the office of the Respondent in the South Gauteng High Court' is pure perjury.

12. The allegation that the respondent 'did not take kindly to the Applicant's conduct' is further perjury to corruptly amplify and lend credibility to the first.
13. Compounded by the concluding third charge in the paragraph that 'In the face of litigation where Legal Aid SA is legally represented the Applicant's conduct amounts to professional misconduct', these two lies under oath were a criminal concoction calculated to defeat the ends of justice by corruptly prejudicing the Labour Court against me with poisonously inflammatory lying defamation falsely attacking my character and professional integrity.
14. This is precisely the especially wicked crime for which US President Richard Nixon's equally corrupt Special Counsel Charles Colson was disbarred and jailed; see annexed reports marked 'B'.
15. One of my reasons for not pursuing my application for leave to subpoena the respondent after reading this chilling, depraved perjury was my apprehension that it would be too dangerous to bring him to court, because he was evidently capable of saying absolutely anything, no matter how perversely false, confident that the trial judge – until quite recently the respondent's judicial colleague and superior as head of the Labour Court – would take him at his word without question as a senior judge.
16. As to the respondent's specific charge quoted above, I sharply perceived that in a contest in court between the respondent and me as to who was telling the truth and who was telling lies about this, no judge would disbelieve this detailed charge levelled by the just-appointed head of the biggest division of

the High Court in the country, conveyed by his attorney on oath, against a bare denial proffered by a mere advocate.

17. Indeed, as paragraph 59.2 of the affidavit very correctly calculated with low criminal cunning: 'there is a well-founded presumption in law in favour of the Respondent' and that as 'a senior Judge of the High Court in South Africa ... enjoined by the Constitution of this country ... to uphold it in all his dealings and in his actions towards others', the respondent 'will always act as Judges do' – and not tell criminal lies, animated by fear and loathing as I was closing in (see below), to falsely discredit as an unprofessional lunatic an advocate threatening to call him to account in a law court like any other public servant summoned to the witness stand, to be sworn in and examined on oath under penalty of perjury before a judge experienced and skilled in telling truth from lies, about the illegal things he'd said and done.
18. Briefly stated here, the shocking background to the respondent's false charge against me on oath will make sense of his otherwise inexplicable impeachable misconduct.
19. I'll show that the respondent's false charge is consistent with his past modus operandi in attempting to discredit me with false personal and professional misconduct accusations to distract from the gravity of my complaints about the corruption and lawlessness at LASA that I'd run into – pertinently brought to his attention again and again in finely detailed petitions, but to which he'd turned a blind eye.
20. In November 2009, I was interviewed by a duly constituted selection panel of LASA's most senior lawyers in KwaZulu-Natal for its top legal professional position in the province, its Senior Litigator post at Pietermaritzburg, for which I'd applied and been shortlisted. (There's a twin post at Durban.)

21. In August 2010, after long, strange, unexplained silence, and then evasion, hostility, obvious bad faith and prevarication in response to my repeated enquiries about the outcome of the interviews for the post, I requested access to the record of the selection panel's recommendation, among other documents, under the Promotion of Access to Information Act 2 of 2000 ('PAIA').
22. My request was illegally ignored – a deemed refusal under section 27 of PAIA and a violation of my fundamental right to information guaranteed by section 32(1)(a) of the Constitution.
23. So I appealed to the PAIA Unit of the South African Human Rights Commission ('SAHRC') to assist me under its power to do so vested by section 83(3)(c) of PAIA. Which it helpfully did, by obtaining LASA's agreement to respond to my PAIA request.
24. Immediately reneging on its undertaking given to the SAHRC, LASA CEO and information officer Vidhu Vedalankar now expressly refused my entire request in October 2010, on wholly spurious grounds, namely that (my footnotes interpolated): 'it was decided that ... your request goes beyond your individual circumstances and extends to information on other third parties<sup>1</sup> ... Accordingly your request for the detailed information<sup>2</sup> contained in your letter,<sup>3</sup> other than the information and explanation provided above,<sup>4</sup> is declined as it is not relevant to you exercising any right you may have in law.'<sup>5</sup>
  1. This incompetent justification is not among the 'Grounds for Refusal' of public body records enumerated in Chapter 4 of Part 2 of PAIA – certainly not section 34(1) protecting against 'the unreasonable disclosure of personal information about a third party' as defined by section 1 – and indeed it was ultimately abandoned.
  2. I did not request 'detailed information' from Vedalankar; I requested access to specified public documents in LASA's possession.

3. I did not write a 'letter' asking for 'detailed information'; I delivered a Form A request for records in compliance with the prescribed formalities.
  4. Vedalankar's 'information and explanation provided', unsupported by any record, was that LASA had received insufficient budget for 2010/11 from the Department to fill its vacant Senior Litigator posts, and that in July 2010 Vedalankar and National Operations Executive Brian Nair had decided to freeze them accordingly. As I later established via PAIA, no record whatsoever exists of any such decision, and these still vacant critical posts were and to date remain budgeted for by LASA and fully funded (disclosing major contraventions of sections 52 and 55 of the Public Finance Management Act 1 of 1999 in failing to 'keep full and proper records of the financial affairs of the public entity' in regard to (unauthorised and irregular) decisions involving many millions of rands, and the deliberate unauthorised failure at executive management level, for irregular and unlawful reasons, to fully and properly implement LASA's Strategic Plan 2009–12 concerning the recruitment of legal professional specialist personnel). I was given the further false 'information and explanation' that I'd been recommended 'together with other candidates'. The contrary truth of it, revealed by the recommendation report eventually surrendered, is stated below.
  5. Here the CEO and information officer of the country's biggest law firm headed by a judge president, and its most senior attorneys advising her, confused my fundamental unconditional right to public body information with my fundamental right to private body information, contingent on being 'required for the exercise or protection of any rights', per section 50(1)(a) of PAIA. C.f. sections 32(1)(a) and (b) of the Constitution, and Parts 2 and 3 of PAIA.
25. To access the record of the selection panel's recommendation for the post, which LASA's top officers were strangely concerned I shouldn't see and were therefore hiding from me, I appealed for the SAHRC's intervention again.
26. In January 2011, Vedalankar responded by providing me with a copy of the selection panel's recommendation report at last, but heavily redacted with a Koki pen to carefully black out the selection panel's 'SUMMARY OF CANDIDATES', besides of me.

27. The report confirmed I'd been recommended for the post and no one else – thus exposing and refuting Vedalankar's lie told me in her October letter, initially refusing me the report, in which she falsely alleged that I'd been recommended for the post 'together with other candidates', so as to obfuscate the unwelcome fact that I'd been the successful applicant for the post, following the interviews of all shortlisted candidates.
28. The very object of the selection process, closely regulated by LASA's Policies and Procedures on Recruitment ('Recruitment code'), was to 'identif[y] the most suitable candidate for appointment', per section 1.2.3.4.
29. LASA's High Court Unit Manager in Durban, Bongani Mngadi, was recommended for a different simultaneously advertised post in his office at Durban, for which he'd applied.
30. It's not material to canvass here the incompetence and unlawfulness, in light of LASA's peremptory Recruitment code and Approval Framework (internal regulations, prescribed by the Board, governing staff recruitment and appointment), of the selection panel's recommendation that I be interviewed again by a so-called 'second round' panel – the alleged 'brainchild' of non-executive director Mlambo JP, and presided over by him in committee with various equally unauthorised national office executives – rather than that I be appointed directly to the post, subject to Vedalankar's and National Operations Executive Brian Nair's joint approval, as required by the Approval Framework for such senior appointments.
31. Launched in July 2011, I based my claim to my appointment on unfair discrimination – mistakenly, I discovered nearly five years later, and after the dismissal of my claim in September 2014 – the true reason for the abortion of my appointment determinedly concealed from me all the while.

32. In April 2016, under a settlement agreement signed at court in February, recording LASA's total, unconditional capitulation to my several applications to compel its compliance with my further PAIA requests made in 2013–15, just as I was on the point of arguing for an order that it disgorge all requested documents, I finally forced out of LASA very reluctantly the selection panel's complete and uncensored recommendation report.
33. What this report revealed to me, years after the trial of my unsuccessful, wrongly founded labour claim, was that my rival for the post, whom I'd beaten out at the interviews, was the respondent's long-time brother in the Labour Court, of which he'd been Judge President at the time: Mzochitwayo Ngcamu AJ, as he used to be, for six-and-a-half years.
34. The recommendation report further revealed that Ngcamu had been eliminated by the selection panel for not meeting the qualifying criteria for a Senior Litigator post: he didn't have right of appearance in the High Court, which means he'd never litigated a case on his feet there.
35. He sure wasn't 'recommended together with [me]', as Vedalankar had unequivocally and falsely implied to me.
36. The recommendation report also exposed and refuted Human Resources Executive Amanda Clark's preceding lie to me, among others, in her very unpleasant don't call us, we'll call you email on 30 April 2010: 'At this stage it is not even clear which applicants will be considered in the second round'. In truth and in fact, it was perfectly clear: I was the only applicant recommended for the post for which I'd applied, been shortlisted and interviewed.
37. I finally understood what Vedalankar meant when illegally refusing my request for the recommendation report in October 2010 on the then most

puzzling and surprising basis that my 'request extends to information on third parties'.

38. She was alluding to the critically relevant 'information on third parties' being concealed from me that my rival applicant for the post was the respondent's long-time judicial colleague, noted, in as many words, by the selection panel in its recommendation report; and that he'd been eliminated by the panel from the running for appointment.
39. Which latter fact, in the lawless, ethically and procedurally corrupt recruitment regime at LASA under the respondent's chairmanship wasn't going to prevent this former Labour Court judge, as the respondent's favoured candidate, being appointed instead me, the selected and recommended one – except that instead of just walking away as hoped, I boggled the plan by insistently pressing for the outcome of the interviews after five silent months, and then for my appointment after HRE Clark backhandedly confirmed I'd been recommended by insolently inviting me to 'withdraw' my application if I didn't like 'the pace we have decided'.
40. I have it from a former LASA Regional Operations Executive (also, like me, disparaged by LASA as a 'vexatious litigant', but who in April finally won his case against it) that the respondent irregularly and unlawfully fixed the appointment of a candidate for another Senior Litigator post whom this ROE and his selection panel had rejected, and that their duly recommended candidate was passed over.
41. The respondent's unlawful central misconduct in recruitment corruption at LASA (even at the JSC itself), both procedural and ethical, will be the subject of multiple separate complaints.
42. As stated in my founding affidavit supporting my application for leave to subpoena the respondent, I wished to cross-examine him on:

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- (a) his astonishingly derelict and untoward repeated dismissals of my persistent petitions to him and other members of the Board to exercise their fiduciary duty to ensure LASA management's compliance with the Constitution and the law in conducting its operations, and to see to Vedalankar's compliance with my PAIA requests for access to specified records, including and especially the recommendation report, which she'd illegally refused; and her finalisation of my appointment to the said post, after I'd investigated, found, and clearly shown to him that her budgetary insufficiency excuse for cancelling my recruitment to have been a lie; and,
- (b) the contents of his 'Confidential Report Re: Adv Anthony Brink', replete with lies (one later feebly retracted in the lying answering affidavit in question as 'an error', 'palpably an error' after I'd categorically refuted it as a lie), submitted to the Minister of Justice and Constitutional Development (as he was then called) in March 2011 and then a couple of months later in 'updated' form in June, to the chairperson of the Justice Portfolio Committee in the National Assembly.

To put down my complaints about Vedalankar's repeated illegal refusal to comply with my PAIA requests and manifestly false budgetary insufficiency story for not finalising my appointment, the respondent falsely alleged in his 'Confidential Report' (I learned about it and sourced it from the chairperson of the Portfolio Committee) that my three PAIA requests in 2010-11 had been duly responded to, and that the process to finalise my recruitment had been delayed by a logistical problem (a lie, later twice retracted on oath, as said) and then aborted for a due and proper financial reason (no record exists of any such decision; the extant records refute the lying excuse; and NOE Nair advanced totally different lying excuses in his 'Report to Board' in November 2011, after I'd exposed

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and refuted the lying logistical and financial excuses in my original very detailed statement of claim in the Labour Court).

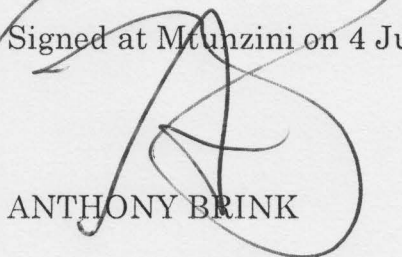
The respondent's deliberate misleading and successful deception of the Minister, and then the Portfolio Committee, in his covering letter and 'Confidential Report' – in the case of the Portfolio Committee crimes under sections 17(2)(d) and (e) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 – will be addressed in separate complaints.

43. As said, the respondent's attempt to discredit me in the Labour Court by smearing me as a demented stalker was in keeping with previous similar false charges against me. (The following instances will be the subject of separate complaints.)
44. When in January 2011 I duly appealed to the respondent and to other Board members for the second time to intervene in Vedalankar's illegal total refusal of my August 2010 PAIA request and the irregular abortion of my appointment under cover of a bogus budgetary excuse, the respondent rebuked my second petition in a late-night email the same day with a similar false accusation: 'Your conduct is unbecoming to say the least and borders on harassment.' His email is annexed marked 'C'.
45. On 22 June 2011, in a letter to the chairperson of the Portfolio Committee, the respondent repeated this malicious calumny and false mischaracterisation of my due and proper approaches to him and the Board, the better to prejudice the Committee against me and pervert its enquiry into the constitutional violations by LASA's top officers of which I'd complained. The respondent's letter, forwarded to me by the chairperson of the Portfolio Committee, is annexed marked 'D'.

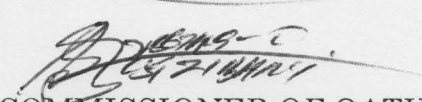
46. I should mention that in response to the respondent's earlier false professional misconduct charges I duly reported myself to the Pietermaritzburg Bar Committee for investigation, but chairperson Roberts SC declined jurisdiction to deal with the matter.
47. After the stunningly irregular, premature dismissal of my petition to the Judge President of the Labour Appeal Court for leave to appeal the dismissal of my labour claim – before all the papers were in; I'd yet to answer LASA's application for condonation for opposing me out of time – an inspection of the court file (DA21/14) in April 2016 in the course of my investigation of the gross irregularity turned up an anonymous, unsigned, undated, and unstamped 'Memorandum' inadvertently left in it, persisting with this characteristic high-toned, magisterial, aggressive ad hominem denigration to improperly influence and prejudice against me Judge President Basheer Waglay, the respondent's immediate successor as head of the Labour and Labour Appeal Courts, and his former deputy: My 'vulgar and insulting language is prevalent throughout [my] affidavits. Such conduct is unacceptable for a practising advocate ... [my] vulgarity has clouded [my] mind'.
48. The anonymous 'Memorandum' – also lying about the issues tried and about my case on petition – which found its way behind and past the court registrar and his date stamp and straight into the file, unsigned and unstamped, is annexed marked 'E'. A registry clerk's certification of an inventory of the file's contents, including this criminal 'Memorandum', is annexed marked 'F'. (As at August 2016, when I had the file inspected again, the 'Memorandum' was still there.)
49. Again, this further instance of defeating the ends of justice, this phenomenal corruption at LASA under the respondent's chairmanship, which has now seeped into the judiciary, will be addressed in a separate complaint.

50. In the situation, I request that the JSC investigate the respondent's subornation of perjury to defeat the ends of justice, described herein.

Signed at Mtunzini on 4 June 2017.

  
ANTHONY BRINK

Signed before me at Mtunzini on 4 June 2017 by the deponent who has acknowledged that he knows and understands the contents of this affidavit and affirms its contents to be true to the best of his knowledge and belief.

  
COMMISSIONER OF OATHS



Name: *Siyabonisa Zibani*

Address: *No 1 Charlie Avenue Mtunzini SADS*

Capacity: *CONSTATABLE*

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IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT DURBAN

CASE NO: D529/11

In the matter between

ANTHONY, ROBIN BRINK

Applicant

and

DUNSTAN MLAMBO JP

Respondent

In re:

ANTHONY BRINK

Applicant

and

LEGAL AID SOUTH AFRICA

Respondent

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RESPONDENT'S ANSWERING AFFIDAVIT

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I, the undersigned,

THEMBILE VUYO MTATI,

do hereby make oath and swear that,

*M* 

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1. The facts deposed to herein are, unless the context indicates otherwise, within my personal knowledge, and are true and correct. Where I make submissions of a legal nature I do so on the advice of the legal representatives of the Honourable Mr Justice Mlambo (hereafter "the Respondent").
  
2. I am the Corporate Services Executive of the Legal Aid South Africa (hereinafter "Legal Aid SA") with offices at 29 De Beer Street, Braamfontein, Johannesburg.
  
3. I am the deponent to all the affidavits and signatory to all pleadings in all the proceedings instituted by the Applicant against the Legal Aid SA.
  
4. I have been duly authorised by the Respondent to depose to this affidavit. Where I make propositions of a legal nature I do so on the basis of the consultations I had with the Respondent and Legal Aid SA's's legal advisors which advice and information I verily regard as correct. It is important that I provide a brief background in respect of this application and particularly the Applicant.

**BACKGROUND TO THE MATTER**

█ [REDACTED]

█ [REDACTED]

M [Signature]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

51. The most disturbing, reprehensible, unprofessional and brazen act of disrespect came recently when the Applicant left the KZN province and attended unannounced and without warning at the office of the Respondent in the South Gauteng High Court. The Respondent did not take kindly to the Applicant's conduct. In the face of litigation where the Legal Aid SA is legally represented the Applicant's conduct amounts to professional misconduct.

*Handwritten signature*

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

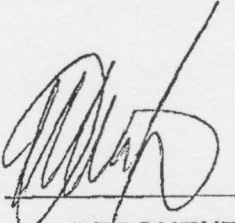
[REDACTED]

[REDACTED]

59.2 I submit that the Respondent as a senior Judge of the High Court in South Africa is enjoined by the Constitution of this Country, to uphold it in all his dealings and in his actions towards others. The law recognises that as a Judge, the Respondent will always act as Judges do. Accordingly, there is a well-founded presumption in law in favour of the Respondent.

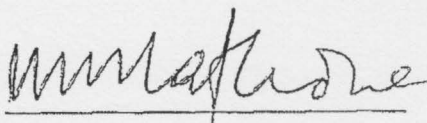
M [Signature]  
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WHEREFORE, it may please this Court to dismiss this application accordingly.



DEPONENT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to, before me, at Johannesburg on this 16 January 2013. The regulations contained in the Government Notice No. 1258 dated 21<sup>st</sup> July 1972 (as amended) and Government Notice No. 1648 dated 19<sup>th</sup> August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

Mabhoko Mathole Attorneys  
 Commissioner of Oaths  
 Ex Officio  
 Mansion House, 132 Market Street  
 Cell: 082 680 5982 Fax: 086 000 3648  
 Email: mabhoko@webmail.co.za

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On June 3, 1974, Colson pleaded guilty to a criminal information that read in part:

On or about June 28, 1971, and for a period of time thereafter, in the District of Columbia and elsewhere, CHARLES W. COLSON, the DEFENDANT, unlawfully, willfully and knowingly did corruptly endeavor to influence, obstruct and impede the due administration of justice in connection with the criminal trial of Daniel Ellsberg under indictment in the case of *United States v. Russo*, Criminal Case No. 9373, United States District Court, Central District of California, by devising and implementing a scheme to defame and destroy the public image and credibility of Daniel Ellsberg and those engaged in the legal defense of Daniel Ellsberg, with the intent to influence, obstruct, and impede the conduct and outcome of the criminal prosecution then being conducted in the United States District Court for the Central District of California. (Book VII, 918-23)

In the early 1970s, Nixon officials such as John Ehrlichman and Henry Kissinger planted accusations in the U.S. media that Daniel Ellsberg had secretly given the Pentagon Papers and other key documents to the Soviet Union; everyone now knows this was a lie, but at the time, American journalists repeated it constantly, helping to smear Ellsberg. That's why Ellsberg has constantly defended Snowden and Chelsea Manning from the start: because the same tactics were used to smear him.

This is the first of two articles on the former secret White House investigative unit known as the plumbers.

One was a tear—poured in part, some sources said, by Henry A. Kissinger, then the President's national security adviser—that Daniel Ellsberg, who said he turned over the Pentagon papers to the press, might pass on to the Soviet Union secrets far more important than any information contained in the Pentagon study of the Vietnam war.

Specifically, the sources said, the White House feared that Dr. Ellsberg, a former Rand Corporation and Defense Department official, may have been a Soviet intelligence informer who, in the weeks after

publication of the Pentagon papers in June, 1971, was capable of turning over details of the most closely held nuclear targeting secrets of the United States, which were contained in a highly classified document known as the Single Integrated Operation Plans, or S.I.O.P.

The second major concern was that a highly placed Soviet agent of the K.G.B., the Soviet intelligence agency, operating as an American counterespionage, would be compromised by continued inquiry by the special prosecutor and the Senate Watergate committee into the Ellsberg case. The agent informed his F.B.I. contacts that a set of the Pentagon papers had been delivered to the Soviet Embassy in Washington shortly after a Federal court had ordered *The Times* to stop printing. Continued on Page 76, Column 1

## EHRlichman SCORED ON ELLSBERG CHARGE

WASHINGTON, Aug. 10 (UPI) An attorney for Dr. Daniel Ellsberg has chided the Senate Watergate committee for failing to challenge what he called "totally false and slanderous" testimony by the former White House aide, John D. Ehrlichman, suggesting that Dr. Ellsberg delivered copies of the Pentagon papers to the Soviet Embassy.

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Anthony Brink

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From: Mlambo Dunstan [DMLambo@justice.gov.za]  
Sent: 24 January 2011 11:12 PM  
To: arbrink@iafrica.com  
Cc: vidhuv@legal-aid.co.za; BeeMariS@legal-aid.co.za  
Subject: Legal Aid SA

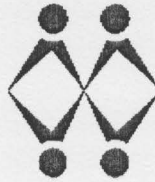
*Mr. Brink*

*I refer to your previous email communication to me and to the numerous emails you have sent to the Executive Management of Legal Aid SA. I further refer to the email you sent to me and to some Members of the Board of Directors of Legal Aid SA as well as some whose tenure as Members of the Board has come to an end. It has been brought to my attention that a friend of yours had, in the past week, also called some Board Members and then paid a visit to one of them during which your matter was brought up.*

*Your conduct is unbecoming to say the least and borders on harassment. I have on a previous occasion informed you that I could find nothing untoward in how you have been treated by Legal Aid SA. I reiterate this view. I further take this opportunity to advise you that the Board of Directors of Legal SA is not the appropriate forum to raise your matter. Your approach to the Board is therefore misdirected. Your matter was handled at Executive Management level, being the level at which such matters are handled, and should you have any issues in that regard you are free to institute whatever legal action you may deem appropriate to obtain whatever redress you fathom is due to you. For this reason I call on you to desist from communicating with Board Members in this regard. I have, in turn, requested Board Members to ignore all communications from you and/or on your behalf.*

*I trust that you find this in order.*

*D Mlambo  
Chairperson- Legal Aid SA and  
Judge President  
Labour Courts  
[dmlambo@justice.gov.za](mailto:dmlambo@justice.gov.za)  
Tel +27113595735/6  
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[www.legal-aid.co.za](http://www.legal-aid.co.za)

22 June 2011

Mr L Landers MP  
Chairperson Justice Portfolio Committee  
National Assembly  
P O Box 15  
Cape Town  
8000

Dear Mr Landers

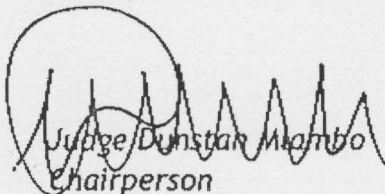
**Adv A Brink**

Your letter dated 23 March 2011 on the above matter refers. Please accept my sincere apology for the delay in responding to your letter. Attached please find a report on this matter which was submitted to the Minister of Justice and Constitutional Development in March 2011 and which has since been updated. In summary I wish to reiterate what I said to Mr Brink when he wrote and complained to me :

*"Your conduct is unbecoming to say the least and borders on harassment. I have on a previous occasion informed you that I could find nothing untoward in how you have been treated by Legal Aid SA. I reiterate this view. I further take this opportunity to advise you that the Board of Directors of Legal SA is not the appropriate forum to raise your matter. Your approach to the Board is therefore misdirected. Your matter was handled at Executive Management level, being the level at which such matters are handled, and should you have any issues in that regard you are free to institute whatever legal action you may deem appropriate to obtain whatever redress you fathom is due to you. For this reason I call on you to desist from communicating with Board Members in this regard. I have, in turn, requested Board Members to ignore all communications from you and/or on your behalf."*

I trust that the attached report and this letter clarify the matter concerning Mr Brink.

Yours faithfully



Judge Dunstan Mlambo  
Chairperson

Legal Aid South Africa

**Your voice. For justice.**

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DA21/14

ANTHONY ROBIN BRINK

Petitioner

and

LEGAL AID SOUTH AFRICA

Respondent

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**MEMORANDUM**

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The petitioner's vulgar and insulting language is prevalent throughout his affidavits. Such conduct is unacceptable for a practising advocate. His vulgarity has clouded his mind so that his application does not say in what respect the Labour Court erred in rejecting his claim.

What is common cause is that the petitioner applied and was shortlisted for the position of senior litigator Pietermaritzburg. He was recommended for a second round interview but the position for which he applied for was frozen due to budgetary constraints. He was only made aware of that decision after numerous telephone calls and correspondence. There is a dispute about the veracity of the decision to stop the process of the appointment for which the petitioner had requested recording of the board meeting in terms of the Promotion of Access to Information Act 2 of 2000.

Notwithstanding the above dispute, the petitioner does not say in what respect the court *a quo* erred in dismissing his claim. All is said in his affidavit is his judgmental comments about the credibility of employees of the respondent.

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CONTENTS OF CASE FILE DA21/14

- 1) Blank Petitions Control Sheet with notification of case number on 10 Dec 14 attached
- 2) Brown cover page 3/3/2 headed Held in Durban-in the Labour Court of SA, petition set down for 18 Feb 2015, judges Waglay, Davis and Sutherland, order petition refused. Attached fax sheet of 2 page decision sent 15-13 on 18 Feb 2015
- 3) Letter of 27 Feb 2015 from C.Phophi to A.Brink
- 4) Petition refusal order stamped 18 Feb 2015 , Juta Street, Phophi, LAC
- 5) Respondent's notice of objection to late hearsay affidavit signed by T.Mtati 11 Feb 2015
- 6) Service affidavit:objection to opposing affidavit dated 12 Feb 2015 signed A.Brink 2 Feb 2015
- 7) Affidavit in support of proof of service Rule 4(2)(b) by Akhona Lucas Nobetsu filed Juta Street 17 Feb 2015 confirming that on 13 Feb 2015 he served a condonation application and notice of objection on the petitioner
- 8) Undated, unsigned memorandum regarding petitioner's vulgar and insulting language, brief summary of the dispute with conclusion that the petitioner does not say in what respect the court a quo erred in dismissing his claim as his affidavit is only his judgemental comments about the credibility of employees of the respondent.
- 9) Respondent's notice of objection to the petitioner's affidavit filed in support of a notice of objection dated 2 Feb 2015, filed Juta Street 11 Feb 2015 signed by T.Mtati 11 Feb 2015
- 10) Objection to opposing affidavit filed Juta Street 4 Feb 2015 signed A.Brink at Eshowe 27 Jan 2015 sworn Eshowe 1 Feb 2015
- 11) Bound red cover Petition for leave to appeal original filed Juta Street 9 Dec 2015 signed A.Brink at Eshowe 7 Dec 2014 with attached refusal of application for leave to appeal by Cele J in chambers 27 Nov 2014 with Appearances- for the applicant:in person, for the respondent Mokeoena and Machaba, the Judgement by Cele J, application for leave to appeal signed Eshowe 3 Oct 2014 and Heads signed at Pietermaritzburg 16 Sep 2013.
- 12) Affidavit of service of answering affidavit to the supporting affidavit in the petition for leave to appeal filed Juta Street 23 Jan 2015 sworn by Sekgota, attaching email of 22 Jan 2015 to Ngcamu, copying Mehta, Vilakazi and Brink.
- 13) Notice of objection to respondent's opposing affidavit signed Brink at Eshowe 27 Jan 2015
- 14) Notice of intention to oppose petition for leave to appeal filed Liberty House 21 Jan 2015 dated at Durban January 2015 with attached affidavit filed Durban 21 Jan 2015 signed by Sekgota confirming he sent email to Brink on 20 Jan 2015 at 3-42pm followed by a telephone call, sworn and signed at Braamfontein on 21 Oct 2014.
- 15) Notice of filing of respondent's opposing affidavit at Juta Street on 23 Jan 2015 with 33 page affidavit signed and sworn by Mtati on 22 Jan 2015.

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16) Respondent's notice of motion : application for condonation filed Juba Street 5 Feb 2015 signed Pp Mtati Johannesburg 5 Feb 2015 attaching 8 page founding affidavit sworn by Mtati 4 Feb 2015, attaching email from Mtati to Machaba copying Sekgota on 15 Jan 2015 saying he had not received a copy of the petition and a confirmatory affidavit, application for condonation sworn by Sekgota at Johannesburg on 4 Feb 2015.

17) Affidavit of service of notice of intention to oppose the petition for leave to appeal, two copies, filed Durban 28 Jan 2015 sworn by Sekgota 21 October 2014 attaching email to Brink 20 Jan 2015

18) Notice of filing of respondent's opposing affidavit at Durban on 28 Jan 2015 sworn by Mtati 22 Jan 2015

19) Letter from A.Brink to James Kamanga, Durban Labour Court, re petition case number.

20) Service affidavit sworn by Brink at Eshowe on 10 Dec 2014

21) Notice of intention to oppose petition for leave to appeal filed Durban 21 Jan 2015 with affidavit of service by Sekgota sworn at Braamfontein on 21 October 2014.

Contents listed by C.F.M. Rawlins 2 April 2015

*C.F.M. Rawlins*

