

BEFORE THE JUDICIAL CONDUCT COMMITTEE

JUDICIAL SERVICE COMMISSION

REF: JSC/533/2017

In the matter between

ADV ANTHONY BRINK

COMPLAINANT

and

DUNSTAN MLAMBO JP

RESPONDENT

APPELLANT'S SUBMISSIONS APROPOS OF HIS APPEAL AGAINST
ZONDI JA'S DISMISSAL OF HIS EIGHT GROSS MISCONDUCT
COMPLAINTS AGAINST THE RESPONDENT

To: The Honourable Acting Chief Justice Raymond Zondo,
Chairperson of the Judicial Service Commission, and of its
Judicial Conduct Committee

188, 14th Road, Noordwyk, Midrand 1685, Gauteng

By email to:

Kutlwano Moretlwe, JCC Secretary: kmoretlwe@judiciary.org.za

Sello Chiloane, JSC Secretary: chiloane@concourt.org.za

And for information, to the several interested parties identified in the appeal
notice.

1. My appeal notice is quite comprehensive and I've nothing to add on the merits.
2. There've been several material developments, however, that the judges on the Judicial Conduct Committee ('JCC') trying this appeal would be well advised to consider. The nut of them is that my extremely serious complaints against the respondent are now a matter of widespread public knowledge.
3. On 15 October 2021, I filed an objection to the respondent's candidacy for appointment as next Chief Justice, and in short order was telephoned about it by an investigative journalist on the *Daily News*, who'd learned of it from a third party. The newspaper's office is in Durban and it's sold throughout KwaZulu-Natal.
4. This journalist told me that Limpopo Legal Solutions, a public interest law firm, had also filed an objection to the respondent on account of his wilful obstruction of a Hawks investigation to protect another corrupt judge, formerly in his Division and now Judge President of the Limpopo Division (To the horrified Hawks detective, he allegedly said, 'I control the judiciary in this country, no one gets past me.'). At my request she emailed me a copy of the objection, which News24 had reported on 20 October 2021, thereafter publishing its article on its news website.
5. When the journalist telephoned the respondent on his cell-phone to elicit his comment on the two objections against him before going to print, using the number I'd obtained and given her, he twice lied, 'This is not Judge Mlambo, you've got the wrong number', before finally admitting it was him on the

phone on her third attempt – using the same number, which I'd got from a former judicial colleague of his, and later in the day confirmed with a silk who'd used it in sms exchanges with the respondent. During this third call, the respondent now told her he'd given the President his response to the two objections and he had nothing more to say about it.

6. When the journalist called me back, expostulating in disgust at the respondent's blatant dishonesty to her, before coming clean, I assured her that it was perfectly in keeping with his character as an habitual casual liar, criminal liar even, evinced again and again by the facts detailed in my eight documented complaints to the JCC against him and in my invited comments on his responses to them.
7. On 21 October 2021, the two objections against the respondent were reported by the *Daily News* as its front-page headline news story (see the annexure hereto). The *Daily News* exposé of this corrupt judge was thereafter published on the internet by IOL. The online news agency Africanewsglobal.co.za has published the full text of my objection.
8. For public information, I've posted both objections and links to the news articles about them under NEW on the front-page of the website I've established for this vast corruption scandal: www.illegal-aid-co.za.
9. I should mention that I've been contacted by senior counsel around the country, who are watching developments with concern, as are an investigative and legal journalist on the crew of a well-known television programme airing prime-time nationally, and another such prominent

journalist at the *Daily Maverick*, with whom I had an hour-long face-to-face meeting at her request to brief her on the contents of my extraordinarily serious complaints against the respondent.

10. Hlophe JP and his senior counsel are also monitoring progress in this case with interest. In his founding affidavit supporting his review application against the Judicial Service Commission ('JSC') to set aside its majority decision (by the respondent *et al.*) recommending his impeachment, Hlophe JP mentions my case against the respondent, but garbles its substance, referring only to my intended next complaint against him once the JSC has been ordered by the High Court at Pietermaritzburg (see below) to surrender the documents I need to support it, which it's concealing in its ongoing protection of him as a ranking member, like *Mafioso* closing ranks and loyally keeping their *omerta* towards their gangster colleagues.
11. I've briefed both Hlophe JP and his legal team on my complaints, pointing out the errors in his papers, and it's to be expected that the matter will be set straight in his supplementary affidavit now that he has the record of the deliberations that resulted in the respondent and others condemning him. (Hlophe JP's senior counsel tells me that the JSC (i.e. the respondent and others) is furtively and stupidly hiding the identities of the cowardly JSC members (i.e. the respondent and others) who voted against him, and of those who voted in support of the minority decision to acquit him; that bit of the record has been redacted. As another senior counsel remarked, the JSC dominated by the respondent is 'pathetic').

12. On 30 September 2021, under section 18 of the Promotion of Access to Information Act ('PAIA'), I duly filed a request for access to JSC records, (i) probing *inter alia* the sickening manner in which the JCC handled my complaints against the respondent, and how the JSC (almost certainly at the respondent's instance) twice tried assassinating me professionally for pursuing them, i.e. twice tried killing off the witness against the respondent by devastating his credibility as a legal professional; and (ii) seeking records needed for a further gross misconduct complaint against the respondent.
13. Consistently with its persistent ongoing protection of the respondent as a ranking fellow member of the JSC, and consistent with its extreme prejudice displayed towards me as the complainant against him, the JSC (of which the respondent is a ranking member, as said) has naturally ignored and thereby tacitly refused to comply with my said PAIA request; and it is illegally and unconstitutionally suppressing these duly requested records and hiding them from me in contempt of its information transparency obligations imposed by section 32(1)(a) of the Bill of Rights.
14. Not only that, JSC Secretary Sello Chiloane has repeatedly ignored my requests that the JSC acknowledge receipt of my PAIA request duly emailed to him, which I asked of him twice by email and twice by text message sent to his two cell-phone numbers (used by him to phone me in the past, and which I'd saved on my phone).
15. Under section 78 of PAIA, therefore, I intend suing the JSC for the requested documents before the month is out, and for a declaratory order that it has

violated my fundamental right to information – dismally reflecting on this judicial body’s actual low regard for the law and the Constitution when set on protecting and covering for one of its corrupt members.

16. I record that I’ve yet to apprise the several foreign and local interested parties mentioned in my appeal notice of this matter. This is not because I’m not deadly earnest in my stated intentions in this regard – I certainly am – but rather because (i) the case is already in the public eye thanks to the editors of the *Daily News* and the online media outfit Africanewsglobal.co.za who’ve recognised the enormity of this case; and (ii) I’ve since resolved to embargo my referral of the case to the court of international and local opinion pending the JCC’s decision of my appeal.
17. Should the JCC’s appeal judges decide to make like Zondi JA did (and Seriti JA did before him in relation to all the documentary evidence of massive corruption in the arms deal), and also try sweeping my capital complaints against the respondent under the rug by dismissing my appeal, I shall then refer the matter to all the parties named in my appeal notice, in a saturation publicity and information campaign. (I’m working on this corruption case full-time.)
18. On any honest, diligent, unbiased, and intelligent assessment of the documented facts of this case (unlike Zondi JA’s), an order under section 18(4)(b)(iii) of the Judicial Service Commission Act is obviously indicated, namely that his scandalous, disgraceful dismissal of my eight solidly-founded

complaints against the respondent be set aside and that they be referred for determination by a Tribunal under section 19 of the said Act.

19. In conclusion, I should like to remind the JCC's appeal judges of the very correct legal adage: 'As the court tries the case, so the case tries the court.' Never mind the respondent, the JCC's appeal judges deciding this appeal are themselves very much on trial here. As one observer put it to me, this case really is 'a test of the system' in this fantastically corrupt county, with three corrupt Judge Presidents running the Gauteng and Limpopo Divisions and the Labour- and Labour Appeal Courts. (Regarding the latter, and my documented judicial corruption complaint against him still undecided four-and-a-half years since I made it, see illegal-aid.co.za/JSC/Waglay_JP.)

Signed electronically at Eshowe on 11 November 2021

A handwritten signature in black ink, appearing to be 'A. Brink', with several loops and a long tail.

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