

***FOR URGENT ATTENTION
EXTREMELY IMPORTANT***

36 Pearson Avenue
Eshowe 3815
KwaZulu-Natal
17 June 2021

The Honourable Mr Justice Dumisani Zondi JA
Member of the Judicial Conduct Committee of the Judicial Service Commission
Private Bag X10, Marshalltown 2107

Cc:

The Honourable Madam Justice Sisi Khampepe ACJ
Acting Chairperson of the Judicial Service Commission and of its Judicial
Conduct Committee
Private Bag X1, Constitutional Hill, Braamfontein 2017

And other interested parties

Dear Judge Zondi

**CAPITAL MISCONDUCT COMPLAINTS AGAINST MLAMBO JP AND
WAGLAY JP STILL UNRESOLVED BY THE JUDICIAL CONDUCT
COMMITTEE FOUR YEARS AFTER THEY WERE FILED
PERSISTENT RETALIATION BY LEGAL AID SOUTH AFRICA FOR
MAKING THE COMPLAINTS
CALLING THESE MATTERS TO INTERNATIONAL ATTENTION**

1. I write to you in your capacity as member of the Judicial Service Commission's Judicial Conduct Committee ('JCC') investigating my eight complaints against Dunstan Mlambo JP, head of the Gauteng Division of the High Court, regarding his gross misconduct, including criminal misconduct, committed while Board chairperson of Legal Aid South Africa ('LASA'). I'm uncertain whether you're also investigating my simultaneously filed

complaint against Labour and Labour Appeal Courts head Basheer Waglay JP.

2. For raising my complaints about Mlambo JP's gross misconduct in my litigation against LASA in the Durban Labour Court in 2011–14 and about Waglay JP's in the High Court at Pietermaritzburg in 2016, and then repeated in my formal complaints against them to the JCC in 2017,¹ LASA has retaliated by trying to get me struck off the roll of advocates, on the patently spurious basis that my documented capital complaints against these two judges are baseless, defamatory and professionally disgraceful.² LASA is now pressing its malicious complaint before the Legal Practice Council ('LPC').
3. I recently furnished the LPC with my second response ('Response') to LASA's complaint, and it's been duly acknowledged. Since (a) I'd scanned and provided the LPC with my Response in PDF via email; (b) it ultimately concerns Mlambo JP and Waglay JP more than me; and (c) it mentions you repeatedly (9x), I asked the LPC whether I might provide you with the hard-copy original; and it agreed.³ My Response is enclosed accordingly.
4. Given that LASA's Board and top management executives – gravely misled in this project by executive Board members Chief Legal Executive Patrick Hundermark and National Operations Executive Brian Nair, both criminally complicit in the cover-up of the recruitment corruption at the heart of the case⁴ – are seeking to assassinate me professionally for complaining of these two Judge Presidents' impeachable misconduct, I've resolved to bring this gargantuan corruption scandal to the attention of the several foreign governments that wrote to President Cyril Ramaphosa in January 2019, calling on him to address the endemic public-sector corruption in our country

¹ My complaints to the JCC against Mlambo JP and Waglay JP; their responses; and my invited comments on them, are publicly accessible at www.illegal-aid.co.za/JSC.

² The JCC evidently didn't think so, or it would have dismissed them under section 15(2) of the Judicial Service Commission Act as 'frivolous or lacking in substance'. On the contrary, it required both judges to respond to my complaints against them – in Mlambo JP's case, repeatedly.

³ 'I have no problems with you giving Judge Zondi the hard copy original.' – per Nadira Harripersad, Senior Legal Officer: Disciplinary Department, LPC: KZN Office; email on 5 June 2021.

⁴ Response, paragraphs 25–30.

that's become internationally notorious. I intend informing other likely concerned foreign governments as well, especially those of our fellow BRICS states.⁵ As said in my Response, I've embargoed my information of these governments about this enormous corruption case, involving unresolved judicial corruption, until mid-July,⁶ a month from now.

5. A close study of my Response by these several foreign governments' intelligence analysts – and, annexed to it, my complaints to the JCC against Mlambo JP and Waglay JP; their abysmally dishonest, aggravating responses to my complaints; and my invited comments on their responses⁷ – will equip them to arrive at their own fully informed, independent, immediate assessments of Mlambo JP and Waglay JP's integrity or otherwise as heads of the biggest and busiest High Court Division in South Africa and of the Labour- and Labour Appeal Courts respectively, without waiting for the JCC to decide my complaints one day.
6. Of lesser interest to these governments, seeing as massive corruption at parastatals in South Africa has become pervasive, normal and unremarkable these days (witness the sickening revelations at Judge Zondo's Commission of Enquiry into Allegations of State Capture), my Response will further lead these governments to the unsurprising conclusion, informed by the evidence I'll present to them annexed to my Response, including my extensive, documented complaints to the Auditor-General last year,⁸ that LASA is just another corrupt public entity in our country; that some of its past and current top management executives have, like their former Board Chairperson Mlambo JP, committed multiple crimes and other serious illegalities; and that they continue brazenly contravening the Public Finance Management Act and obstructing critical service delivery to the indigent in service of a top-level criminal corruption cover-up⁹ – thus far with perfect impunity, as usual in this part of the world.

⁵ Response, paragraphs 10 and 11.

⁶ Response, paragraph 10.

⁷ Response, annexures R4, R35 and R36; and R51, R52, R53 (Mlambo JP); and R37, R38 and R39 (Waglay JP).

⁸ Response, paragraphs 19 and 375–8.

⁹ *Ibid.*

7. I imagine these governments will also be concerned by this profoundly corrupt public entity's attempt to exterminate a resolutely determined whistleblower on its corruption.
8. And, especially interested in observance of the rule of law in our country and in the integrity of our judiciary, these foreign governments will obviously be concerned that my several documented complaints of judicial corruption at head of court level, duly lodged with the JCC in mid-2017, remain unresolved four years later – a scandalous reflection on the JCC's will to discipline grossly delinquent judges, and a mockery of the Chief Justice's repeated public assurances in this regard.
9. I appreciate that you're probably not responsible for much of this delay, in that it appears you only came into the matter in February 2020 after I wrote to the Chief Justice a couple of months earlier to protest the JCC's failure to decide my complaints and hold the accused judges to account.¹⁰
10. As pointed out in my letter to the Chief Justice, what distinguishes the Constitutional Court's complaint against Hlophe JP from my complaints against Mlambo JP and Waglay JP is that whereas multiple legal challenges were the major reason for the long delay in the finalisation of the complaint against the former no such justification is available to the JCC for its disgraceful failure to expeditiously prosecute my complaints against the latter – in breach of Article 10(1) of the Code of Judicial Conduct ('CJC'): 'A judge must ... perform all assigned judicial duties diligently ... give judgment or any ruling in a case without undue delay ... [and] perform all official duties ... timeously'.
11. Almost certainly contributing to this delay, you'll be appalled to read in my Response how in early 2018 the late Lynette Bios, then-secretary of the Judicial Service Commission ('JSC'), misinformed the chairperson of the Bar Council of the Society of Advocates of KwaZulu-Natal ('the Society') as to the JCC's view of my complaints against Mlambo JP and Waglay JP – conveying her own dismissive opinion of them as the JCC's, before the JCC had even considered them (and later in the year found them all answerable) – and

¹⁰ Response, paragraph 338.

moreover how this clueless woman, purporting to speak for the JCC, actually urged the Society to apply for my strike-off, as if the JCC had found my complaints baseless, defamatory and professionally disgraceful, just as LASA had claimed in its complaint to the Society in November 2015 and then again in its comments in August 2017 on my first response to the complaint,¹¹ which response comprised copies of my complaints to the JCC against Mlambo JP, furnished to the Society's Complaints Committee delegated to investigate LASA's complaint).¹²

12. Also likely contributing to the JCC's balefully dilatory and indolent handling of my complaints, you'll read also how in turn in mid-2018 the chairperson of the Bar Council misinformed the JCC via Ms Bios as to the Bar Council's view of my complaints to the JCC against Mlambo JP and Waglay JP,¹³ again falsely presenting his own dismissive opinion of them (without having studied them) as the Bar Council's,¹⁴ which low opinion of them the minute of its relevant meeting shows it didn't share.¹⁵
13. For the reasons stated in the Conclusion of my Response,¹⁶ I cannot afford to carry on waiting indulgently for the JCC to decide my complaints against Mlambo JP and Waglay JP at a leisurely pace on some remotely distant date, heedless of Article 10(1) of the CJC – more especially since my complaints concern the very integrity of the South African judiciary at head of court level, and aren't some trivial swearing-over-the-backyard-wall case in F Court.
14. As I said in my letter to the Chief Justice, the matter is now out of my hands, but I remain amenable to and indeed would greatly prefer a global conciliatory settlement, a resolution of all disputes and a final conclusion closing the book that would undoubtedly be in the interest of our country's international reputation – otherwise heading for a certain pounding in a

¹¹ Response, paragraphs 294–303.

¹² Response, paragraph 121. The Society's Bar Council failed to decide the complaint and it was inherited by the LPC to resolve; Response, paragraphs 5–6 and 332.

¹³ My complaint to the JCC against Waglay JP was preceded by mention of his misconduct in my first complaint against Mlambo JP: Response, paragraphs 195–7

¹⁴ Response, paragraphs 313–9.

¹⁵ Response, paragraphs 269–83.

¹⁶ Response, paragraphs 467–78.

month's time. But if the matter can't be resolved in this way, the law must just take its course, and I'll continue working full-time to see to it that it does, and promptly.

15. In view of the administrative inefficiency that I've repeatedly encountered in the JSC's office,¹⁷ making it probable that you won't be handed this letter and my Response until many weeks from now, when it's too late, if at all, and out of an abundance of caution to ensure you receive and read them as soon as possible and are not caught short and embarrassed by any adverse public reaction from other parties, particularly foreign governments, to whom I intend providing copies a month from now, I've taken the liberty of sending additional copies to your chambers at the Supreme Court of Appeal. I'll also email PDF copies to JCC secretary Sello Chiloane and ask him to immediately forward them to you and impress on you their exceptional importance and urgency.
16. If the matter can't be resolved in the next few weeks, I'd like to include in my report to the said foreign governments what further action you took towards finalizing my complaints after receiving on or about 24 March 2021¹⁸ my invited comments¹⁹ on Mlambo JP's second response on 4 November 2020 to my first complaint (furnished to me on 22 February 2021).²⁰ As you saw, the documents I put up with my comments categorically refute his latest blatant criminal lies told under oath in his affidavit,²¹ purportedly corroborated by his former secretary in a false confirmatory affidavit²² that he drew for her and got her to sign.

Yours sincerely

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¹⁷ Response, paragraphs 342 and 356.

¹⁸ Response, annexure R54.

¹⁹ Response, annexure 53.

²⁰ Response, annexure 50.

²¹ Response, annexure R51.

²² Response, annexure 52.