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21 September 2011

Mr P Mkhize
NY 114 Room 22
Gugulethu
Cape Town
7750

Dear Mr Mkhize

Re: Submission of a petition regarding the re-opening of an inquest

I acknowledge receipt of your letter, in respect of the abovementioned issue.

We will ensure that the petition is referred to the Select Committee on Petitions and Members' Legislative Proposals for consideration and report.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MJ Mahlangu'.

Hon. MJ Mahlangu, MP
Chairperson: National Council of Provinces

MARK THOMAS
074 187 6275
021 686 0570

Why did Thembela die?

*Police probe hospital death
of young mother*



Cold comfort: Baby Makaziwe beside a photograph of the mother. Her mother, Thembela, had died before her father Paul could photograph her with her newborn in her arms

THE ENTIRELY AVOIDABLE death of 33 year old Thembela Matiwane, during a Caesarean operation, should have drawn fire down on the Mowbray Maternity Hospital. It should have sent the medical profession into morbid self analysis and the Department of Health into rigorous examination of its management and distribution of resources.

Instead, the cause and circumstances of Matiwane's death were neither investigated nor reported upon by the hospital authorities. It has been left to us to ensure that her story is told – and to ask the questions that remain to be answered. Those responsible are still there; they may be dedicated, they are no doubt overworked – but they owe Mrs Matiwane's family and the general public a full explanation.

Here's what we know: When a very-pregnant Thembela Matiwane left Durban in February 2004 for Cape Town, she was on her way to enrol her two children in Western Cape schools. Her husband Paul Mkhize, still employed

Paul says that his wife had attended the prenatal clinic at Kloof, but because of problems with her pregnancy – she was diagnosed as suffering from Gestational Proteinuric Hypertension, commonly referred to as GPH or pre-eclampsia – she was referred by the clinic to St Mary's hospital in Pinetown. When she told them she was leaving for Cape Town, a doctor at St Mary's gave her a letter of referral to Mowbray Maternity Hospital. (Dr Tanius Zingoni at St Mary's says he recalls having done the referral.) Pre-eclampsia is a condition in which pregnant women suffer from back-ache, abdominal pains, headache and swollen feet and hands. It can result in the death of mother and unborn infant.

Once in Cape Town, on 9 February, and after a sleepless night of severe

Thembela called her brother-in-law Progress Mkhize to take her to hospital. But after a long wait at Mowbray Maternity she was turned away. In pain and desperation, she called Paul in Durban, to ask for his intervention. "She was crying in pain," Paul tells *noseweek*. "I didn't know what to do. I should have been there with her, but I had to work."

According to Paul, the receptionist and nurses at Mowbray's Ante-Natal Care Unit had told his wife to return to the village where she had gotten pregnant: "You rural women, you go getting pregnant then run to get high-class treatment in cities! Go back to KZN!" A hospital source confirms that hospital staff routinely turn away patients whom they believe should have gone to a "primary care" township clinic or day hospital, but who regard themselves as "too smart" to do this. Mowbray is a "second tier" hospital that generally treats only private (paying) patients or those referred to it by "primary" clinics.

The cries of his loving wife prompted Paul to call the hospital to enquire why she had been turned away. He tells *noseweek* that when he got hold of the sister in charge (the hospital has declined to disclose her name), he was told that for his wife to be attended to at Mowbray, she should produce a bank statement, proof of residence and of her husband's employment in Cape Town, and a hospital or clinic referral letter (which she had, only the staff at Mowbray Maternity hadn't bothered to look at it, possibly because she was identified as not being a Capetonian). The referral letter is now not to be found in Thembela's medical file at Mowbray.

To ensure that his desperate wife would receive treatment as soon as possible, Paul began gathering the required documents to be sent to Cape Town. He also asked his brother to get an affidavit from the police in Cape Town confirming a Claremont resi-



Single parent: Paul Mkhize with daughter Makaziwe, who turned three in March

Police Station on 10 February. In the meantime, the suffering Thembela moved in with her parents at Gugulethu. Paul sent the documents by fax on Saturday 14 to his brother's workplace, but Progress could not access them till the following Monday.

With the necessary documentation in place, Thembela, still in pain, once again visited the hospital on 7 February. After examination, her blood pressure and general condition was declared normal, and she was told to return the following week for an examination to determine the cause of the pain that wracked her body. During subsequent visits, an ultrasound scan was performed, and her blood pressure was again found to be normal, though she continued to suffer from back-ache and swollen hands and feet.

Thembela visited MMH at least two more times before her final visit on 29 March. On this day, Thembela, again suffering from severe symptoms of PH, was allegedly not attended to for hours. Her cries for attention were not responded to by MMH's staff. Once again she called her husband who was ill in Durban. Paul claims he immediately called MMH and talked to the nurse, demanding to know why his wife was not being attended to, de-

spite her critical condition. "The sister asked me who I was to tell them how to do their work." He tells *noseweek* that when he called Thembela an hour later, she told him that she was being attended to.

The staff at Mowbray apparently now realised her condition was serious, and she was formally admitted to the hospital. Her blood pressure was discovered to be higher than normal. Another ultrasound scan was ordered.

Thembela spoke with her husband later that evening. That was the last time the two talked. The next call he received from Mowbray was not from his wife, but from the hospital administrators summoning him to Cape Town. By the time he arrived in Cape Town, on the morning of 31 March, Thembela Matiwane was at Groote Schuur Hospital's Intensive Care Unit. Her hospital file does not state what conditions had brought her there. Thembela died later that day.

Paul was given what he believed to be her entire medical file, but *noseweek* has discovered that some sections of the file, like the referral letter from Durban, are missing. Some hours aren't logged in either, so she was either not attended to for several hours or someone has removed log sheets from her file. To understand the content of the file, *noseweek* sought the advice of independent medical experts. They agreed there are several issues that need to be clarified by the doctors and nurses at Mowbray who attended to Mrs Matiwane. The doctors found it strange for a seemingly normal pregnancy to develop into a fatality within two days, especially when the patient is under hospital observation. If Thembela's condition was rated stable on the night of 29 March, what could have triggered the deterioration?

Dr Ingrid R Grauls, one of the independent physicians, after studying the file with us, explained: "The diagnosis of her condition is called Gestational Proteinuric Hypertension, commonly referred to as GPH or pre-eclampsia." This has been confirmed by Dr David Bass, the medical advisor to the Western Cape's Department of Health. Dr Grauls tells us that this is a condition that is easily manageable. There had to be a trigger for the sudden reversal. And this is where Paul comes in, with a statement allegedly made to him on 26 July 2004 by Professor Susan Fawcus, senior specialist at Mowbray hospital. "She told me that Thembela fell from her bed in the morning of 30 March and that a student doctor who was attending to her broke a leg while trying to help her," he told us. Dr Fawcus has

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Medicine

since denied ever making such a statement.

But, yes, says Dr Grauls, if there was a fall it could have triggered the condition. A check of Thembela's records show unsigned entries made on 30 March at 09h25 stating: "Unclassified Proteinuric Hypertension...with BP 170/110, frontal headache, additional protein ... not relieved by Panado ... unusual disturbances...". The entries conclude with "poor ANC" (Ante-Natal Care).

What concerned our consulting doctors are that some entries were not signed – and that reference to "unusual disturbances". Was this the fall? As the details tell no tales, we may never know, unless Dr Fawcus and her 2004 team at MMH decide to come clean. Dr Fawcus has declined to answer our questions. In an email reply to *noseweek* she says: "I referred your request to Dr David Bass, medico-legal advisor to the provincial health department. He is the appropriate person to respond to you."

Now why would someone who wasn't present at the time be able to provide the best answers? Might Dr Fawcus be afraid of something? Dr Bass began his

response to *noseweek* by declaring that since the matter is being enquired into legally, "the department has to safeguard its interests". Those of the patients, or those of the possibly negligent and misdirected hospital staff? What interests would those be Dr Bass? That of the patients? Dr Bass then admitted that it was he who had closed the file after considering the interest of the Department of Health.

After the unusual disturbances of 30 March, indicated in the progress file by unidentified staff, Dr Fawcus returns to the scene at 11h20, this time prescribing medication for induction of labour and Magnesium Sulphate to control the GPH. Why was it important to induce labour two weeks early? Dr Fawcus found the patient's progress report worrying. According to the file, she summoned the GPH reading ten minutes after ordering the induction of labour. The trail thereafter goes faint, until over an hour later when fresh bouts of treatment started ... this time with morphine.

Over twelve hours after the induction of labour instruction, Dr Fawcus

ordered a Caesarean section to deliver the baby. All this time, as shown in her file, Thembela was semi-conscious, delirious, non-responsive. The procedure was performed and a live baby girl was delivered. The patient, however, did not awaken from surgery.

Dr Grauls, like his other colleagues, noticed a question of magnesium sulphate toxicity raised by examining doctors at Groote Schuur where Thembela was transferred some hours later. (The ambulance was summoned before 2am, it arrived to transport her from Mowbray to Groote Schuur, barely a kilometer away, only at 4.30am.) Could the nurses have given her an overdose of the medication meant to control GPH?

The only way to confirm this would have been through toxicology analysis immediately this was suspected. But her file shows no request for such a test. Dr Fawcus declined to explain why this was never done. Dr Bass simply writes: "It was considered but later ruled out."

Our consultant, Dr Grauls, further noticed this remark noted during the Caesarean section, at 02h52: "Respira-



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tory compromised under general anaesthesia". Dr. Grauls emphasises that with patients suffering severe GPH, the anaesthetist must be very cautious. But when *noseweek* went seeking the anaesthetist involved ... none was to be found. The Theatre Summary Sheet (TSS) in our possession lists Dr Fawcus as the surgeon, assisted by SI Haarhoff, while the place for anaesthetist is left blank. Was the procedure performed without an anaesthetist? "Due to shortage of anaesthetists in the country, in rural areas, surgeons often double as anaesthetists, but that shouldn't be the case at MMH," says Dr Grauls.

Shouldn't be. But was it the case - or did Dr Fawcus simply not bother to find one? Further examination of the file shows more discrepancies; on her admission at MMH, Thembela was listed under Still Birth Clinic. Why? We asked Dr Fawcus. She once again refused the question to the Department's trouble-shooter, Dr Bass, who called it "an administrative error".

Since the Department, and the staff at MMH, have not been forthcoming with convincing explanations, Paul Mkhize has petitioned the Magistrate's Court to open an inquest docket, which has since been granted.

Mrs Petersen Badlen of the NPA is heading the inquiry, while Detective Inspector Jones is the lead detective. Badlen confirmed that a docket has been opened, but required permission from her seniors to answer any more questions. Detective Jones, on the other hand, confirmed that he has had problems getting documents from the MMH, but his investigations are otherwise proceeding well.

He also confirmed that no post-mortem examination was performed. How then did Dr Susan Fawcus come to sign a death certificate stating that Tereza Thembela Matiwane had died of a "natural cause"? Provincial spokesman Dr Bass maintains that it's "normal" for a certificate to be signed stating the cause of death to be either natural or unnatural before any autopsy has been performed, and that Dr Fawcus thus acted correctly.

What Paul and his daughter, Maka-zwiwe, who turned three last March, would like to know, is what really happened to Thembela. Was it true that she was being treated by student doctors when her condition changed to critical? Paul wonders how many other expectant mothers have died "naturally" at Mowbray Maternity Hospital. Finally, is Mowbray Maternity a second tier hospital - or is it simply second class? **W**

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MEDICAL INQUESTS

Backlog mounts

IN NOSE91, WE NOTED THAT THE ENTIRELY avoidable death of 33-year-old Thembela Matiwane during a Caesarean operation should have drawn fire down on the Mowbray Maternity Hospital; almost a year later it still hasn't.

This should come as no surprise to the hundreds, if not thousands, of people across the country who have lost loved ones, in unexplained circumstances, within the walls of medical institutions. They know something of the real difficulties involved in exposing the wrongdoings of medical professionals, who seem to be exempt from public scrutiny. Doctors would rather have cases of malpractice addressed

by the Health Professional Council of South Africa's disciplinary department than see their colleagues subjected to judicial enquiry.

When Detective Inspector Jones of Woodstock police station finished with Thembela's file in June 2007, he handed it over to the NPA's Petersen Badlen, the prosecutor

in charge of inquests in the Western Cape. From her desk, the file has not moved an inch; it has simply joined the pile of other medical inquests awaiting adjudication. No doctor is ready to give testimony that might discredit the surgical hands of Dr Susan Fawcus, or any other doctor for that matter.

A source in the Cape Town Magistrates' Office showed us scores of medical inquest files that have been pending since 1998 because no doctor wants to testify for the state. "We are told that it would be like accusing one of their own of murder," the source told us as he showed us around. "There are over a hundred cases... victims with names and relatives. But even in death, they are further violated by other doctors who protect the culpable ones."

In the past ten years, the source told us, the Cape Town inquest court has concluded only one case, which re-

ceived a ruling a week before *noseweek's* visit to the court. Shortly thereafter, the case file simply disappeared.

The late Thembela's husband, Paul Mkhize, has been visiting the magistrate's court each week in the hope that Magistrate Frietag, who indicated that the matter should be set down for a formal inquest, will one day extract an explanation as to why the mother of his child had to die. But nearly a year later NPA prosecutors have yet to find a doctor to co-operate in helping the judiciary explain the cause of her death, or get Mowbray medical staff to explain how a death certificate was issued stating "natural cause" as the cause of death without an autopsy being performed.

Asked why its members decline to testify in various medical inquests, the Health Professionals Council's communication officer, Tendai Dhlwayo,

replies: "In terms of the law, if a healthcare practitioner is subpoenaed by a court of law to testify, the practitioner has to honour that and testifies. Failure to do so can result in one being arrested."

"Unfortunately, the HPCSA has little role to play here aside from reminding or giving guidance to practitioners that if they are

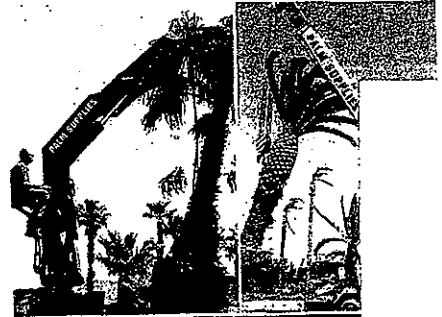
subpoenaed, they should oblige. In a nutshell, one cannot refuse to testify if asked to by a court of law. I hope the above helps."

But subpoenaing doctors doesn't get things very far – prosecutors, who don't have any medical background, are generally not in a position to tell whether a doctor is covering up for his or her colleagues. What's needed is a more neutral stance from doctors towards participating in judicial enquiries – it's the negative attitude to testifying, taken by so many medical practitioners, that sees hundreds of cases left unresolved.

Noseweek hears that the NPA has plans to call on foreign doctors to study various pending cases in order to help the court reach decisions – but, until the justice minister provides funds to do this, medical inquest files will continue to pile up. ▀



Paul Mkhize with daughter Makaziwe



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Thembela's ghost walks

THE SPIRIT OF THEMBELA Matiwane still haunts the corridors of the Mowbray Maternity Hospital, crying out for attention (noses91&102). But nobody is yet ready to take responsibility for the 33-year old pregnant mother's untimely death.

Soon after *noseweek's* second report, Dr David Bass, the Western Cape Health Department medical advisor, wrote dismissing *noseweek's* claims, and alleging that an autopsy had in fact been performed (nose103). Yet neither the health department nor the hospital have been able to provide any autopsy report.

What is available instead is a reconstructed pathology report based on the medical file – similar to the reconstruction commissioned by *noseweek*.

Accompanying it is a sworn affidavit by Dr Linda Liebenberg, a UCT Medical School colleague of Dr Susan Fawcus.

Apparently Dr Liebenberg requested the court file after *noseweek's* first report, and then provided her own medical opinion.

What she says leaves the court unable to prosecute the case – unless expert medical opinion can be found to counter her opinion.

Yet various statements and claims in both the pathologist's reconstructive report and in Dr Liebenberg's affidavit demand careful interrogation.

Dr Liebenberg states, for example, that: "The deceased was a 33-year old black female who presented to Mowbray Maternity Hospital in about the 36th week of her second pregnancy, on 20/04/2004." *Noseweek* can trace no record of an earlier pregnancy, and Thembela's husband Paul Mkhize denies there was one.

Furthermore, while Dr Liebenberg confirms that Thembela was suffering from Gestational Proteinuric Hypertension, her report does not question why Dr Fawcus prescribed induction of labour for a patient in this condition.

A gynaecologist, who prefers not to be named, tells *noseweek* that labour could not have been induced. Induction of labour should not be considered with even a slightly high blood pressure reading. This patient should have been sent right into caesarean. "The doctors should have tried to control her blood pressure."

The gynaecologist also explained that the medics at Mowbray Maternity could have tried to control the blood pressure, instead of being in a hurry to

deliver before full term.

"The medical file doesn't show any such attempts. Drugs for induction of labour would undoubtedly enhance blood pressure – with nearly fatal consequences."

The government pathologist concludes her reconstructive report thus: "The doctors diagnosed that the patient had massive intraventricular haemorrhage of the brain. She was kept on ventilator despite having a very poor prognosis."

"Her family was counselled with regard to her poor prognosis and she was kept on the ventilator for all sedation



The late Thembela Matiwane and baby Makaziwe

to wear off. On 1/04/2004, formal brain stem reflex test confirmed that she was brain dead, the family was counselled and the respirator was turned off. She died at 12h08 that day. Her grandmother signed consent for an academic autopsy to be performed."

Yet, at the time of the alleged family "counselling", husband Paul Mkhize had not yet arrived in Cape Town, and Thembela had no relatives in the city – so who was counselled? As for the grandmother who allegedly signed consent – she passed away years before Thembela was born; did she rise from the dead to sign her name, and on what document did she do so? And where is that "academic autopsy" report?

The search for independent medics to assist the Inquest Court has halted, as the Department of Justice and Constitutional Affairs has not provided the requested funds to "import" medical experts to assist the courts.

With the exodus of frustrated staff from the courts, one wonders how justice will ever be served in cases like this, where doctors appear to be protecting each other, secure in the knowledge that no medical expert will come forward to cross-examine their allegations. ■

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Doubts over Mowbray maternity inquest

got hold of copies of his transactions with SATF, these included a delivery note showing that he had allegedly taken delivery of the vehicle that January – i.e. before he had even made his application. A case has been opened against DTM Helderberg and SATF, both of whom claim to have delivered to him a Nissan Interstar 15-seater vehicle.

Riedewaan is not the only one now faced with threatening demand letters, text messages and phone calls from SATF agents and attorneys. In Cape Town alone there are fourteen applicants who either never received their vehicles or received them several months after purported deliveries – some with thousands of kilometres clocked up on “new” vehicles.

Noseweek has established that the Cape Town Commercial Crime Division of the SAPS is busy investigating at least five suspected cases of forgery. It can also be revealed that the third party signatures on some of the delivery notes in question were made by one Achmat Diedricks, a former chairman of Surran Road Cape Town Taxi Association. The SAPS are currently seeking Diedricks to assist them with investigations.

Noseweek has learnt that SATF CEO Martin Allan Bezuidenhout has repeatedly offered to “buy over the fraud cases”. And Cape Town-based debt counsellor Derry Burge has filed complaints with the Financial Service Board and the National Credit Regulator on behalf of these would-be taxi owners demanding an independent audit on SATF operations.

Ms Burge would not divulge details of her complaint: “This matter is already with various regulators and I would not want to say anything that may compromise their investigations.” She also would not confirm statements made to *noseweek* that the would-be owners who had not received their vehicles have been given an undertaking from SATF, assuring them that the books have been cleared and that they would no longer receive letters or messages of demand.

However, while this undertaking was apparently being given, SATF’s attorneys, Balsillies Strauss Daly, opened at least ten cases against various “lessees” at Cape Town’s Vynberg court, demanding rental arrears. ☐

THE LONG-AWAITED INQUEST into circumstances surrounding the death of Thembela Matiwane at Mowbray Maternity Hospital (noses 98,102&103) finally took place last December, with Magistrate Ingrid Freitag clearing MMH staff of culpability.

Sadly, *noseweek* has a last word – not least in response to Dr David Bass’s crowing that the conduct of MMH staff was found to be “faultless”. And the word is: the inquest did not address the issues repeatedly raised in these pages – *inter alia* that no postmortem was held, and that this fact has been covered up by MMH.

Despite repeated requests, in the face of strong claims that a postmortem was done, *noseweek* was never presented with a postmortem report. Nor, to *noseweek*’s knowledge, was the court inquest presented with such a report. As stated in *nose98*, the cause of death was simply recorded in a pathology report, in August 2007 (forty months after the death). The inquest accepted that Thembela’s death was due to natural causes, and heard evidence to back this up.

Thembela died the day after a caesarian section, without coming round from the anaesthetic, of intraventricular haemorrhage (bleeding in the brain). Without a postmortem, Dr Susan Fawcus, the following day, signed a death notification certificate stating cause of death as “natural”.

But, as stated in Section 56 of the Health Professions Act of 1974:

“The death of a person whilst under the influence of a general anaesthetic or local anaesthetic, or of which the administration of an anaesthetic has been a contributory cause, shall not be deemed to be natural as contemplated in the Inquests Act No 58 of 1959 or Births, Marriages and Deaths Registration Act No 81 of 1963.”

The inquest court did not request a full postmortem report; it seems to have accepted that one was done.

Magistrate Freitag records in her findings: “The matter first came before me in December 2006 when I referred

the matter to the state pathologist for an opinion as to medical negligence. This opinion was obtained in September 2007. The reasons for the delay in obtaining this opinion are not clear.”

Why did the magistrate not summon the same state pathologist, Dr Linda Liebenberg, to clarify the issue? After all it was Dr Liebenberg who had stated in an affidavit that Thembela’s grandmother (who died before Thembela was born) had signed consent for an academic autopsy.

Until evidence to the contrary is produced *noseweek* stands by its claim that this “academic postmortem” was not performed. Contacted for comment, Magistrate Freitag referred *noseweek* to attorney Bishop, who represented Thembela’s family at the inquest. Bishop has not answered any of our calls. Asked why she had not called the detective who had investigated the case, the magistrate replied that if the family were unhappy, “there are legal routes they can take”. *Noseweek* wonders what that would cost the impoverished family.

Meanwhile Dr David Bass of the Western Cape Health Department decided to rub things in – with an entirely innocent party. In a letter to Dr Grauls, who featured in these pages as having aided *noseweek* in understanding certain medical documents, Bass wrote: “In view of your contribution to *noseweek*’s damning criticism of Professor Susan Fawcus and her colleagues, I thought that you might find the magistrate’s findings informative. [...]”

“You will note that both the medical evidence and judicial findings point towards faultless care provided to the deceased by the medical and nursing staff of MMH, and that absolutely no evidence of medical negligence or misconduct could be identified...”

Given that Dr Grauls was not party to *noseweek*’s opinions, as has been repeatedly explained, it’s curious that Bass would want to reproach the good doctor in this manner.

Faultless Dr Bass? Pity the cover-up hasn’t been as faultless. ☐

GODFREY JOHNS

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06142028 S/INSPEKTEUR
G.JOHNS