



**MINISTRY OF POLICE  
REPUBLIC OF SOUTH AFRICA**

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**The Honourable B Mbete (MP)  
Speaker of Parliament  
CAPE TOWN**

**CC: The Leader of Government Business, the Honourable Deputy President**

**CC: Chairperson of the Portfolio Committee on Police**

Dear Ms Mbete

**REQUEST FOR THE PARLIAMENTARY COMMITTEE TO HOLD AN ENQUIRY  
ON MR MCBRIDE'S FITNESS TO HOLD OFFICE.**

1. The above matter and my letter dated 7 September 2016 bear reference.
2. Mr McBride is presently an Executive Director and Head of the Independent Investigative Directorate.
3. He was charged with criminal offences, it being alleged that he was guilty of two counts, of Fraud and defeating the ends of justice. The charges are of such a serious nature that, if found guilty, he may not be fit for the position an

Executive Director and Head of the Independent Investigative Directorate, he is holding. I suspended him in terms of the Public Service Act read with Independent Investigative Directorate Act under which he was appointed. Whilst on suspension, he challenged my authority to suspend him on the basis of alleged IPID independence. The Constitutional Court upheld his contention and preserved his suspension for 30 days, subject to me and Parliament considering whether or not to proceed with disciplinary proceedings. Certain sections of the IPID Act, under which he was suspended and charged with misconduct, were declared unconstitutional.

4. Parliament and I were therefore given 30 days to keep him on suspension and to refer the matter to Parliamentary Committee for action. Attempts to have the matter attended to by the Parliamentary Committee failed. This resulted in him having to resume his duties as Executive Director (30 days having lapsed).
5. After he resumed his duties on 19 October 2016 potential witnesses, especially those employed by IPID were reluctant to give evidence against him in Court for fear of victimisation. His acts of victimisation were demonstrated by the fact that he has since given a notice to charge the person who was acting in his stead with misconduct.
6. As it can be gleaned from paragraph 20 of the transcribed record of the court proceedings attached hereto and marked **Annexure A**, the state prosecutor, Mr Sello Maema told the Court that witnesses who are in the employ of IPID, with Mr McBride as their Executive Director are reluctant or no longer willing to testify because of fear. It must be pointed out that on previous occasions, when Mr McBride was still on suspension, witnesses never showed any reluctance towards giving evidence on behalf of the state. That is why the matter was set down for trial on 01 November 2016.
7. The prosecutor had, under the circumstances, no option but to withdraw the charges against him, without testing the merits of the case. It follows therefore that the criminal case cannot go ahead unless he is suspended from duty.

8. The Parliamentary Committee needs to hold an enquiry into his fitness to hold office as Executive Director in the IPID. Once this process has commenced I will be in a position to suspend him for the alleged misconduct, and the prosecutor will be in a position to reinstate the criminal charges against him.
9. The Constitutional Court has effectively ruled that I can only suspend him from duty once the Parliamentary Committee has commenced the process of his removal from office. In this regard whilst the defect in the IPID Act has still to be rectified by Parliament, the Constitutional Court has ruled that the process must be conducted in terms section 17DA(3) to 17DA(7) of the South African Police Service Act No. 68 of 1995.
10. In view of the foregoing, the Speaker is hereby urged to prevail upon Parliament to start with the process indicated above and in my letter dated 7 September 2016 as soon as possible.

With kind regards.



**NPT NHLEKO (Mr)**  
**MINISTER OF POLICE**

Date: 10 November 2016

**IN THE REGIONAL COURT FOR THE REGIONAL  
DIVISION OF GAUTENG HELD AT PRETORIA**

CASE NO: 14/464/2016

DATE: 2016-07-27; 2016-11-01

**STATE *versus* HUMBULANI INNOCENT KHUBA AND TWO OTHERS**

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**BEFORE:** MR A.C. BEKKER

**ON BEHALF OF THE STATE:** MR D.S. MAEMA

**ON BEHALF OF THE DEFENCE:** 1. ADV NICO SWART  
2. ADV A. BAM SC  
3. ADV M. HELLENS SC

**INTERPRETER:** MS M.A. MAPHODI

**CHARGE:** (SEE CHARGE SHEET)

**PLEA:** (SEE CHARGE SHEET)

**VOL 1**

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This is to certify that, **insofar as it is audible**, the foregoing is a true and correct transcript of the proceedings recorded by means of a mechanical recorder in the matter of:

### STATE v HUMBULANI INNOCENT KHUBA AND TWO OTHERS

CASE NUMBER: 14/464/2016  
RECORDED AT: PRETORIA  
DATE HELD: 2016-07-27 & 2016-11-01  
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**PROCEEDINGS ON 27 JULY 2016**

[11:30]

**PROSECUTOR:** May it please the Court, Your Worship. Your Worship, may I refer the Court to case 14/464/2016, State versus Humbulani Innocent Khuba and two others.

Your Worship, today 27 July 2016 appearances are Presiding Officer Mr A.C. Bekker, Prosecutor G.S. Maema. On behalf of accused 1 is Mr S.S. Madiba, on behalf of accused 2 is Mr T. Mothiba, on behalf of accused 3 is Ms L. Grobler on instructions of Adams and Adams Attorneys.

10 Your Worship, we are asking that the matter be postponed for trial to 1 to 7 November. All three accused persons are on bail.

**COURT:** Accused 1, Mr Madiba do you confirm your appearance, and just to confirm who is going to do the trial, as we have all discussed in chambers. Just place it on record.

**MR MADIBA:** Yes, indeed so Your Worship, I do confirm that I am appearing on behalf of accused 1. J.J. Strydom Counsellor has been instructed to proceed with the trial.

**COURT:** And he is available.

**MR MADIBA:** He is available.

20 **COURT:** Accused 2 Mr Mothiba?

**MR MOTHIBA:** Indeed Your Worship, I am appearing for accused 2 and my instructions are that we would indeed be instructing Counsel and we will find one who will be available on the dates as agreed and as set, and the trial will continue on those dates.

**COURT:** Accused 3?

MS GROBLER: Your Worship, I confirm that I act behalf of accused 3. The trial will be run by Adv M.R. Hellens SC who is available on those dates, and I confirm that the postponement is the 1st to 7th November for trial purposes.

COURT: Excluding of course the 5th and the 6th which is a Saturday and Sunday.

MS GROBLER: Yes, it is the 1st to the 4th and then the 7th.

COURT: The matter is then postponed for plea and trial in this court, from 1 November, 1st, 2nd, 3rd, 4th November and then it will  
10 continue on Monday 7 November for plea and trial. It is on record then, and everyone indicated that they will be ready and be able to proceed on those dates. The dates have then been reserved accordingly in my diary. All three accused then, bail extended; warned for the court 09:00 on 1 November 2016 Court 8. Thank you.

**MATTER REMANDED TO 1 NOVEMBER 2016**

COURT ADJOURNS

[11:33]

PROCEEDINGS ON 1 NOVEMBER 2016

[09:01]

COURT: Proceed.

PROSECUTOR: May it please the Court. Your Worship, may I refer the Court to case 14/464/16 State versus Humbulani Innocent Khuba and two others. Your Worship, the appearances today, 1 November 2016, Presiding Officer Mr A.C. Bekker, Prosecutor D.S. Maema, interpreter this morning is Ms. M.A. Maphodi. Our court clerk is Mr. A. Mongale. Your Worship, in terms of the Defence Counsel I apologise for my scratching of the appearances there, if I could just put it  
10 correctly. I think my colleague Adv Nico Swart appears on behalf of accused 1, instructed by Mr S.S. Madiba.

COURT: Do you confirm?

MR SWART: I confirm my...

COURT: Okay.

PROSECUTOR: In respect of accused 2, Adv A. Bam (SC) who is presently not in court physically, but he is assisted by, he is ably assisted by my colleague Adv Wandile Sisilana.

MR SISILANA: I confirm, Your Worship. Might I apologise on behalf of my [indistinct][00:01:58] He has an allocated matter in the High  
20 Court and he will be here during the course of the day. As the Court pleases.

COURT: Okay.

PROSECUTOR: As the Court pleases, and my colleague Adv Mike Hellens (SC) appears on behalf of accused 3, instructed by Marais. He will [intervenues]



COURT: Ja. Adv Hellens?

MR HELLENS: I confirm that I, Hellens appear on behalf of Mr McBride, instructed by Mr Jaap Marais of the firm Adams and Adams of Pretoria.

COURT: Thank you.

PROSECUTOR: Your Worship, this is an application by the State that the matter stand down. I am asking that the matter stand down until tomorrow, 2 November 2016. Your Worship, I rounded off my consultation on Friday, 28 October 2016. Already on Tuesday or  
10 Wednesday, was it the...

COURT: 26th.

PROSECUTOR: May the Court just bear with me. On 26 October 2016 I received a notification from one of my witnesses who is reluctant to testify in court. I should just mention that Mr Sandile July is the author of a report which commends the investigation this matter, a report by Workmen's attorneys. I think he is one of the directors there, and already I had an indication from him that he is reluctant to testify and he is considering approaching the High Court to set aside the subpoena that we served on him.

20 I indicated at that stage to him that I cannot respond to his application and I proposed that I round off consultations with my witnesses. There are witnesses Your Worship, from the Independent Police Directorate, the IPID where accused 3 is the executive director, who are also reluctant to testify.

There are witnesses from the SAPS who are also reluctant to

testify, so I have almost half of the State witnesses who, for different reasons, being fear, being different view in relation to the admissibility of the report, and the other witness also fear who are reluctant to testify.

Already on the Friday I was in the library dealing with the issues that Mr Sandile July raised with me relating to the admissibility of the report that he prepared, the report we refer to as the Workmen's Attorneys' Report.

Your Worship, this is a matter that is very important for a  
10 constitutional body, that reflects on the independence of the IPID, the independent police directorate. Is that what you call it? Yes. A decision was not taken very likely; a decision was taken in terms of Section 24(3) of the NPA Act by the head of the Priority Crimes Litigation Unit in consultation with the Director of Prosecutions in the Northwest, in North Gauteng, with the advice to the then head of the NPS. We now have an acting head of the NPS.

If anything were to impact on the prosecution of this matter, it is crucial that myself as a Prosecutor in court, I cannot make this  
20 decision that is impacting on the independence of IPID. I cannot make this decision that impacts on the leadership of the NPA without consulting the head of IPID.

I already indicated to Adv Torie that Pretoria is the head of the Priority Crimes Litigation Unit, that there are challenges in the matter and that I would need to approach him together with Adv Nziyathi to map a way forward. Adv Nziyathi is the Director of Prosecutions of

explored. Yes, and my submission with respect Your Worship, is that it, that consultation might result in the matter being finally resolved instead of the matter being provisionally withdrawn. Particularly in the light of the independence of the organisation like the IPID.

Your Worship, if one considers the responsibility of the IPID, it investigates misdemeanours against the South African Police Service, which is a very important arm of the administration of justice.

The Independent Police Directorate is a necessary stakeholder with the NPA in forward handling of matters of this nature, so if this  
10 matter is not handled in a manner that defeats the responsibilities that all the parties have in the administration of justice, it might in the future lead to challenges within the sensitive stakeholder relationship that all the parties in the administration of justice are trying to take part in.

My submission with respect is, I plead on the Honourable Court to allow the NPA to engage properly, because there are consequences towards whatever that will come out of this case. My submission with respect is the matter had been set down for five days. One day to engage will not, when one weighs it with the interest that  
20 is at stake, will not prejudice the accused to such an extent.

I must just mention that I thought I will be able to meet Adv Torie Pretorius this morning and there is a prior planned workshop that he is Irene. It is within Pretoria, so I was instead of being late for the court process here, I felt let me rather come and ask that the matter stand down.

If it will be so Your Worship, alternatively the matter stand down until today later in the afternoon, around 14:30, 15:00 so that those necessary engagements can take place. As the Court pleases.

COURT: Thank you. Response to the application for accused, I do not know who is going to start?

MR HELLENS: Your Worship, with your leave, we have agreed between the Defence Counsel and although I represent accused 3 and subject to your leave, I would speak first and we would also ask when the witnesses come, if they ever come, that the order of cross-  
10 examination be 3, 2, 1.

COURT: Okay.

MR HELLENS: Your Worship, with your leave, if I may address you on this postponement.

COURT: Yes.

MR HELLENS: My learned friend is talking about a matter that was postponed for trial on 27 July and it is a matter of national importance, where as a matter of public knowledge, and I place on record that it is not public knowledge, that the Minister of Police unlawfully suspended the Head of the Independent Investigative Directorate where the  
20 Constitutional Court spelled out in trenchant terms the sacred independence of IPID and that the very parties who are investigated by IPID, including the minister, did not have the power to suspend an independent investigating body.

Parliament was given the opportunity to dismiss Mr McBride because it was only parliament that has that power and they chose not

to. He is in his position, and a very important position, as the Executive Director of IPID. He is taken from his office where he is dealing with pressing issues; issues that had been very much in the news from the way the #Feesmustfallists have been dealt with by the police. Rightly or wrongly, it is being investigated and other more major investigations, including things that happened recently at SARS, he is not in his office, he is here, because the State in their power have brought him before this Court.

Now they would seek on the excuse, multifaceted excuse, to  
10 “steal” 20 percent of the trial time which he would like to use to vindicate himself and show himself to be innocent. What is the multifaceted excuse?

1. The immediate superior of my learned friend has chosen to attend a workshop in Irene, placing some workshop above the importance of attending to his duties and not delaying this court, and showing disrespect to this Court. I pull no punches in that regard. If Mr Torie Pretorius is supposed to make a very important decision, apparently about the withdrawal of charges, and he chooses to go to a workshop in Irene, he abandons his  
20 responsibility in that post.

2. Secondly, I have never heard, and I am sure Your Worship has never heard, of witnesses indicating to the State that they have views on the admissibility of their evidence. Now the witnesses are giving legal advice to the State. My learned friend says that the members of IPID do not want to give evidence. There are no

witnesses from IPID in the docket, I assure you. Not a single witness from IPID. South African Police witnesses, maybe.

But whether they are with IPID or not with IPID, if they have been placed under subpoena, my learned friend is entitled to enforce the subpoena. If Mr Sandile July chooses to bring an application in the High Court, well, let him do so. He has not done so. I have never heard of the State taking advice from witnesses as to the admissibility of their own evidence.

Then going to the library on Friday to have a look at whether  
10 what the witnesses advised the State, this is what the tail is advising the dog, about the admissibility of that which the dog is in charge of (no pun intended with regard to Mr Maema, it is the phrase, the tail wagging the dog.)

So we have an absurd position that the State have abandoned their responsibility to make up their own mind about the admissibility of evidence; the State apparently thought the evidence was admissible. We by the way Your Worship, have prepared, and the evidence is not admissible, and that is one of the bases of our defence.

20 But you only have to receive the docket to be hit squarely on the forehead with how on earth could you ever lead the evidence of Sandile July. It is a complete hearsay document with a conclusion, which is an opinion on top of it, which opinion is the opinion that this Court would be called upon to form at the end of the trial.

So Mr Sandile July according to the State, were always going to

come and say, look, I have checked this all out sir. These are the facts, although I know nothing about it, and by the way, I have concluded guilt on the part of these parties. Trust me, I am a doctor. So it is an absolute exercise in futility, either if you called Sandile July or if you did not call Sandile July.

I do not understand my learned friend's need at this late hour to go and see his superior to map out what to do. He has told you that he does not have witnesses. He has in effect told you that although he has all the powers of subpoena under our law, he chooses not to  
10 enforce the subpoenas, have the witnesses arrive under subpoena, under force of law, and call them and let them claim whatever they claim. Privilege, self-incrimination, all of these defences to give an evidence that a witness can give.

He chooses to roll over and say he has got no witnesses. I challenge my learned friend in reply to tell us whether he has a single witness here today that can give evidence, and admissible evidence. The answer will be no. If he has, well, we would like to plead and start. If he has not, we would like to plead and start, and he can readdress you on the question of postponements at any time later.  
20 They will be opposed, but at this stage when he starts his preparation, starts to hear witnesses, Tuesday or Wednesday, he is not sure, tells me he is seeing his superior as he told you, on Friday.

If the superior does not give him an instruction or advice and he has all of this information available to him on Friday, and the superior goes to a workshop, a workshop on what? What is more important

than having the independent head of the Independent Police Inspectorate, in court, and he is fiddling while Rome burns, it is not an excuse.

We oppose the postponement. Clearly the State are not in a position to proceed and are looking for an excuse to reverse themselves out of an intolerable position that they got into, and fell into willingly, when the Minister of Police, who is the complainant in this case, by the way, chose to exercise powers that he does not have; unconstitutionally wielded the heavy hammer, and has been put  
10 back in his place by the Constitutional Court.

We are ready to proceed. We are ready to plead. I have prepared a statement in terms of Section 115 of the Criminal Procedure Act, and we have five days before us in which my client wishes to demonstrate his innocence and the absence, complete absence of a case against him by the State.

So we oppose the postponement. When my learned friend says stand down till 14:30 or 15:00, he means the whole day, because that is the whole day. We oppose the postponement, Your Worship. Alternatively we ask to plead and my learned friend can repeat his  
20 application.

MR SWART: As the Court pleases, my learned friend asked me to go first.

COURT: Just move over to the microphone, unless you claim to have a very strong voice that everyone, ja.

MR SWART: Your Worship, thanks a lot. I appear on behalf of



accused 1, I can just repeat that. My Lord, I am not going to recite what my learned friend for accused 3 has told the Court. I totally agree with all the aspects that he has covered. I want to specifically tell the Court what prejudice my client will be suffering if this matter stands down, or is postponed for a later date.

Your Worship, my client knows about this date since July 2015 when the matter was postponed for today. He has been in 2014 suspended in March 2014, suspended because of the investigation into this trial and charges that is laid on him today. He was dismissed  
10 from his work during September 2014; he was a provincial head of Limpopo for IPID.

My Lord, I mean, he also has a very important job description and he is not one that is suffering, prejudiced in that he might suffer an injury because of this matter. He is already suffering injury. He has taken his dismissal to the Labour Court and it is still hanging; they have not given him a date of when this matter will be heard.

My Lord, as the State Prosecutor now came and told the Court that his witnesses is not willing, or say that they do not think that they want to come and testify as their testimony will be illegal or not be  
20 evidential material before the Court, My Lord, it just shows on what lack of evidence the Prosecutor got against my client.

My Lord, it is a flimsy case according to me. We have prepared on this matter for the past two weeks and have also drawn up a plea. We are at this stage able and willing to plea. My client is already suffering prejudice as I can mention since the beginning of 2014, and

he wants this matter to be finalised because it is a sword that hangs over him, his reputation as well as his future work that he might have with anybody inside the police Your Worship.

That is all I can say. I can just say that we oppose the application. We have got five days for trial. I do not even think that will be enough if the trial really starts, but it will definitely not be enough if we start tomorrow or the day thereafter. As the Court pleases.

COURT: Accused 2?

10 MR SISILANA: Thank you Your Worship. Your Worship, we also oppose the application for a postponement. Your Worship, my client Mr Sesoko lost his job as a result of the charges which are to be tried in this court, on 17 August 2016.

If the postponement is granted and the matter proceeds tomorrow, there is a grave danger that the matter may not finish by the 4th, and that my client will not be able to vindicate himself in the Labour Court where his dismissal application is going to be heard.

In other words, he needs to know very quickly what his position is. He is ready to plead; he has got a Section 115 statement. He is  
20 not guilty. Any postponement is bound to prejudice him.

My learned friend for the State referred very ominously to what might happen if he met his superiors today. He says there might be a provisional withdrawal. Those are terrifying words for my client, because any withdrawal should be complete if it takes place at all.

What we will be faced with is a long delay. We will come back

here tomorrow. My learned friend will say to you that there has been a provisional withdrawal. The cloud over my client will not have lifted. He will not get his job back. On those grounds we associate ourselves with what has been said on behalf of the other two accused. As the Court pleases.

COURT: Thank you. State, reply? Can I just get clarity. Did you meet Adv Pretorius on Friday or not? Did you speak to him on Friday?

10 PROSECUTOR: No, I did not. I did not meet him, we spoke over the phone.

COURT: What was the nature of that discussion in terms of the proceeding of the matter?

PROSECUTOR: No, the nature of the discussion was, I was going to prepare a document on the strength of which I would convince him then to commence his function in respect of Section 24(3) of the NPA Act, which is to consult the Director of Prosecutions of North Gauteng as well as the Acting Head of the National Prosecuting Service.

COURT: Okay. Yes, proceed then.

20 PROSECUTOR: Your Worship, my colleagues are talking about a provisional withdrawal. This process might lead in the matter being finally withdrawn. That would lead to the settlement of this. If the matter is removed from roll, it is provisional. It does not prevent the State from engaging further and finalising the matter finally.

The point I am trying to make is, and I see my colleague laughs when I say so. When the matter is withdrawn you do not want you

know, a sword hanging that the matter might come back. This is what I am trying to prevent. I am trying to get to the finality of the matter by making sure that all the consultations take place prior to...

Your Worship, what else can I do when I am hamstrung without witnesses? I can withdraw, but to make the withdrawal permanent, it is crucial that I be afforded the opportunity to consult in terms of Section 24(3) of the NPA Act.

Your Worship, let me just deal with a few issues that my colleague for accused 3 raises. Disrespect for the Court and  
10 abandonment of responsibility. I mean, how on earth can one begin to say that there is disrespect for the Court from a court official?

Adv Torie Pretorius gave me an opportunity to look at the matter and to make a proper representation to him. He does not elect to go to a conference, it is part of his responsibilities, but nothing stops me from going to him, stopping the conference or his engagement in the conference, and dealing with this important issue. But it does not help that I see him without a document, without a synopsis of what the challenges are with the view to have the matter permanently resolved.

My colleague talks about the, maybe let me not go to the  
20 animals, but really, it is a view that the witness has, and if the, Your Worship if I were to come here and bring witnesses under compulsion of a subpoena, witnesses that I am of the view that are competent and compellable, this will amount to a situation where I can already see what the outcome is, but I am coming to court and wasting the Court's time and allowing the Court to deal with the, what do you call it, the

invincible, or is it the predictable, so I am trying to prevent that situation by dealing with it head on with the view to have the matter resolved finally.

When my colleague says there is not a single witness from IPID, I do not think he is being honest because he has the copy of the docket and he has a list of witnesses. Your Worship, what does he want me to do? Does he want me to come to court and say, Mr Pieter Brown who is a witness, the statement of whom you have as A4, is scared? No Your Worship, he is not being, he has been very busy  
10 [indistinct] so there are witnesses from IPID who are reluctant and I will not stand here and mislead this Court and say *ja*, witnesses from IPID when there are not.

I take great exception to anybody who tells me that I am dishonest to the Court when I say there are IPID witnesses, when in fact there are and he knows there are witnesses from IPID.

The minister being a complainant, Your Worship maybe let me not say anything about that, because the minister is not a complainant. My colleague has the docket and there is no minister where who is a complainant.

20 Your Worship, let us deal with the prejudice I understand, and that is why I am trying to mitigate it and say let us stand it down to sometime during the course of the day, because I appreciate as a court official the prejudice that there is.

But the question is, and I add the Court. The question Your Worship is, is the request that I am having unreasonable in the light of

the likely prejudice against the accused. Your Worship, may I just recollect a minute to formulate it?

COURT: *Ja*, sure.

PROSECUTOR: I have spoken about the finality. There is just an aspect with which my English is evading me. Your Worship, let me just recollect myself; I will find it. Thank you.

COURT: *Ja?*

PROSECUTOR: Your Worship, I do not want to repeat what I said in chief, and this is why I took a minute just to reflect upon what I want to  
10 say.

My submission, with respect Your Worship, this is a decision that was not taken lightly. It has an impact on the independence of the Independent Police Investigative Directorate and I erred to exercise discretion to offer me, not 20 percent as my colleague says, but an opportunity, however pressing, to explore the possibility.

Your Worship, you asked me a very pertinent question. You said, what do you expect would happen when you are hamstrung, when you do not have any witnesses. My colleague also says, produce a single witness here. Your Worship, it will also be  
20 irresponsible for me when I am aware that I am bringing an application of this nature, to ask all the witnesses to be lining here to be available.

The witnesses are available. They are a phone call away. My submission, with respect, is the outcome might be a withdrawal, yes, but I am asking for an opportunity to make the withdrawal final by engaging the leadership of the NPA in terms of Section 24(3) to

prevent, to give accused 3 an opportunity when the matter is finally given an axe, to execute his responsibilities in terms of the IPID Act and to do all the important tasks that my colleagues spoke about. The fees must fall and the debacle at SARS, whatever. Those are important tasks, but I am urging the Court to allow me just a few minutes that I deal with that aspect, to make sure that he can exercise those functions.

COURT: So we are down from a day now to a few minutes, so how many minutes do you need now?

10 PROSECUTOR: No, no, I am saying, it is impossible.

COURT: No, that is your own words, I am not [intervenes]

PROSECUTOR: It is impossible.

COURT: You said until tomorrow, then you said later today, now you are referring to a few minutes. That is why I am asking you how many minutes do you need now. It is your own words, I am not trying to...

PROSECUTOR: Yes, yes. No, no, I am, it is figuratively referring to minutes, but obviously it will require me to drive. I have a document ready. It requires me to drive to whatever, what is...

COURT: To Irene.

20 PROSECUTOR: To Irene to speak to Torie Pretorius, for Torie Pretorius to adjourn and to speak to... He has made those people available today to deal with those tasks. That was the task, some of the reasons why I spoke to him on Friday, to make sure that when I come to him you know, it is a domino effect. The arrangements have been made to make sure that valuable time, which I respect of this

Court, is not unnecessarily wasted. As the Court pleases Your Worship, I have dealt with it. I cannot find any... Thank you Your Worship.

COURT: Anything else from anyone?

MR HELLENS: No.

### RULING

COURT: Yes. The matter has been set down for a week for evidence. I am really annoyed by the fact that it seems that our, or the possibility that we might proceed is virtually nil. We set down this  
10 trial already in July for five days.

It is especially annoying, because often the Regional Courts are blamed for being not productive, not finalising matters, *ad nauseum* we must hear this, especially also from the NPA's side, and this is once again an example of a matter which has been set down on our rolls, only to find that this matter is not nearly trial ready.

This is not the first time. There are many other instances on the various rolls in the Pretoria Regional Court that this is happening, and I find it totally unacceptable. I heard what the Prosecution has said. I will bend backwards and maybe in the process hurt my back to a  
20 certain extent, and I will allow you to consult. I will give you until 13:00. That is all I give you.

At 13:00 we will re-adourn and you can make known what the decision is. As I see it, I do not foresee this matter proceeding, but let us give you an opportunity. You are the Court Prosecutor. I understand your position in terms of consulting with your seniors. For



that purpose I would grant you that opportunity, but I am not going to postpone the matter until tomorrow for that purposes, definitely not.

In hindsight maybe we can make it 14:00, but not later than 14:00. The matter will stand down till 14:00 for you then to consult with Adv Pretorius. I would also prefer the matter rather being withdrawn by the Prosecution than me striking it off the roll. That would I think also not be the best way to deal with this matter.

If the Prosecution is feeling that they do not have a case, so be it. Let them rather withdraw due to the reasons advanced than being  
10 simply struck off the roll, because I am definitely not going to postpone this matter outside the five days for another trial date next year in the hope that the witnesses may have a change of heart. That is not going to happen in this matter. The matter will stand down then until 14:00. Thank you. The accused may stand down until 14:00.

**COURT ADJOURNS** [09:41] ~ ~ ~ [13:56] **COURT RESUMES**

**COURT:** Let us go on record. Be seated, accused. Proceed.

**PROSECUTOR:** May it please the Court. Your Worship, the matter stood down to 14;00. May I thank the Court for the indulgence to finalise the consultations with the senior management of the NPA.

20 Your Worship, after consultations with the State witnesses, it had become apparent to the State that a prosecution would no longer be viable in this matter, and the State withdraws the charges, all the charges against all the accused persons.

**STATE WITHDRAWS ALL CHARGES AGAINST ALL ACCUSED**

**COURT:** The charges are then withdrawn against all the three

accused. Thank you. You may stand down.

MR HELLENS: As the Court pleases.

COURT ADJOURNS

[14:00]

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