
**AFFIDAVIT IN THE SECTION 194 INQUIRY INTO THE REMOVAL OF THE
PUBLIC PROTECTOR ADV. B. MKHWEBANE**

I, the undersigned,

NCHAUPE PETER SEABI

do hereby make oath and say that:

1. I am an adult South African male pensioner, 80 years of age, who resides in 424 Zone 4, Seshego, Polokwane, Limpopo Province.
2. The facts herein contained are within my personal knowledge except where it is evident from the contents that they are not.
3. The incident regarding my being physically assaulted by Mr Spheelo Samuel happened in 2011 when I visited the office of the Public Protector in Polokwane to launch a complaint on behalf of my elderly mother. I am 80 years old now. The complaint was that my mother became ill with asbestosis due to the Government having used asbestos roof and also an occupational complaint against the Department of Labour in terms of Compensation of Occupation injuries and diseases Act, Act 130 of 1993, due to the fact that my mother used to work at Penge Mine where they worked with asbestos products.
4. Mr Samuel was at the time the Provincial Head of Public Protector South Africa in the Limpopo Province.

S.P



5. My file was first handled by Ms Matlou. Months passed without hearing anything from the PPSA. I then visited the office on a number of times until my file was escalated to Mr Samuel who promised to assist me. He reassured me that all will go well and he would soon have good news for me. However, Mr Samuel also failed to assist me in that I had to frequently visit his office to no avail. I even approached the Legal Aid Board for assistance. They informed me that they could not assist me if the matter was still pending at the PPSA. A certain Mr Tsebe from the Legal Aid Board spoke to Samuel over the phone in my presence and made an appointment for me for the 14 November 2011. Mr Samuel promised that he would assist me.
6. On 14 November 2011 I then visited the office of PPSA as arranged with Mr Samuel. Ernest, the filing clerk welcomed me and to alerted Samuel that I had arrived. After a long time the receptionist said Samuel said I should have made an appointment he would not see me. I then walked into his office and took a seat. By then, Mr Samuel was busy on the phone. When he finished on the phone and saw me there, he asked me what I was doing there. He was very agitated and visibly angry. I asked him as to why would he not attend to me after he had promised when I was with Mr Tsebe. Mr Samuel then shouted loudly at me saying "*get out of my office*", "*Who said you can come in here?*" I reminded him that Tsebe had made the appointment with you. He again shouted, "*get out*"

of my office". Mr Samuel then got out of his chair and approached me. He grabbed the chair that I was sitting on and I stood up. He then hit me and pushed me against the sliding door so hard that the whole structure of the door fell to the balcony. He grabbed me and tried to pull me into the balcony while busy assaulting me. I also managed to pull him with me towards the balcony so that should I fall out of the balcony, he should fall together with me. I then grabbed him with my left hand around his neck.

7. Mr Samuel's colleagues came and separated us.
8. I was injured on my shoulder when he pushed me against the sliding door and for almost a year I suffered excruciating pain. I even had to get medical assistance at Seshego hospital. I attended physiotherapy for a very long time because the pain would not go away. I will provide a J88 form. I have not yet completely healed to date, when it is cold, I still experience pain.
9. I did not get the opportunity to watch Mr Samuel's testimony to the Committee. I have been given a brief summary of the gist of the version of events which Mr Samuel told to the Committee and it is a complete lie and deliberate fabrication of what happened.
10. On the same day, I immediately went to the Police Station to lay charges against Mr Samuel. After taking my statement, the police officer said he

is going to arrest him. As we were about to go, Mr Samuel and four other people (his colleagues) arrived, Samuel already had a written statement and gave it to another Police officer. My officer and Samuel's officer got together and caucused, my officer then came to me and said words to the effect that we were adults and Mr Samuel works at the office of the Public Protector, therefore speak as adult otherwise he would lock us both up. Mr Samuel left, they kept me at the police station until 16h00.

11. On the 15 November 2014, the date of first appearance in court, I was in Court, Mr Samuel was not there. The control Prosecutor informed me that there was no case against me and that they decided not to prosecute. I then told them to prosecute me so that I could tell what happened. I begged them to proceed with the case against me, I pleaded that rather than striking both cases off the roll, rather let the case against me proceed. They did not listen to me. The case was never on the roll.
12. I then escalated the matter to the offices of the NPA in Pretoria, I was assisted by a certain Mr Pretorius who told me that he would liaise with NPA Polokwane and I should get a response within two weeks. Each time I would go to Pretoria NPA offices. Mr Pretorius then retired and my matter was allocated to Mr Goerge Baloyi who informed me that the Senior Public Prosecutor, Ms Kgoeleng would assist me in Polokwane. I then went to the Chief Prosecutor, who then enrolled the case and gave me a date.

S.R

MP 745

13. On the date of the hearing, Mr Samuel was not in court and a warrant of arrest was issued against him. From there I heard nothing from the NPA.
14. I went to do inquiries from the Investigating Officer and found that the docket was lost. It took two more years for the docket to be reconstructed, I suspected that Ms Kgoeleng was a friend to Mr Samuel, the reason being firstly, that he was always not co-operating with Mr Baloyi in Pretoria, when she was dealing with the matter, secondly, the docket "*got lost*" in her office after the matter was postponed and thirdly, she was refusing to take a copy of my J88 when they were reconstructing my file. This is due to my efforts of always visiting the NPA offices in Pretoria for help. I travelled to Pretoria on countless occasions as I was determined to see justice being done.
15. The duplicate docket was opened by Mr Ragophala, I was allocated a court date, however, Mr Samuel would not attend, it took about three years of postponements because the Public Prosecutor would always say that Mr Samuel was ill on several occasions.
16. I then wrote to the previous Public Protector, Ms Madonsela. She visited Royal hotel in Polokwane for a road show and was consulting members of the Public. I also went there and upon arrival, I found that Mr Samuel was the program director, he would call people in to see the PP and there was a list but deliberately skip my name. I became agitated and spoke in a loud voice that Mr Samuel is the culprit that I want to complaint to the

S. R

MS

PP about. Ms Madonsela just looked at me and also ignored me. She heard me when I said I needed to launch a complaint against Mr Samuel. I shouted out loud and everyone could hear. She then said she would see me after her interaction with journalists. After engaging with them, she left in a hurry saying that she is rushing to Thabazimbi without attending to me. I felt humiliated and frustrated all over again.

17. On 6 October 2017 the matter went finally on trial. Mr Samuel called two or three witnesses. I had no witness. The magistrate found that Mr Samuel contradicted himself during giving his testimony. Mr Samuel was found guilty and sentenced to two months imprisonment or payment of a fine of R2000,00 half of which was suspended on condition that Mr Samuel is not found guilty of the same offence. Mr Samuel paid R1000,00.
18. Mr Samuel launched an appeal but he later abandoned it and never prosecuted it. There is currently no appeal pending. The criminal conviction stands.
19. I issued summons against the Office of the of the Public Protector as the first defendant and Mr Samuel is the second defendant. I am suing the defendants for damages in an amount R350 000.00 for unlawful assault, pain and suffering and *contumelia*. The defendants raised a number of Special pleas in this matter. First, they issued a special plea of condonation for the late filing of a notice in terms of section 3 of The

S.A

MS

Institution of Legal Proceedings against Certain Organs of State Act, Act 40 of 2002. Judgment was in our favour, the court ordered that the matter be condoned. PPSA then raised a special plea of prescription, the PP's office withdrew it. Then they raised another special plea of vicarious liability, which was ruled in our favour. The attorneys then requested indulgence to obtain settlement instructions, However when on 06/12/2021 the PP's office said his instructions are to resile from admissions made in the Pre-trial conference. On 06/06/2022. The court granted them order to resile.

20. The PPSA then raised a special plea of prescription which was set down and heard on 12 September 2022. Judgment has since been granted in my favour on 24 January 2023.
21. I feel very hurt and disappointed about the fact that Mr Samuel is being protected but I as a member of the public do not receive any protection from anyone. Mr Samuel assaulted me, yet he is back at work. I do not understand how a Public Protector representative can assault an elderly man like myself and he is still at work and also earning a high salary. My mother passed away with a sore heart because of the treatment we received from Samuel. She passed away without having received her COIDA benefits.
22. I am satisfied that PP intervened and that she assisted me to get justice, unlike Ms Madonsela, who did not fire him. I want to know why did she

S.R

718

- 8 -

not fire him or discipline him after she heard me say that Mr Samuel is the culprit. Ms Madonsela did not care.

23. The office of the Public Protector is there to protect us not assault or humiliate us.

24. Mr Samuel had no reason to be disgruntled and bear a grudge against the Public Protector simply because she intervened on behalf of a member of the public. That was the correct thing to do for any leader in her position.

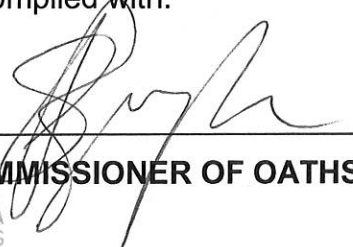
CONCLUSION

25. As a member of the public, who was assaulted at the office where I am supposed to be protected, my heart is still very sore.



DEPONENT

I hereby certify that the deponent has acknowledged understanding the contents of this affidavit, which was signed and sworn before me at Polokwane on the 27th day of January 2023, the regulations contained in the Government Notice R1258 of 21 July 1972, as amended, and Government Notice R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

SOLOMON RANGOANASHA
PRACTISING ATTORNEY & COMMISSIONER OF OATHS
30 CHURCH STREET, POLOKWANE, 0699
P.O. BOX 6173, POLOKWANE NORTH, 0750
TEL: 015 291 3783 / 015 291 3785
CELL: 082 009 5946