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**MINISTRY: JUSTICE AND CORRECTIONAL SERVICES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 2952**

**DATE OF QUESTION: 09 SEPTEMBER 2022**

**DATE OF SUBMISION: 23 SEPTEMBER 2022**

**Mr A G Whitfield (DA) to ask the Minister of Justice and Correctional Services:**

1. Whether, with reference to his reply to question 1791 on 5 August 2022, and with regard to the status of each prosecution relating to the July 2021 uprising, what are the specific reasons and further relevant details, besides insufficient evidence, for withdrawing the charges against Mandla Mahlangu, Sibusiso Mavuso, Mbonani Clarance Tabane, Joe Bernington Mabaso and Montsamai Phineas Letsoalo, since the persons had already been arrested with cause during the uprising;
2. Whether (a) any evidence and/or docket was lost, destroyed and/or tampered with and/or (b) the chain of command was broken which led to the withdrawal of the charges; if not, what is the position in each case; if so, what are the relevant details in each case;
3. Whether he has found that any withdrawal of any of the cases was due to negligence on the part of the SA Police Service (a) in the handling of evidence and/or (b) the chain of command being broken; if not, what is the position in each case; if so, (i) in which cases and (ii) how in each case?

**NW3585E**

**REPLY:**

1. Additional reasons for the withdrawal of cases *infra:*
2. **Mandla Mahlangu**

It was alleged that the suspect posted a video inciting violence. However, the person who took the video could not be traced. The matter was accordingly withdrawn by the Director of Public Prosecutions: Mpumalanga Division.

1. **Sibusiso Mavuso**

It was alleged that the suspect went to Westonaria Pick ‘n Pay and demanded that the manager close the store. He was not wearing a mask, contrary to the Disaster Management Act. It was further alleged that he posted a message on Facebook that allegedly incited violence.

The Director of Public Prosecutions: Gauteng Local Division cited the following reasons:

* The conduct at Pick ‘n Pay did not comply with the definition of the crime of intimidation. There was however a failure to wear a mask. The witnesses were consulted and contradicted each other materially on the failure to wear a mask.
* The Facebook post does not amount to any criminal offence at all. It is open to different interpretations and as such there is insufficient evidence with no reasonable prospects of success.

1. **Mbonani Clarance Tabane**

It was alleged that the suspect called for the blockading of roads and burning of tyres. The Director of Public Prosecutions: Gauteng Local Division reported that:

* The young witnesses and the informant refused to submit statements.
* No witness heard the accused instigate anyone.
* The matter did not relate to the July unrest but a service delivery protest.
* The matter was then withdrawn due to insufficient evidence.

1. **Joe Bernington Mabaso**

Allegedly charged for incitement based on information received from a whistle-blower. The Director of Public Prosecutions: Gauteng Local Division provisionally withdrew the matter pending a statement from the whistle-blower.

Investigations is still underway and guided by the NPA.

1. **Montsamai Phineas Letsoalo**

It was alleged that the suspect allegedly instigated looting. The matter was provisionally withdrawn by the Director of Public Prosecutions: Free State pending outstanding digital forensic investigations by the DPCI. The case docket has not yet been resubmitted to the prosecution for a decision.

1. In the **Sibusiso Mavuso** matter (as mentioned in 1(b) above), the detectives recently advised that the video footage of the suspect at Pick ‘n Pay had gone missing. They have been instructed to continue their search thereof.
2. There is no indication that any of the matters were withdrawn due to negligence on the part of the South African Police Service in the (a) handling of evidence and/or (b) the chain of command being broken.

**END**