

SUPPLEMENTAL SWORN STATEMENT

I, the undersigned Paul O'Sullivan ID No. [REDACTED] 085 state under oath as follows:

1

This is a supplemental sworn statement, to the docket I opened under Rosebank CAS 72/11/2011. The reason for the supplemental sworn statement, is to lay a further charge of Defeating the Ends of Justice against Mr Arthur Joseph Peter Fraser, "Fraser" as is set out below, in details of what I consider to be a new act that has come to light.

Background to the New Act

2

On 2022-11-18, when I attended at Rosebank Police Station to open the above-mentioned docket against Fraser, the docket ONLY pertained to my allegations that Fraser had unlawfully and intentionally fabricated untruthful allegations, with the sole intention of defeating the ends of justice or obstructing justice, to satisfy his own corrupt agenda, which was intended to assist a person or person unknown to me, to unseat, or overthrow the sitting incumbent President of the Republic of South Africa, namely President Ramaphosa.

3

To avoid prolixity, there is no need for me to go into details in respect of those allegations, as there are sufficient details in my sworn statement of 2022-11-18. I have also set out details of what I consider to be Fraser's motive in pushing to have the President unseated, or overthrown. Again, I do not need to repeat same here.

The New Act - Upon Which I wish to add a further charge against Fraser

4

On 2022-11-21, which was the Monday following my opening of the Rosebank Docket. The full bench of Supreme Court of Appeal of South Africa, sitting at Bloemfontein "SCA", issued a final judgment No. 159, in the Appeal by The National Commissioner of Correctional Services and Jacob Gedleyihleksika Zuma against the Judgement of the High Court of South Africa, Pretoria in the matter of *Democratic Alliance v National Commissioner of Correctional Services and Others and Two Similar Cases*. For the avoidance of doubt, I attach a copy of the SCA Judgement No. 159, which I have downloaded from the SCA website at:

<https://www.supremecourtofappeal.org.za/index.php/component/jdownloads/send/38-judgments-2022/3920-national-commissioner-of-correctional-services-and-another-v-democratic-alliance-and-others-with-south-african-institute-of-race-relations-intervening-as-amicus-curiae-33-2022-2022-zasca-159-21-november-2022?Itemid=0> I shall hereafter refer to this as the "SCA Judgement".

5

I attach a copy of the SCA Judgement hereto, and request that same be treated as *prima facie* 'Evidence' in terms of Section 212B of Act 57 of 1977, The Criminal Procedures Act. I now wish to refer to certain extracts thereof, as follows:



5.1

On page 2, of the SCA Judgment, it stated the following:

Bench: DAMBUZA, MAKGOKA, PLASKET and MABINDLA-BOQWANA JJA and GOOSEN AJA

Heard: 15 August 2022

Delivered: 21 November 2022

Summary: Correctional Services Act 111 of 1998 – medical parole – s 79(1) – role of the Medical Parole Advisory Board (the Board) – powers of the National Commissioner of Correctional Services (the Commissioner) – whether the Commissioner entitled to release an inmate on parole despite the absence of a positive recommendation of the Board.

The underlining is mine.

5.2

On page 4 of the SCA Judgement, it stated the following:

[2] Mr Zuma started serving his sentence on 8 July 2021. On 5 September 2021, the first appellant, the National Commissioner of Correctional Services (the Commissioner), released him on medical parole. Shortly thereafter, the first respondent, the Democratic Alliance, the second respondent, the Helen Suzman Foundation, and the third respondent, Afriforum NPC (Afriforum), launched separate applications in the Gauteng Division of the High Court, Pretoria (the high court), challenging the Commissioner's decision on various grounds in terms of s 6 of the Promotion of Administrative Justice Act 3 of 2000 (the PAJA). Their applications were consolidated and heard together by the high court.

The underlining is mine.

5.3

Further on page 4 of the SCA Judgement, it stated the following:

The order of the high court

[3] On 15 December 2021, the high court reviewed the decision of the Commissioner, set it aside, and substituted it with one rejecting Mr Zuma's application for medical parole. It consequently directed that Mr Zuma be returned to the custody of the Department of Correctional Services (the Department) to serve out the remainder of his sentence of imprisonment. The high court also ordered that the time Mr Zuma was out of jail on medical parole should not be considered for the fulfilment of the sentence of 15 months imposed by the Constitutional Court. This order was sought by the Helen Suzman Foundation.

[4] In addition, the high court issued a declaratory order, at the instance of Afriforum, that in terms of s 79(1)(a) of the Correctional Services Act 111 of 1998 (the Act), read with regulations 29A and 29B promulgated in terms thereof, the statutory body to recommend whether medical parole should be granted or not is the Medical Parole Advisory Board (the Board). With the leave of the high court, the Commissioner and Mr Zuma appeal against the whole order.

The underlining is mine.

6

Thereafter, in the SCA Judgement, the above sections deal with the history of the release of Zuma, the finding by the Pretoria High Court that Fraser had acted unlawfully and then set aside Fraser's unlawful conduct, and the fact that the Commissioner, albeit, Fraser had by then vacated his office, so I must assume it was the *de facto*, or Acting Commissioner that replaced Fraser, who took the High Court decision on appeal. For the avoidance of doubt, the additional charge I am laying is NOT against the *de facto* or Acting Commissioner, it is against Fraser, for his conduct whilst he was the Commissioner of Correctional Services.

7

I do not propose to quote from the SCA Judgment chapter and verse. It serves no point. However, it is important for me to persuade the State, i.e., the National Prosecuting



Authority, “NPA” that Fraser has a case to answer, which is what I will now do. I have already set out in Paragraph 5, what I consider to be the important preamble to the SCA Judgement. There after the SCA Judgement goes into the nitty gritty of the events that led up to the unlawful granting of Medical Parole to Jacob Zuma, by Fraser. I do not intend to copy and paste any of that nitty-gritty here, as it is a matter of record and can be read by the NPA, without the need for me to repeat it or interpretate it.

8

I now intend to cut to the chase and deal **ONLY** with the adverse findings within of the SCA Judgement, where the conduct of Fraser was found by the SCA to be unlawful and upon which I now wish to add a further charge against him of Defeating the Ends of Justice:

8.1

On page 13 & 14 of the SCA Judgement, it stated the following:

[24] In the present case, the Constitutional Court had moved beyond the coercion point. It was no longer interested in trying to coerce Mr Zuma to mend his ways by appearing before the Commission. Therefore, Mr Zuma no longer ‘carried the keys of his prison in his own pocket’. The keys were undoubtedly held by the Department. The Warrant of Committal issued by the Constitutional Court could not have made it clearer. It commanded the Department ‘to receive’ Mr Zuma ‘into custody’ and ‘deal with him in accordance with the laws relating to prisons’, as he had been ‘found guilty . . . of the crime of contempt of court’. Indeed, Mr Zuma was dealt with as such. Like any other inmate, he was ‘processed’; orientated with regard to prison life; given prison clothes and sanitary material; and was expected to clean his cell and make his bed. Mr Zuma was therefore ‘a sentenced offender’ and had to be incarcerated in terms of the Act.

The underlining is mine.

8.2

On page 14 of the SCA Judgement, it stated the following:

[26] I accordingly conclude that a person convicted and sentenced for contempt of court ordinarily falls to be dealt with in terms of the laws relating to prisons, including the privilege to be released on parole if they so qualify. It is immaterial: (a) that the proceedings which culminated in the sentence were criminal or civil, and (b) whether the order for their imprisonment is coercive or punitive.

8.3

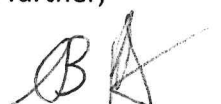
On page 18 of the SCA Judgement, it stated the following:

[38] Thus, the requirements set out in s 79(1) constitute jurisdictional facts that must be met for medical parole to be granted. If any of them is not present, an offender does not qualify for parole. These provisions apply to Mr Zuma (despite his status as former President and Head of State) as they would to any other inmate. That is the content and reach of the constitutional value and promise of equality before the law.

[39] Before I step off the legislative scheme, there are two related interpretative aspects that need to be resolved. The first relates to the interrelation between ss 75(7)(a) and 79, and in particular, whether s 75(7) creates an alternative pathway to medical parole. The second is whether the Commissioner is entitled to release an inmate on parole without the Board’s positive recommendation. I consider these, in turn.

The underlining is mine.

The section in paragraph 39 of the SCA Judgement I have highlighted above, is the crux of the issue, namely, whether the Commissioner (Fraser) was entitled to act as he did and it will be my contention that he knew at all material times, he did NOT have the right to act as he did and he therefore acted intentionally *ultra vires* the law and is therefore guilty of the offence of Defeating the Ends of Justice, or even corruption, as I will expand on this further, a little later.



8.4

On page 21 of the SCA Judgement, it stated the following:

[45] As to the latter consideration, it is useful to have regard to the Correctional Matters Amendment Act 5 of 2011, which brought about the amendment to s 79, and which came into effect on 1 March 2012. It interposed the Board in a professional and advisory role to the decision-maker, in this instance the Commissioner. Prior thereto, the Commissioner was entitled to release an inmate on medical parole based on the written evidence of the medical practitioner treating such inmate that the latter was diagnosed as being in the final phase of any terminal disease or condition.

[46] There was no Board, and the Commissioner thus had the sole power to decide whether a medical condition was one that qualified in terms of the Act for the granting of medical parole. This was open to abuse, as there was no provision for an independent medical opinion to verify the diagnosis by the inmate's treating doctor. The Board was introduced in the 2012 amendment clearly to remedy this concern. As mentioned already, the Board consists of ten members, all of whom are registered medical doctors (regulation 29B(3)). The Board is thus a specialist body.

[47] The interposition of the Board in the medical parole process in terms of s 79(1)(a) was thus for a good reason, namely, to allow for an independent and expert determination as to the medical aspect of the process, ie a professional judgment as to whether an inmate suffers from a terminal illness or physical incapacity. Therefore, the Legislature evidently intended the Board's advice, opinion and recommendation to the Commissioner to be crucial to his or her decision on whether to release an inmate on medical parole. Thus, given the context referred to above, and its specialist and professional composition, the Board's recommendation holds sway.

The underlining is mine.

8.5

On page 21 of the SCA Judgement, it stated the following:

[51] Furthermore, an interpretation that allows the Commissioner to grant medical parole to an inmate without the recommendation of the Board to that effect would give the Commissioner the same power he or she had prior to the 2012 amendment. This would undermine the very purpose for which the Board was created and would render the provisions of s 79(1)(a) nugatory. The upshot of the above is that, once the Board has properly applied its mind and concluded that an inmate does not suffer from a terminal illness or physical incapacity so as to severely limit daily activity or inmate self-care, the Commissioner is not entitled to grant medical parole.

The underlining is mine.

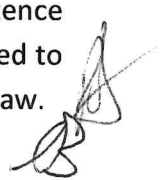
8.6

Finally, on page 25 of the SCA Judgement, it stated the following:

[56] Thus, on any conceivable basis, the Commissioner's decision was unlawful and unconstitutional. The high court was correct to set it aside.

The underlining is mine.

There can be no doubt, in anyone's mind, in the reading of the SCA Judgment, that the 'Commissioner of Correctional Services' at all material times, namely Fraser, acted unlawfully in releasing Zuma, who had barely even spent a week in prison, having spent most of his time at a Private Clinic in Pretoria. Even the stay in the Private Clinic was in all likely hood unlawful, although neither the High Court, nor the SCA were asked to consider same. The net effect of Fraser's unlawful conduct was to negate the criminal sentence handed down to Zuma, by the highest Court in the Land, that Zuma should be committed to Prison for FIFTEEN months and, in the process make a complete mockery of the rule of law.



Accordingly, I wish the State to investigate and prosecute Fraser for the following additional offence:

Defeating the Ends of, or Obstructing Justice, in that on or about **2021-09-05** Arthur Joseph Peter Fraser, unlawfully and intentionally, converted the custodial sentence of Zuma from prison to medical parole, despite knowing that he was NOT authorised to do so, and in so doing defeated the ends of justice, by releasing Zuma from lawful detention, without the required approval of the Medical Parole Board AND thereby brought the criminal justice system of South Africa, the rule of law and the Constitutional Court of South Africa into disrepute.

It may well be, that a case of 'Corruption' has to also be investigated against Fraser and Zuma, as it may be found that Fraser 'owed' some or other 'duty' to Zuma, as a result of prior 'gratification' received by Fraser from Zuma, for example, the senior position/s he held and his access to state funds. By way of example, it is common cause that Zuma gave Fraser the keys to the secret services vault in September 2016, despite knowing that Fraser was dishonest, thereby allowing the disappearance of hundreds of millions of Rand. It is also common cause that the Intelligence Minister, David Mahlobo and Fraser were busy running a parallel intelligence service, under the guise of a so-called "Principal Agent Network". This was uncovered by Forensics for Justice as long as four and a half years ago, but little traction seems to have taken place on the docket we opened then:

Prior to me signing this statement, I have carefully read through it and am satisfied that the facts are correctly and accurately recorded. The following questions were put to me in person by the commissioner of oaths and I entered the answers thereto in my own handwriting:

'Do you know and understand the contents of this statement?'

Yes

'Do you have any objection to taking the prescribed oath?'

No

'Do you consider the prescribed oath binding on your conscience?'

Yes


Paul O'Sullivan

I certify that the deponent has acknowledged that he knows and understands the contents of this statement which was sworn to before me, and the deponents' signature was placed thereon in my presence at **GALLO MANOR** on the **TWENTY-NINTH** day of **NOVEMBER 2022**


Commissioner of Oaths

