

IN THE JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the postponement application of:

OUPA JOSSIAH SINDANE

Applicant

REASONS FOR RULING MADE ON 25 SEPTEMBER 2026

1. On 23 September 2026, an application for a postponement of the hearing of the evidence of Mr Oupa Josiah Sindane was argued. The application was brought by Mr Sindane. After argument a ruling was deferred to afford the parties an opportunity to reach agreement on how the application and the question of the hearing of Mr Sindane's evidence should be resolved. The ruling was deferred on the understanding that, whatever outcome engagements between Mr Sindane's legal representatives and Evidence Leaders yielded, I would make a ruling one way or the other.
2. On 25 September 2025 I was advised that no agreement had been reached. In the afternoon of 25 September 2026 I issued a ruling that said:

*"1. The application for a postponement is dismissed.
2. The evidence of or concerning Mr Sindane must be led on 28 September 2026 in whatever format."*
3. I did this for the reasons that follow.
4. At the start of argument the Commission was furnished with a medical certificate. I deal with this certificate later.

5. In the main, Mr Sindane seeks the postponement because he has launched a High Court application in which he is asserting that a regulation 10(6) notice and subpoena, both of which were served on him by the Commission, are constitutionally invalid. The regulation 10(6) notice required Mr Sindane to answer certain questions. The subpoena required Mr Sindane to appear before the Commission and testify on 23 September 2026. Mr Sindane then applied for the postponement of the hearing of his testimony pending finalisation of the High Court challenge. Pending the final determination of that constitutional challenge, Mr Sindane is simultaneously asking the High Court, on an urgent basis, to interdict the Commission from hearing his testimony.
6. Although standing legal principles say that, in the exercise of a discretion whether or not to postpone, several factors must be taken into account, one or more of those factors may, depending on the circumstances, be of particular significance. That means the one or more factors may be accorded more weight than the rest. In this instance, a factor that takes centre stage and is of particular significance is Mr Sindane's inordinate delay in bringing the High Court application and in seeking the postponement of the hearing of his testimony before the Commission.
7. Mr Sindane sat idly by for a considerable length of time and only brought the High Court and postponement applications at the 11th hour. Both were launched on the eve of the date scheduled for the hearing of Mr Sindane's evidence before the Commission. An inference is inescapable that what galvanised him into action was his looming appearance before the Commission. This delay has resulted in Mr Sindane having to ask the High Court to hear the application for an interim interdict on 6 October 2026, days after 23 September 2026 on which he was scheduled to testify before the Commission. Had Mr Sindane moved with expedition and brought the constitutional challenge and applied for the interim interdict as soon as he became aware of the grounds for the challenge, the likelihood is that the interim interdict would have been heard and decided some time before 23 September 2026. Barring the possibility of appeals, by that date we would know whether an interdict was or was not in place. As at that date, we found ourselves in a state of flux because of Mr Sindane's inordinate delay. Why do I say he delayed?
8. Starting with the grounds for the constitutional challenge, Mr Sindane has known them since 8 August 2026, at the latest. I say that because on that date his then attorneys wrote a letter to the Commission's attorneys already raising these grounds, or at least some, if not most, of them. In another letter of 15 August 2026 the constitutional grounds were raised once again. That means Mr Sindane could and should have moved much earlier than he did. The Chief Justice's consent for me to be cited in the High Court application ought to have been sought much earlier than 18 August 2026. We now know that the Chief Justice did not delay in granting consent. There is no reason to believe that she would have delayed if consent had been sought much

earlier. Therefore, in all probability, by 23 September 2026 when Mr Sindane was required to testify, the High Court interdict would have been determined.

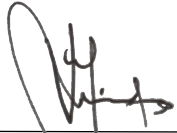
9. It does not end there. The Chief Justice granted consent on 25 August 2026. Mr Sindane brought the High Court application only on 21 September 2026, just under a month from the date of consent and only two days before the date he was supposed to testify at the Commission. As I said earlier, the inference is inescapable that what moved him to eventually approach the High Court was his looming appearance at the Commission.
10. Mr Sindane has been similarly lackadaisical and tardy regarding the postponement application. It has been quite some time that he received a subpoena from the Commission. He did not apply for a postponement immediately. To make matters worse, the Commission attorneys wrote to him on 16 September 2026 saying that, if he was to apply for a postponement, he should do so not later than 18 September 2026. He did not do that.
11. Even when Mr Sindane eventually brought the postponement application, he did not do so of his own motion. It was only when I asked, on 21 September 2026, what was to happen on 23 September 2026 regarding Mr Sindane's presence at the Commission and testimony that an indication was given that a postponement would be sought. Effectively, then, the postponement was sought at the Commission's prompting.
12. To ensure that there would be no slippages, I issued directions on timelines for the filing of all papers. Mr Sindane subsequently filed the postponement application.
13. If there ever was a most egregious form of inordinate delay, this is it. Other factors that are ordinarily considered in the exercise of a discretion whether to grant a postponement pale into insignificance. But for the medical certificate, the postponement application totally lacks substance.
14. The delay has a significant adverse impact on the Commission. The Commission has a limited life. At the time of Mr Sindane's delay, the Commission was to have heard evidence up to 2 October 2026 and submitted its final report on 16 November. So, the Commission was operating under very tight timelines. And witnesses had to appear as scheduled. Otherwise the already tight scheduling would be thrown out. Worse still, time would be lost, something the Commission can ill afford.
15. The fact that the Presidency has announced that an extension will be granted to 25 January 2027 does not alter the fact that the Commission is operating under extremely tight timelines. The extension will not ease up the scheduling pressure. The extension is not meant to accommodate witnesses who, through tardiness or for other unjustifiable reasons, are unable to testify before the Commission as required. Thus, the adverse impact just referred to will persist even after the latest extension of the term of the Commission has been granted.

16. Mr Chaskalson, the Chief Evidence Leader, submitted that he could not fault the medical certificate. Nor can I. What he urged upon the Commission, though, was that, rather than an outright postponement on the basis of the medical certificate, evidence of Mr Sindane's WhatsApp chats must be led in his absence. In the main, he made the point that, as it approaches the end of its term, the Commission is faced with scheduling difficulties. He also said that the Commission could not afford to lose time. I agree with both points.
17. Mr Sindane objected to the leading of the evidence of his WhatsApp chats. In the main, the basis for the objection was that Mr Sindane would be prejudiced by the fact he would not immediately challenge what was being said about the chats and that, doing so at a later stage, would not cure the prejudice. At the time of argument, the available medical certificate said that Mr Sindane would be available for "work" on 28 September 2026. I read that to mean he would also be available to testify before the Commission on that day. So, he would be in a position to counter any possible prejudice arising from the WhatsApp chats as evidence on them was being led.
18. As indicated earlier, I did not make a ruling on the postponement application on 23 September 2026. That was to afford the parties an opportunity to engage each other and see if they could not reach agreement. Agreement not having been reached by 25 September 2026 and there being no other medical certificate that suggested that Mr Sindane could not testify on Monday, 28 September 2026, I ruled that Mr Sindane's evidence, in whatever format, be heard on 28 September 2026. The claimed prejudice would not arise because Mr Sindane would be in attendance.
19. In the event that Mr Sindane produces another medical certificate on or before 28 September 2026 and brings another postponement application, that application will be considered on its merits. I mention this because Mr Sindane's previous attorneys have written a letter to the Commission advising that Mr Sindane's condition has deteriorated.

DATED AT PRETORIA ON THIS 26th DAY OF SEPTEMBER 2026.

THE CHAIRPERSON

RETIRED JUSTICE MR MADLANGA



Dr Nolitha Vukuza

SECRETARY

Judicial Commission of Inquiry into Criminality, Political Interference and Corruption
in the Criminal Justice System

26 September 2026