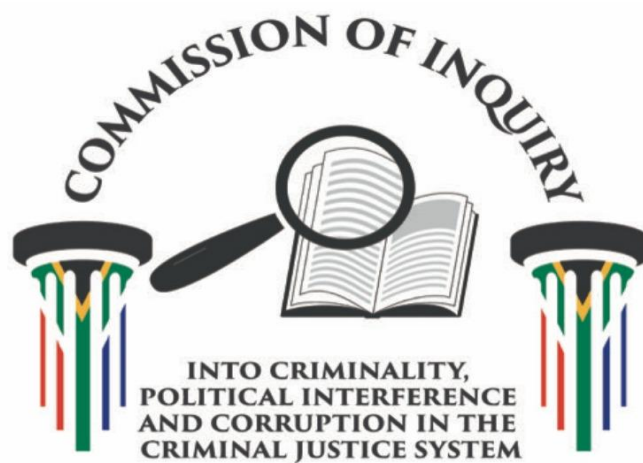


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

14 AUGUST 2026

DAY 159



PROCEEDINGS ON 14 AUGUST 2026

CHAIRPERSON: Good morning, Ms Hassim. Good morning, Mr Premhid.

ADV PREMHD: Good morning, Chair, good morning, Commissioners..

CHAIRPERSON: Thank you.

ADV HASSIM SC: Morning, Chair. So before we begin with the witness today we have one matter to deal with.

CHAIRPERSON: Yes.

10 **ADV HASSIM SC:** That is Mr Carrim's appearance.

CHAIRPERSON: Yes.

ADV HASSIM SC: And I will let my learned friend, Mr Premhid begin.

CHAIRPERSON: Yes, Mr Premhid.

ADV PREMHD: Chair, I am hoping that you and the Commissioners have the latest bundle which was provided to us this morning by the Commission for which we are very grateful, but at paginated page, the correspondence starts at 210, but the medical report in question itself starts at
20 212. I hope you have it. I am seeing indications you have you had, you do have it. I do not want to read bodily or facial expressions.

CHAIRPERSON: No, the minute you opened your mouth my colleague, Commissioner Khumalo said page 212.

ADV PREMHD: Okay, perfect. I am indebted. I am also

not sure if the Commissioners have had a chance to consider the content of the report. I am seeing indications that there have been and effectively, may I just ask you if you have got that report in front of you, to turn, and I am going to take you to the end if you do not mind. I would take you to paragraph 20 at paginated page 225 of the bundle. Thank you Chair.

CHAIRPERSON: Thank you.

ADV PREMHID: And I point out that paragraph for two
10 reasons. The first one is that gives you the state of Mr Carrim. And secondly, it then explains what has transpired since the ruling of the 29th of July and why we are here in the way we are here, and I do not know to what extent I need to say anything more than that, but obviously, I am in the Commissioners' hands as to whatever issues might arise as a result of this report now being in front of you.

CHAIRPERSON: Thank you. Thank you, Mr Premhid. Do you wish to say anything, Ms Hassim?

ADV HASSIM SC: Thank you, Chair. Chair, what I would
20 like to do is just to, for the purposes of the record, explain the steps and efforts that were taken from the Commission's side to give effect to the ruling and then to come to where we are now and what I propose we do in these circumstances. So if I can begin with the ruling. The ruling is quite clear, the ruling of 29 July. In clear terms, what it

says is that Mr Carrim is required to appear and to testify today and that he may only do so if he is excused on the basis of an independent medical assessment.

CHAIRPERSON: He may only not do so.

ADV HASSIM SC: He may only not appear.

CHAIRPERSON: Yes, yes, you left out the not.

ADV HASSIM SC: Thank you, Chair. So he may only not appear today on the basis of an independent medical assessment, which was to have taken place by the 12th of
10 August. Immediately following the ruling, the Evidence Leaders took steps to obtain the names of suitable independent specialists who could attend to the task. We provided the name of such a specialist to Mr Carrim's representatives on the day after the ruling, that is the 30th of July.

On the 31st of July, we received a response from Mr Carrim's attorney saying that they had forwarded that information to the family and to the treating doctor. You will recall, Chair and Commissioners, that the ruling
20 required that if there is no agreement on the proposal from the Evidence Leaders' side by the 3rd of August, that then the President or the Chair of the professional association should nominate an independent specialist.

So we heard nothing further from Mr Carrim's attorneys and so we wrote again on the 3rd of August, the

deadline, requesting a response by 10 a.m. on the 4th of August, especially a response as to whether Mr Carrim has consented to an independent medical evaluation, because we were concerned with putting things in motion and putting people out unnecessarily. We also indicated in that letter of the 3rd of August that if we did not hear back from them by 10 a.m., that we would then contact the President of the association in order to set things in motion. No response was received on the 4th of August. We approached the
10 President, who nominated a specialist, and we thank the President of that association for responding to the Commission's requests with urgency and providing us everything that was required, and we regret if there was any inconvenience caused.

The President provided us with the details of the independent specialist. This was communicated to Mr Carrim's attorneys on the 6th of August. It was only on 12 August that the Evidence Leaders received the treating doctor's report, the report that Mr Premhid has now referred
20 the Commission to, and so the report provides to us, for the first time in this process, a detailed explanation of what is said to have occurred following the ruling on the 29th of July. Whatever may have been occurring between Mr Carrim and his family and the treating doctors, none of that had been communicated to the Evidence Leaders while we

were attempting to give effect to the ruling. The report essentially is an opinion by the same treating doctor as to why Mr Carrim could not consent to an independent medical evaluation, and it provides further material information regarding, clinical information regarding his condition.

Notably, it says nothing about the outings that we referred to in the postponement application, the daily outings by Mr Carrim. There is reference to the 14 July excursion to Woolworths and Kauai, but, and that is for the
10 purposes of complaining that it had become public, that it had been made public.

CHAIRPERSON: Is the answer to that not possibly that that was dealt with in the postponement application, even by the treating doctor?

ADV HASSIM SC: Well, it was not dealt with in depth by, it was not dealt within, from the perspective of what the meaning of that is for Mr Carrim's inability to testify now, and that is what we are concerned with now, is the current condition in the light of these daily outings. I would have
20 expected that that would have been addressed more fully, given that it was a significant aspect of the, from the Evidence Leader's side, the opposition to the postponement application. But that is not the main, that is not it.

The problem, the difficulty we have also with the report, is that it is a lengthy report that is furnished two

days before the hearing without any opportunity for the Evidence Leaders to obtain a considered expert opinion upon, expert opinion of the contents of the report, right. As the Commission is aware, there is an independent specialist that the Evidence Leaders have consulted and would have otherwise wanted to consult on this, but the report is expressly marked strictly private and confidential, medical privilege invoked, not for dissemination, and that it is furnished strictly and only for the consideration of the

10 Chairperson, Commissioners, and the Evidence Leaders. That places us in a difficult position, because it is prepared at the level of clinical detail, and it says so. The doctor at this time says the last reports were for a lay person. This report, he says, is prepared at the level of clinical detail that is appropriate for consideration by a medical professional, but the restriction that is imposed upon its dissemination makes it impossible for us to obtain, for our own purposes, any independent assessment from an expert of that report.

20 So where we find ourselves now is in this circular process, and we keep going around the mulberry bush, with respect, regarding this witness, and at the time remaining for this Commission, and this is the submissions I would like to make on how we would go forward, Chair and Commissioners. There is limited time remaining for this

Commission to complete its mandate. At this point, we submit it is appropriate for the Commission to simply make its findings based on its assessment of the evidence that is already before the Commission in the previous hearing at which Mr Carrim was present, and the evidence that has been provided, and also, for that matter, on the basis that there is certain information that has still not been furnished.

The Chair is now familiar with the basic information that we have requested on just financial statements. That
10 has not been forthcoming in the interim since the postponement application either. So what we would submit is that the Commission now just makes its findings based on the evidence that it currently has without any further ...[intervenes].

CHAIRPERSON: What kind of findings do you have in mind? I am sure you are not referring to the postponement application because the ruling on that application was made on the basis of what was before the Commission at the time of the hearing of that application. So what sort of findings
20 do you have in mind?

ADV HASSIM SC: Chair, I am referring to any findings to be made on the basis of the evidence that was led on the 9th and 10th of March, so it is on the merits of what the issues are.

CHAIRPERSON: I get you.

ADV HASSIM SC: Whether it shows any of the conduct that we were presenting at the time that we felt fell within the terms of reference of the Commission.

CHAIRPERSON: I hear you. I hear you.

ADV HASSIM SC: So it is those findings. So the evidence we have is the evidence we got.

CHAIRPERSON: Yes.

ADV HASSIM SC: And let us live with that, is what I am proposing.

10 **CHAIRPERSON:** Yes, yes.

ADV HASSIM SC: But ...[intervenes].

CHAIRPERSON: And what is to be done about the issues that the Evidence Leaders consider to be still outstanding? There is nothing that can be done in that regard. Conclusions will just be drawn in whatever way regarding those outstanding issues.

ADV HASSIM SC: Yes. The witness has not been able to make himself present to address any of that and the Commission should follow the normal course as it would in
20 any other hearing in the absence of answers to draw its conclusions.

CHAIRPERSON: Yes. So if the outstanding matters tell an adverse story on their own without anybody speaking to them, then the Commission may draw whatever inferences in that regard.

ADV HASSIM SC: Indeed so, Chair, that would be the normal course in any hearing given in a court.

CHAIRPERSON: Yes.

ADV HASSIM SC: So that is what we propose should happen going forward, except for the following, which I would like to add.

CHAIRPERSON: Yes.

ADV HASSIM SC: It is my final submission and which is that we do request that the Commission records the non-
10 attendance and refers this non-attendance and the record to the NPA or the relevant authority for further consideration for potential breaches of the provisions of the Commission's Act and the regulations. Chair, and the reason for that is that the Commission, through its ruling, has given Mr Carrim a fair and objective route to establish medical unavailability. He chose not to opt for that route. The ruling is clear that the witness may only be excused on the basis of an independent report and we do not have it.

It is not a finding that is going to be made by the
20 Commission. It is a finding that will lie elsewhere, but it needs to be referred to the relevant authority for potential violations of the Act. Those are my submissions, Chair.

CHAIRPERSON: Thank you, Ms Hassim. Mr Premhid?

ADV PREMHD: Six very brief comments in reply, if I may please, Chair. The first one just relates to timing. I am

surprised to hear my learned friend complain about the fact that the 12th of August gave them insufficient time, whereas in Chair's original ruling from the 29th of July, had Mr Carrim participated in the independent medical examination, that report was always going to be delivered by the 12th of August and so to latch onto the date ...[intervenes].

CHAIRPERSON: That was not Mr Carrim's doctor's report.

ADV PREMHID: Correct. Correct.

CHAIRPERSON: So I do not get your point.

10 **ADV PREMHID**: The point is simply to say that the 12th of August was always a line in the sand, that the Commissioners had itself identified that the status of Mr Carrim would be known or not known, even flowing from the independent medical exam report.

CHAIRPERSON: I still do not get the point. You are talking about a different report, and the report in the ruling was to have been a different report. So I just do not get your point at all.

ADV PREMHID: Correct. All I am saying is that of course
20 the report was going to be different. That report was going to be pursuant to the independent medical exam. I am not quibbling with that at all. But what that report would have done is it would have clarified Mr Carrim's status to participate in the Commission by the 14th on the 12th in any event, because he would either be excused as a

consequence of that report delivered on the 12th, or ...[intervenes].

CHAIRPERSON: Ms Hassim is making a different point. She is saying they were not given sufficient time to decide what to do after a different report, not the report that was expected. A different report was given at the 11th hour. That is a different point altogether.

ADV PREMHID: I am willing to accept that, and I will come back to that point and comment number five if I can,
10 about what the true status of the cooperation with the Commission has been. But if we put aside the 12 August date for the time being, can I please give you two references to the medical report itself, if I may? The first one comes from paginated page 220 under the heading, “The Ruling and Attempts to Obtain Mr Carrim's Decision”, and what is listed at paragraph 15.3 all the way up to paragraph 15.10 on paginated page 222 is a full account of what happened regarding the ability to produce this report any sooner. And in particular, in addition to that, I point the
20 Commissioners' attention to paginated page 225 at paragraph 19.2, which talks about, and how you read this with the greatest of respect is you read those paragraphs, which is the chronology paragraphs, side by side with 19.2 on paginated page 225, which talks about a medical incident which happened on the 11th of August in the

morning. So the day before the report was written and tendered to the Commission, there was a medical incident which was nonetheless reported to the Commission, which impacts and explains perhaps why this report was only given when it was given. I accept the criticism might be that it should have been sooner, or it could have been sooner, but the objective evidence in front of the Commission accounts for that entire timeline, including dealing with the difficulties in obtaining instructions. That

10 is point number one, Chair.

Point number two, I am not going to deal with this in any great length because Chair asked my learned friend, Ms Hassim the correct question we submit, which is that when the outings, and I am using that in inverted commas, because they are not outings, there is a clinical explanation for that, and the Commission has the medical report in front of it, but let us use that term even though it carries a certain connotation.

CHAIRPERSON: Maybe it does not take us anywhere, but I

20 am interested ...[intervenes].

ADV PREMHID: I think, Chair ...[intervenes].

CHAIRPERSON: I am interested to know what your idea of outing is when you say outings, but these are not outings. From where I am sitting, they appear to have been outings.

ADV PREMHID: Be that as it may, they were subject to a

clinical system which has been explained in a previous medical report, so the point is to just, is to put two things on the record. The first thing on the record is to say even if we accept, and I respectfully do not accept, but I accept what Chair posits to me, that they appear to be outings, even if we accept that that is the nomenclature, it is not to look at that in isolation from the medical explanation which has already been provided. That is the first point.

The second point is to say with the greatest of
10 respect that the criticism, and I am not sure if it is a direct criticism or it is an indirect criticism, that those outings, in inverted commas, are not being dealt with in the latest medical report is also because that represents a shifting of the goalpost. This medical report which is now in front of the Commission explains in particular what happened after Chair's ruling on the 29th of July and what was undertaken or not undertaken in that regard, and to the extent then there are references to historical facts that is also dealt with in this report, and those seven or six other medical
20 reports which have historically been tabled, have not been challenged in front of the Commission, and they stand as an explanation for those outings one way or another.

CHAIRPERSON: You see, last time, last time, and I will repeat even now, last time when you made a similar point about these reports not being challenged, I said to you how

do you expect them to be challenged when Mr Carrim is resisting, strenuously so, to be examined by somebody who can actually challenge those reports. So it is a non-starter for you to talk about a lack of challenge.

ADV PREMHID: That is my ...[intervenes].

CHAIRPERSON: Complete non-starter.

ADV PREMHID: I respectfully disagree with you for three reasons, and this is my this is my third comment. In the first instance, the doctor has himself made himself available
10 on more than one occasion to the Commission.

CHAIRPERSON: It is not the doctor that the Commission wants to have assessed. It is not the doctor ...[intervenes].

ADV PREMHID: Be that as it may, it is a less intrusive means that is available to the Commission in circumstances where the purpose of the examination is to run a parallel process to verify those clinical opinions. That is the purpose of getting the patient into a voluntary medical examination. The point I am making is that the doctor ...[intervenes].

20 **CHAIRPERSON:** I will listen to the rest of your rebuttals because you say you disagree with me, and I think you said on three bases.

ADV PREMHID: Yes.

CHAIRPERSON: So the first one, I do not accept it, or you may continue arguing on it, or you may proceed to number

two and number three.

ADV PREMHID: No, I will not. It is on the record and that is sufficient for my purposes.

CHAIRPERSON: Okay.

ADV PREMHID: The doctor has made himself available. Nobody has chosen to do anything about it.

CHAIRPERSON: Nobody wanted to assess the doctor.

ADV PREMHID: No, but ...[intervenes].

CHAIRPERSON: That is not ...[intervenes].

10 **ADV PREMHID:** Well ...[intervenes].

CHAIRPERSON: May I finish?

ADV PREMHID: I apologize, Chair.

CHAIRPERSON: That is simply not in answer to my point.

ADV PREMHID: With all due respect though, I think we are speaking cross-purposes because what Chair is saying ...[intervenes].

CHAIRPERSON: We are not. We are not. I understand you perfectly, and I am sure that you too understand me. To counter the question whether Mr Carrim is indeed unable
20 to come to this Commission, the Commission has said it wants to have him assessed by an independent specialist. He has refused that that should be done. That is the assessment that the Commission wants to have. It is not an assessment of this, of Mr Carrim's specialists. That is a simple point I am making.

ADV PREMHID: Yes.

CHAIRPERSON: And for Mr Carrim to offer us his specialists, that does not assist. In fact, that actually takes us to what courts always say, the hired gun principle, because from where we are sitting, we do not consider Mr Carrim's doctor to be an objective expert. He is an expert that is closely associated with Mr Carrim, and who, from where we are sitting, unless we get another opinion, appears to us to be pushing Mr Carrim's story, so very close
10 to, if not analogous to, what courts have referred to as a hired gun. In this sense, in this sense, if a court wants to get an objective view, it will want to get someone who is independent, as opposed to someone who is closely associated with the person concerned. And this is exactly what we have here, a medical specialist who has been treating Mr Carrim for this lengthy period, and who on certain facts, on certain facts appears to have shifted the goalposts. And why do I say so? I say so on the basis of that paragraph that I referred to during the postponement
20 application.

In fact, I referred you to more than one. There are the paragraphs where he changes his story on factual issues, not issues related to Mr Carrim's condition, on factual issues. He changes his story because he said a patient can only go out of the facility, only, underline only,

if I allow them to go out. But once we got the Woolworths and the Kauai, the Kauai visits, all of a sudden the doctor now changes tack and says, oh no, actually, even nurses do allow patients out. So from where we are sitting, those are indications that this is a doctor who has so aligned himself with Mr Carrim that sitting, I am not saying he is lying, all I am saying is, sitting where we are sitting, we just cannot accept what he says.

We do want to have an independent assessment,
10 which we do not have and which we will obviously never have, because this same doctor strenuously resists that and it is best known to him why he does so. Of course, it does explain in the reports that he has given, but from where we are sitting, we cannot just accept that. So it is on that basis that I say, in accordance with jurisprudential authority, he is very much, his position is very much analogous to that of a hired gun and it is in those instances that courts always insist on someone who is independent, someone who is objective, but as I say, we are not going to
20 hold our breath in that regard. We are not going to have such an independent assessment.

So I say again to you, you cannot say that, you cannot respond to my point about the lack of contradiction in the manner in which you do, because that opportunity has been refused. I know I have said a lot, but respond anyhow

you want to.

ADV PREMID: No, I am indebted for the indulgence to respond. I am cautious, however, that I am not going to take us in a circle regarding this contention, because I have understood what Chair said. I disagree with Chair's characterizations in two respects in that regard, and in fact, I think for the first time, the criticism that Chair has posited regarding the doctor has done two things, with the greatest of respect.

10 The first one is it has clarified what the actual concern is regarding the doctor's objectivity, that was the word that Chair used, and also to set up the justification as to why the independent medical exam is potentially needed because of that concern on objectivity. May I say two things in response to that, please, Chair? The first one is, I think, and I say this with all due respect, and I hope this does not come across as being impertinent, I think, Chair, you have actually articulated why the doctor is more necessary, not less necessary, if his objectivity is in doubt,

20 because if his objectivity is in doubt, which is not necessarily the same regarding the rightness or otherwise of his clinical conclusions, then it is him as the doctor offering that evidence who has to be impugned so as to demonstrate that his objectivity is justifiably in doubt, and whereafter his objectivity is justifiably in doubt, then the

gateway mechanism to the medical examination is opened.

So where I respectfully disagree with the Chair is I say the conflation, and I use that word respectfully, I obviously do not mean it in a personal way, but the conflation that Chair has made in positing the reason for the independent medical exam to me is an objectivity issue. But if that is an objectivity issue, an independent medical exam may come to the same conclusion that this doctor has, but that does not do anything in respect of his
10 objectivity or otherwise, and what I would respectfully say, and what courts do all the time, is where an independent expert is used by one side or another as to evidential issues and legal conclusions, then you do not go and bypass that particular expert to go to the underlying individual or evidence. You impugn that expert. You impugn his objectivity, whether by demonstrating he is a liar, whether by introducing your own rebuttal expert witness, or so on. That is the ordinary mechanisms of litigation, and so the conflation that I am respectfully
20 contending for is ...[intervenes].

CHAIRPERSON: May I just say I am not conflating anything. We do not have to have only one reason. The reason, the reason may one be the Commission wants to be sure that there is not a basis for not accepting what Mr Carrim's doctor says. That is one. And two, I am then

saying the doctor appears even on factual issues to have so associated with Mr Carrim's case, let me call it that, that that is additional to the first reason as to why the Commission would want to satisfy itself. So the original reason stays, it remains, so what you are addressing does not suddenly become the reason. Yes, yes.

ADV PREMHID: Thank you, Chair. Could I be ...[intervenes].

CHAIRPERSON: And, sorry, sorry, and also I am not
 10 altogether sure that I agree with you with this staggered approach on how one deals with expert evidence. I do not agree with you. You may upfront just say I want to establish whether this should not be questioned by, at the outset, having an independent assessment. So your staggered approach I just do not agree with. Ja, you may respond.

ADV PREMHID: Chair, I still have my second reason I am going to come to. I will come to that in a moment. I am just on the objectivity leg if I can. On the issue of the reason, I
 20 am going to be a bit cheeky and say it can be any reason to doubt the objectivity. It does not matter what the reason is. My fundamental point, and I know Chair says he does not conflate anything, I am going to step away from that word. My simple point then is to say that if whatever your reason is to doubt the objectivity of the expert put up, in the

particular instance of a medical examination, you cannot leapfrog that evidence and that practitioner to go directly to the patient.

CHAIRPERSON: Why not? Why not?

ADV PREMID: Because that is going to be my second response to you, because then that takes us into the *vires* issue, and whether or not you have the power to do that in the first place. So what I am saying to you, Chair, in response to those three things you said about it could be
 10 any reason he has associated himself with the case, and that is the basis for the concerns about object, oh, and that you do not agree with the staggered approach that we are talking about. I am willing to accept that, but I respectfully disagree with you, because not only does it leapfrog what we submit respectfully to you is the correct sequence having regard to what happens in the High Court, we also say that there is a *vires* challenge potentially to the extent to which you can make such an order and compel such examinations and procedures.

20 **CHAIRPERSON:** There is no compulsion, and I am not even sure that the *vires* issue that you say you are going to argue, and on the basis of which you are talking leapfrogging even arises. There is no compulsion. It says, I think ...[intervenes].

ADV PREMID: It says ...[indistinct] [cross-talking].

CHAIRPERSON: Exactly. So if he chooses not to go, nobody will force him.

ADV PREMHID: Yes.

CHAIRPERSON: So the *vires* issue really does not arise at all. I know I have gone to your next point, which you have not argued, but because you have already mentioned it, and nothing stops me from dealing with it. So this *vires* issue from where I am sitting simply does not arise at all. So there is no leapfrogging at all.

10 **ADV PREMHID:** Well, with all due respect, I think that it takes, and again, you would have received the highlighted transcript, which we say bears out our recollection of events from the last occasion, and I am not going to revisit that. All I am going to say is that takes us to the exact point that we debated there, which is, if it is truly voluntary, then no negative consequence can attach on the election of the voluntary choice. And that is where Chair and I, I think we agreed that we were *ad idem* in that regard, and then Chair moved on to, but what are the consequences if he chooses
20 not to, and then are those subject to some or other bar. And I said to Chair, no, that is the ordinary consequence of how you determine evidence.

So the point I am making about the voluntariness of the proceeding and how it relates to the virus challenge is the degree to which the non-election to participate for the

reasons in the medical report, which I would call gently a supervening medical impossibility, but be that as it may, if Chair is, and I think we are *ad idem* on this actually, if Chair is not going to attach any punitive consequence or coercive consequence to the election in the voluntary scenario ...[intervenes].

CHAIRPERSON: Let me up front tell you what I am, or rather what I think the Commission should do. The Commission is minded to refer Mr Carrim for a criminal
10 process. What the relevant authorities do in that regard is for them to decide, whether it is taken to the South African Police Service for them to see whether they can lay charges, or the National Prosecuting Authority for it to see whether to prosecute, that is their decision. That is what the Commission, as we are sitting here, is minded to do.

ADV PREMHID: Yes.

CHAIRPERSON: So that will not be coercion by the Commission as such.

ADV PREMHID: Yes.

20 **CHAIRPERSON:** It will be those functionaries who have the power to do whatever is within their remit to decide or do.

ADV PREMHID: Correct. Correct.

CHAIRPERSON: That is what we are minded to do, so that you are not arguing in the dark.

ADV PREMHD: Yes.

CHAIRPERSON: We upfront tell you what we are minded to do.

ADV PREMHD: No, no. I will deal with that. That is my last point which I will deal with about any such referral. So I will come to that if I may. I just want to deal with this voluntary nature of the choice that was made and I want to clarify that I was not suggesting that the voluntary choice given in paragraph 2 of the order was not a voluntary choice
10 and that was somehow coercive or involuntary or anything of the kind. I was simply reminding the Commissioners about that voluntary characterization because some of the language that was used about not subjecting himself to a medical examination was, to my mind at least, and if this is wrong I accept that it is wrong, was going into the territory of adverse consequence for that and that is why I was just reminding us about the debate we had about voluntariness.

CHAIRPERSON: I thought in the end you and I agreed previously when we debated that point ...[intervenes].

20 **ADV PREMHD:** Yes.

CHAIRPERSON: I said to you, I was not talking about adverse consequences that would arise purely from the fact of failing to testify.

ADV PREMHD: Then we are *ad idem*.

ADV HASSIM SC: We were, we were even then

...[intervenes].

ADV PREMHD: Yes, and we are still *ad idem* now.

CHAIRPERSON: I think you actually said so.

ADV PREMHD: Yes.

CHAIRPERSON: Yes.

ADV PREMHD: We are still *ad idem*.

CHAIRPERSON: Okay, all right ...[intervenes].

ADV PREMHD: That is the only point I was making.

CHAIRPERSON: You may, okay ...[intervenes].

10 **ADV PREMHD**: That is the only point I was making.

CHAIRPERSON: You may continue then.

ADV PREMHD: Thank you. My fourth comment on this issue about obtaining, because Ms Hassim said something to the effect about the time consequence only receiving it on the 12th, that there is limited time to receive their own expert rebuttal evidence, for lack of a better phrase, to obtain their own instructions regarding that and their next steps. All I am going to say on that regard, in that regard Chair, and not to reopen something we have moved beyond,
20 is that is also part and parcel of the tender that was made as to why the doctor would make himself available, because you would remember the doctor did not only say, obviously subject to *in-camera* because it is about medical information, I will come here and opine to you. Express reference was made about cross-examining him and so on.

So to the extent that there has been any prejudice caused to the Commission as a result of the late receipt of that report, all of those mechanisms which were tendered previously, and in fact the doctor tenders once again in the latest medical report, is available to the Commission. And if the Commission wants to do anything with that, their own witnesses and follow up however they want to, we will be in the Commission's hands in that regard. But I must place that on the record because any suggestion that my client is
10 just running away from accountability and not himself through his family and medical representatives doing whatever he can to cooperate with the Commission in the circumstances in which he finds himself, needs to be responded to and I will not take it further than that. Those mechanisms are there and if they are going to be used, we will cooperate to the extent that we can.

CHAIRPERSON: If one were to use the analogy of civil proceedings, what normally happens, yes what you say does happen if one side for whatever reason does not have
20 an expert.

ADV PREMHID: Ja.

CHAIRPERSON: But what usually happens is for the opposing side to have their expert consult with the plaintiff ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: And to then prepare their opposing report ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: And then the two experts get called.

ADV PREMHID: Yes.

CHAIRPERSON: So now what we have here, there is resistance to that assessment and what, I am the one who should now read and comment on your reaction ...[intervenes].

10 **ADV PREMHID:** Yes indeed, my shock and horror.

CHAIRPERSON: Now what is happening here is in addition to that resistance, the one doctor offers himself to appear before this Commission and to be subjected to whatever questioning. So it is rather an odd one, but as I said right at the beginning of what I am saying now, it does happen on the odd occasion that there may be one expert, but the norm is to have two opposing experts.

ADV PREMHID: Yes.

20 **CHAIRPERSON:** Both experts having examined the patient, done their own assessments, prepared individual reports on that patient. Ja, now let us hear you on that reaction.

ADV PREMHID: I am not sure I agree on where you ended, Chair, which is to say that both experts examine the patient and then give the differing rebuttal evidence, and

the reason I say that is obviously we are not in rule 36 territory about the assessment of damage from medical injury or whatever the case might be, and also because it is a voluntary examination and it cannot be compelled, that is why I disagree with the characterization in the way of this expert rebuttal process.

CHAIRPERSON: I am not in the realm of the *vires* issue ...[intervenes].

ADV PREMHID: Agree ...[indistinct].

10 **CHAIRPERSON:** I am not there at all.

ADV PREMHID: Agree.

CHAIRPERSON: I am just at the level of how evidence of this nature is ordinarily dealt with, how it plays itself out in a court environment, that is all I am debating.

ADV PREMHID: Yes, we are in the same place. I am not ...[indistinct] [intervenes].

CHAIRPERSON: So the voluntariness ...[intervenes].

ADV PREMHID: Yes.

20 **CHAIRPERSON:** Compulsion and so on does not arise in that context.

ADV PREMHID: Agreed, I was just saying that those are the important context issues which need to be considered.

CHAIRPERSON: I have not forgotten.

ADV PREMHID: I am indebted. So the point that I would make regarding that process that Chair posits to me about

rebuttal witnesses and contrasting experts and Chair says is in the ordinary course, that is what I was saying a bit earlier about less intrusive means about the, available to the Commission i the doctor's evidence which, Mr Carrim's doctor's evidence which relies on his objectivity is in dispute and that is the basis through which it can be impugned as a less intrusive means without taking us into a *vires* problem about is this voluntary examination voluntary or not voluntary.

10 So I would respectfully say that what Chair has posited to me is the exact thing that the doctor has been tendering and I think in fact in correspondence Mr Carrim's own attorney said let us do it this way so that you can get the degree of satisfaction that you require. Now I understand Chair to say that you know that might be how it is ordinarily done in the High Court and maybe it is different in the Commission or whatever. All I am saying is that is a process that is available and if my learned friend contends that there is prejudice suffered as a result of the lateness of
20 the report, whatever unfolds as a result now that they have the report in their position, their position will unfold and we will deal with it as we need to deal with it but the fact that the mechanism is available which we on behalf of Mr Carrim proactively offered and Chair himself now recognizes as a possible mechanism, I am not saying Chair says it is right

or correct or good or whatever, I am just saying it is in the realm of possibility.

CHAIRPERSON: Which mechanism? Are you talking about the doctor? The doctor ...[intervenes].

ADV PREMHID: The rebuttal witness, the rebuttal witness mechanism that Chair started talking about. I am saying that the fact that that mechanism exists in the possibility of options in next steps as a less intrusive means is as far as I will take it. The fact that there are ways to obtain the
10 Commission's own assessment about objectivity or otherwise ...[intervenes].

CHAIRPERSON: That assessment ...[intervenes].

ADV PREMHID: Without the medical examination.

CHAIRPERSON: No, no I was talking pursuant to a medical examination.

ADV PREMHID: Yes, but you will remember that is ...[intervenes].

CHAIRPERSON: And that is what that is what Mr Carrim through his doctor is resisting, so I do not get you.

20 **ADV PREMHID:** No, no remember I said that that was a contextual issue that the voluntary exam is voluntary and then Chair responded and said but we are not there because that is a *vires* issue and we are not talking about that.

CHAIRPERSON: There cannot be, there cannot be a

rebuttal witness in the sense I was talking about if there has not been an assessment by that doctor, so ...[intervenes].

ADV PREMHD: And that is where I said I respectfully disagreed with that. Remember, that is the first thing I said is I disagreed with that characterization at the beginning.

CHAIRPERSON: So I just wanted to make sure, ja that, because it seems you misunderstood me.

ADV PREMHD: No, no, I ...[intervenes].

10 **CHAIRPERSON:** I was talking, i was talking rebuttal after an assessment by that rebutting doctor.

ADV PREMHD: Yes, and I immediately responded and said I am not sure I agree with you on in that regard.

CHAIRPERSON: Yes, can you can you move on to your next point?

ADV PREMHD: No that is fine. I was just setting out the basis of my disagreement with you Chair, respectfully, about how that mechanism is going to work. I do not have to take it further.

20 **CHAIRPERSON:** We cannot force him. We agreed and which is why I am talking ...[intervenes].

ADV PREMHD: Exactly.

CHAIRPERSON: About the criminal process that the Commission ...[intervenes].

ADV PREMHD: That is exactly the exactly, exactly the

point, Chair.

CHAIRPERSON: Yes, yes.

ADV PREMHID: Exactly the point, Chair. So that is available. May I just then speak to what the Commission says is the next, is the way forward. Chair you will remember that in its letter, I am going to read from page 119 of the correspondence bundle but as far back as the 24th of June 2026, this is the Commission's letter to my attorneys. At paragraph 12 is exactly what the Commission
10 says today is the way forward, obviating the need for a medical exam.

ADV KHUMALO SC: The Evidence Leaders ...[intervenes].

ADV PREMHID: Evidence Leader. I apologize. I apologize.

ADV KHUMALO SC: Do not confuse what the Evidence Leaders is saying with what the Commission ...[intervenes].

ADV PREMHID: I apologize, the Evidence Leaders and I do not want it to sound like I am personalizing.

ADV KHUMALO SC: They say in the circumstances the
20 Evidence Leaders will proceed as follows.

ADV PREMHID: Yes, so, so, and that was, you will remember that was on the 24th of June and then I think we were in front of you and then and then there was an exchange of correspondence and this medical exam issue arose after this letter but in response to that particular

letter at paragraph 12 came our letter which starts at page 121 which says yes if that is what you want to do, that is what you must do and so insofar as Ms Hassim says today, the Evidence Leader says today that this is the position of the Commission and we will ...[intervenes].

ADV KHUMALO SC: Of the Evidence ...[intervenes].

ADV PREMHID: Of the Evidence Leaders, I apologize. Ms Hassim says that this is the position of the Evidence Leaders. We understood that to always be the case from
 10 that page previously and we have never taken objection to that, which is which is why, Chair, you will remember in that debate that we had I think that the transcript refers to when you and I were discussing the adverse findings that were to be made, my response to you was that yes, that is the ordinary way in which evidence will be dealt with and if it is unanswered you will draw the appropriate inference, you will draw the appropriate credibility finding and that is the risk that my client was always subjected to and that is the consequence he must face.

20 So that is the Commission's attitude today consistent with what they previously said on the 24th of June. We, in that debate with you Chair you would remember I said I cannot commit my client to a position but I explicitly said to you I could not fault that that is the end point we have come to, so to the extent that is the Evidence

Leaders, Commissioner Khumalo, to the extent that is the Evidence Leader's position in front of you today, I accept that position in fact and not to be flippant about it. We were already here a month and a half ago and only as a result of the Commission's extension and the possibility of a medical exam did all of these issues arise all over again.

So, in fact we are now going back to the position that we were in late June, and with all due respect, the Commission, the Commission but also sometimes the
10 Evidence Leaders complain that the Commission is running out of time and there is no guarantee of an extension, so we are back to where we were on the 24th of June. The Commission and/or Evidence Leaders will do what they do and we will deal with the consequences.

Lastly, Chair, on the issue of the possible prefer, recommendation of criminal sanction, whilst you have got that, the letter I referred you to starting at 121 in front of you, it is just a few pages on from the Commission's letter at paragraph 12 that we were dealing with, if you could
20 please go to paginated page ...[intervenes].

CHAIRPERSON: 124.

ADV PREMHID: 124, yes, indeed. That is the ...[intervenes].

CHAIRPERSON: Again Commissioner Khumalo.

ADV PREMHID: Thank you Chair, I am I am indebted.

Particularly paragraph 11, if such a recommendation is going to be made, then on that specific question about why, where the criminal charges should be recommended or not recommended, all I will say is that our client as far back as the 24th of June asked that if such a referral was going, or recommendation was going to be made that he be given the chance to address specifically that referral decision consistent with authorities like Du Preez and so on and also, because that is an *audi* issue, we say respectfully,
 10 and particularly to place in doubt the question of wilfulness and whether or not such criminal charge is competent and viable as against my client. However ...[intervenes].

CHAIRPERSON: But, sorry, sorry. But are those not issues, that is the issues of wilfulness and so on, issues that should actually arise before the relevant criminal authorities if that referral does not get killed at the level of SAPS or ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: Or at the level of the NPA, they may then
 20 be dealt with by the criminal court. So I am not sure I get your point.

ADV PREMHID: What I was going to say and then rightfully I showed deference to the Chair is that on that particular point about *audi* in front of you before the recommendation, I was going to say that is not the hill I am

going to die on, because it might be correct that you can make the recommendation being recommendatory in nature without ticking the box of direct external legal effect as well as adverse consequence that you even owe us the right of *audi* at that stage because the correct decision-making functionary is where we would have the ability to make those representations anyway.

So what I was going to say to Chair is that the request is in front of you. You may choose to say no, which
10 is fine. I am just saying that the request is there, that is all ...[intervenes].

CHAIRPERSON: We are all here now. Make whatever submissions you have in mind in this regard so that we are done, it is done and over with.

ADV PREMHID: Thank you Chair. May I just make three submissions in this in this regard then. Number one, the test would be wilfulness for any such breach or non-compliance. We say that the threshold is not met having regard to the medical evidence that is in front of you and
20 which is unchallenged and I know that that is sensitive territory so I tread lightly. That is the first point.

The second point is that, the point about that evidence being unchallenged so to speak and where non-compliance is as a result of medical advice as a valid and legitimate excuse is actually something recognized by the

foreign authorities that my learned friend, Ms Hassim, handed up at the last hearing. You will remember I was going to do an audit of those authorities and then Chair intervened and said no, maybe we can leave those authorities and we did and I never went on to those authorities but can I just give you the single reference to the one authority, please, that is in my learned friend's bundle and I just want to point it out because I say that that is the second basis upon which we are entitled to utilize
 10 that as a valid excuse for non-participation. And if Chair will just bear with me, I now need to find my own papers.

Yes, it is the it is it is the authority of Wandsworth. The full citation is *Teinaz versus Wandsworth* [2002]. It is the England and Wales, I think it might be court of appeal, EWCA. No, it is the administrative court. I apologize. EWCA, Civil Division, 1040. At the bundle that was given to you by my learned friends you will please look at paragraph 21 where the conclusion reached by the court in that regard is that:

20 “Where litigant was unable to attend through no fault of his own, must usually be accommodated, however inconvenient.”

And then goes on to say:

“It would be absurd to criticize a litigant

for not attending to give evidence on his condition when the doctor has advised him that on medical grounds he should not attend.”

That is at paragraph 25 of that same authority and in the paginated bundle you will find it between paginated pages 31 and 33 of that bundle. So, that is the second reason, Chair, that there is authority to say that there is a valid exculpatory reason which has been given.

10 And the third one, Chair, is to say that, and I do not want to rehearse this argument, is that rather than recommendation which is, and I use this word guardedly, but which is potentially punitive to obtain a particular outcome, is he well or is he not well, as on the back of not complying or not attending, there are less intrusive means available and that a criminal recommendation in the circumstances is the most extreme option available and that the Commission can still, and if the Commission does that, and I hope I am using Commission in the right sense now,
20 Commissioner Khumalo, if the Commission does that, it almost brings that line of inquiry to an end because it passes it over to a different functionary but that if the Commission and the Evidence Leaders was interested in continuing this line of inquiry to establish what is or is not the case, then less intrusive means are available.

So at a broad level those would be the tenor of our submission, subject to specifics, but I appreciate the Chair is affording me an opportunity to highlight that all the same.

CHAIRPERSON: And two related issues. One, is laying a charge a recommendation in the sense in which you have referred to. And two, is laying a criminal charge something that would implicate the *audi* rights at all.

ADV PREMHID: I am ...[intervenes].

CHAIRPERSON: Is just laying a criminal charge.

10 **ADV PREMHID**: Yes.

CHAIRPERSON: And ordinarily the *audi* rights would be implicated in a situation or would arise in a situation where a decision is taken. I know you will say well, laying a criminal charge is preceded by a decision to lay the criminal charge. I am happy that you are shaking your head and that you are not going to say that. I am happy to hear that. So, one, is laying a criminal charge a recommendation in the sense in which you use that word. And two, is laying a charge or does laying a charge implicate *audi* rights at all.

20 **ADV PREMHID**: Why I shake my head is because I think it depends on the underlying conduct. So if there is a recommendation for the preferment of charges, so in other words you, Chair, in your capacity as Chair write to the SAPS, whoever the relevant police station would be and say we recommend that you open the case for an offence of the

Commissions Act, then I would say that is where the territory is of *audi*, because of the recommend ...[intervenes].

CHAIRPERSON: I do not see why the letter would say a recommendation is being made. Someone will just go to a charge office or write to the police and say a charge of A, B, C, D is being laid. So that is laying a charge.

ADV PREMhid: Yes.

CHAIRPERSON: It is not recommending that.

10 **ADV PREMhid:** Yes.

CHAIRPERSON: And then it is for SAPS to investigate or look at the information given and then saying because of the authorities that Mr Premhid referred to, there is no case whatsoever here and therefore they refuse to ...[intervenes].

ADV PREMhid: Yes.

CHAIRPERSON: They do not even take that docket to the NPA.

ADV PREMhid: NPA. No, that is why I am saying it depends on the underlying conduct. If you are the
20 complainant going to the, and I say you, I mean obviously *ex officio* in your capacity as the Chair or the Secretary perhaps, because I understand that the Secretary is the hand through which a lot of the operations of the Commission unfold, so I am going to refer to the Secretary. If the secretary is herself in her *ex officio* capacity the

complainant at the police station, then that is why I was saying it depends on the form of the conduct. Then I do not think I could have an *audi* objection, because that is as good as, and I am going to abuse Ms Matlenwane name next to me, that is as good as if I went to the police station and laid a charge against Ms Matlenwane for intimidation, which is probably coming very soon, she is a very good junior, but I do not owe her a right of *audi*. I accept that.

That is why I was saying, however, if the Secretary
 10 is going to write to the SAPS to say I am recommending that you, SAPS, charge Ms Matlenwane with intimidation and that flows from an *ex officio* capacity ...[intervenes].

CHAIRPERSON: Let me write away, let me write away say if what I said the Commission is minded to do does eventuate, it would have not take the form of a recommendation. The Commission will just lay a charge.

ADV PREMHID: Yes.

CHAIRPERSON: So I think we should just step off this idea of a recommendation and ...[intervenes].

20 **ADV PREMHID:** No, correct. I mean, but ...[intervenes].

CHAIRPERSON: And let us move on.

ADV PREMHID: Yes, because that ...[intervenes].

CHAIRPERSON: That will not eventuate.

ADV PREMHID: Yes, because that also takes me to my original point which was to say this might not even be the

hill for me to die on because it might be appropriate that any such *audi* right is not given effect to in front of you, *per se*, but then in front of either the SAPS or the DPP or whomever, as you ordinarily have the right to make representations to the DPP before any such case commences. So I do not think we are disagreeing with each other. I was only responding to the question Chair posited to me, which was what is the difference and what are the consequences between a recommendation *per se* and the
 10 laying of a charge, and I was trying to ...[intervenes].

CHAIRPERSON: No, how the *audi* rights get implicated.

ADV PREMHID: Yes. Yes, but because Chair has now said to me that if it is to eventuate, it is not going to take the form of a recommendation, the *audi* issue is irrelevant, with all due respect, because I think we have come to a consensus that if there is an *audi* in the context of the laying of the charge, that must happen elsewhere, not in front of you. So ...[intervenes].

CHAIRPERSON: But I am sure we are agreed that you
 20 have made all your submissions ...[intervenes].

ADV PREMHID: Yes, yes, absolutely.

CHAIRPERSON: So that you do not say, you do not say, but Chair, you said are *audi* rights implicated at all and I, that is you ...[intervenes].

ADV PREMHID: No, no.

CHAIRPERSON: And I said not if it is not a recommendation.

ADV PREMHID: Correct.

CHAIRPERSON: You made your submissions on the *audi* points and whatever other rights in this regard, and you even came to the point that we are done with our submissions.

ADV PREMHID: In fact ...[intervenes].

ADV BALOYI SC: Just, I just want to make sure that
10 ...[intervenes].

ADV PREMHID: In fact, Chair, you have been so generous to me. Before any decision to recommend or lay a charge has been made, you have invited me to make those submissions in the first place.

CHAIRPERSON: Yes.

ADV PREMHID: So I am very ...[intervenes].

CHAIRPERSON: Indeed.

ADV PREMHID: And I did, and I am very indebted to you for that opportunity and indeed to respond to what my
20 learned friend said, considering that I was very short in opening and I am indebted for that.

CHAIRPERSON: Yes.

ADV PREMHID: In fact, we have taken far more time than I would have hoped for and I apologise for that if that is my doing. So, but I am indebted to you, Chair. May I just take

an instruction?

CHAIRPERSON: And Commissioner Baloyi has a question.

ADV PREMHIID: Oh, I apologise.

CHAIRPERSON: No, it is fine.

ADV BALOYI SC: Mr Premhid, is it not simply this. We are sitting here where Mr Carrim has not appeared contrary to a ruling that he must appear today and that ruling had behind it that he would be excused if we get an independent medical report that says he is not good to testify. We are
10 sitting in a place where we do not have that medical report and therefore, there is no, there is no basis for us to say he is properly excused not to be here. Are we not sitting with, there is no satisfactory explanation, therefore, for his non-appearance? And then, because our rules do deal with such matters, if a witness is required to appear and they do not provide a satisfactory explanation, certain consequences would follow. Is it not simply that, that we are sitting where we do not have a satisfactory explanation because of the issues that you have been ventilating with
20 the Chair, but the bottom line of it is that which was prescribed as a basis to excuse him has not been complied with.

ADV PREMHIID: Ja.

ADV BALOYI SC: Therefore, we do not have a satisfactory explanation and we must deal with it in accordance with our

rules. Is it not that simple, really?

ADV PREMHD: Well, I think the danger in characterizing it as being that simple, Commissioner Baloyi, with all due respect, is that then elevates the modality which is voluntary, but let us leave that to one side, the voluntary of the examination and the excuse to being a prescriptive basis to exclude any otherwise valid excuse. So on your narrow reading, if I understand correctly, Commissioner Baloyi, I cannot disagree with you and the reason I cannot
10 disagree with you is because, of course, in terms of what the order specified, non-compliance has arisen.

But what I am saying is I do not know that that would be, and I am choosing my words carefully, I would question the competency of such a directive in circumstances where it is applied prescriptively in that way and where non-compliance is potentially dealt with punitively, because it is a strict non-compliance with the mechanism in the order, to the ignorance of evidence that relates directly to the operation of that mechanism.

20 So I think what I am trying to say, Commissioner Baloyi, is on your narrow, and I am going to use the word stricter, reading of the order, then yes, there might be grounds for non-compliance and needing to deal with it, but because of the evidence that is nonetheless in front of you, I would say it is not that simple, because if the downstream

consequences is then lay a charge for non-compliance, whoever has to examine the charge or make a determination of the charge has to look at *mens rea* and wilfulness. And in light of the fact that the evidence is here already to say that there is not any of that at play, that is why I am struggling with the narrow reading in the way in which Commissioner Baloyi puts it to me, but I accept what you say in that narrow reading, subject to my caveat.

ADV BALOYI SC: Well, we are not deciding, the
10 Commission is not deciding *mens rea* ...[intervenes].

ADV PREMID: Yes, indeed.

ADV BALOYI SC: And we are never in a position to do that.

ADV PREMID: Indeed, indeed.

ADV BALOYI SC: So leave that out of the equation. All I am saying is we have this doctor's report. You have heard the concerns of the Commission about this doctor's report. There was a ruling to try and resolve the issue. That has not materialized.

20 **ADV PREMID:** Yes.

ADV BALOYI SC: We sit at a place where he is not here. The Commission is not prepared to accept the doctor's report. You have had the engagement with the Chair for reasons that have been given. We end at, well, we do not have a reasonable explanation, a satisfactory explanation

for his absence. Someone else will determine whether he did have ...[intervenes].

ADV PREMHIID: Yes.

ADV BALOYI SC: A reasonable, a satisfactory explanation for not appearing.

ADV PREMHIID: Yes.

ADV BALOYI SC: That is a different process from ours.

ADV PREMHIID: Yes.

ADV BALOYI SC: What we do in terms of rules is to say
10 on the material before us ...[intervenes].

ADV PREMHIID: Yes.

ADV BALOYI SC: He has not provided a satisfactory explanation for his absence.

ADV PREMHIID: Yes.

ADV BALOYI SC: And let somebody else evaluate whether that constitutes a criminal offense or not.

ADV PREMHIID: Yes. I think you and I are *ad idem* on the *mens rea* and the wilfulness point, but when you are sitting, you on bank as the Commissioners, are sitting *qua*
20 Commission and are applying your mind as to do we lay the charge for the strict non-compliance of the order as directed, all I am saying is that one of the factors you will have to take into consideration as to whether or not to lay the charge is that there is evidence in front of you that suggests that a charge may be inappropriate for the

reasons contained in the medical report. If you *qua* Commission choose as the decisionmaker to ignore that or to give it less weight or to proceed and actually say, well, this is not the form of the report, Chair, this is the debate we were having earlier, this is not the form of the report that I wanted, and therefore only because of the form of the report, I am going to close my eyes to it and I am only going to look at strict non-compliance.

You are of course entitled to do that, but I would
 10 say that that is where my concern and challenge comes about the rationality of such a decision or determination in the circumstances because of the available evidence in front of you. It is that *DA v President Simelane* ...[intervenes].

ADV BALOYI SC: Yes.

ADV PREMHID: Type of scenario that I am postulating.

ADV BALOYI SC: Of course, the other way of treating your doctor's report and all the evidence, by the way, not just the doctor's report, everything that has been placed before us
 20 about his non-appearance over time, another way of treating it is to say we have looked at all of that.

ADV PREMHID: Indeed.

ADV BALOYI SC: We are not satisfied that it provides a satisfactory explanation ...[intervenes].

ADV PREMHID: Indeed.

ADV BALOYI SC: For his appearance. So it is not simply we close our eyes as if those are the only things we could do, is to look at all the material and say on all of this, we are not satisfied that there is a satisfactory explanation for his absence, and on that basis, we refer.

ADV PREMHID: Yes, well, I think ...[intervenes].

ADV BALOYI SC: Thank you.

ADV PREMHID: I think, Commissioner Baloyi, if that is what the Commission does though, because then all the
10 evidence is being considered in the basket of factors, shall we say, before the charge is laid or not laid, then that is procedural rationality met. It means that you follow the correct evidential consideration decision-making process, and I do not disagree with that. A question of substantive rationality ...[intervenes].

ADV BALOYI SC: Trust us to do that.

ADV PREMHID: Yes, I have never not trusted you to do that at all. All I am saying is that procedural rationality might then be met. There could still be the question of
20 substantive rationality, but I understand we are not debating that today. We are in front of you. All I am agreeing with you on, I hope, is to say that yes, there is the strict way of interpreting it and, but now, as Commissioner Baloyi says to me, trust us that we will consider everything, well, that is the safeguard procedural rationality that all I could ask for,

subject to any other review grounds that may arise, so to speak. Thank you, Commissioner Baloyi.

CHAIRPERSON: Do you want to – thank you. Thank you, Mr Premhid.

ADV PREMHI: Thank you, Chair.

CHAIRPERSON: Ms Hassim?

ADV HASSIM SC: Chair, I am ordinarily not entitled to have ...[intervenes].

CHAIRPERSON: All right, all right. Thank you.

10 **ADV HASSIM SC**: A speak ...[indistinct] but may I say one thing in response to the ...[intervenes].

CHAIRPERSON: Subject to Mr Premhid then having the last word, yes ...[indistinct].

ADV HASSIM SC: Well, actually, Chair, it is in response to ...[intervenes].

CHAIRPERSON: But actually ...[incomplete].

ADV HASSIM SC: I am responding to submissions that he made, not a reply.

CHAIRPERSON: Ja, okay.

20 **ADV HASSIM SC**: And it is the *audi*, and I was glad to hear that Mr Premhid was finding a way to walk down the hill, but then as he went on, I thought he started to climb up that hill again that he said he did not want to die on, and I just want to say one thing in respect of that. I mean, it is tempting to go to other things, but it is in relation to the

laying of the charge. This is, in my view, and I want to urge the Commission to do so, because the reason for doing so, and let me firstly say it is not a decision by the Commission, it is the laying of a complaint, and even if that complaint were framed as to the SAPS, we recommend that you charge this person for the following. What will the SAPS do with your recommendation with respect? It is not a binding recommendation. The SAPS will say to you, thank you very much for your view, we will do our job, and we will
10 take it from here. So it is in the hands of the relevant authority to do with that whatever it wishes to do with that, and that is, must play out. That is the first thing I want to say.

The second thing I would like to say is that it is important that the Commission does so, because not only does the Commission have the power to regulate its own processes, it has a duty to protect its processes, and it is important for the protection of this Commission's processes that that takes place. The context in which this particular
20 what we call a breach of the Commission's Act has occurred is the context that I cannot go into detail on, but it is why the postponement application became so substantive, and why the medical expert report was required, was why it is necessary, important, and of value in this particular context for the patient himself to be examined. So the constant sort

of tender for us to talk to the treating doctor does not help. So that is a context in which we come across, we find ourselves here, and my submission is not only would it not be a decision that now is subject to some further *audi*, because it is a complaint, it will follow its course. The Commission is not making any decision regarding intention, wilfulness, et cetera.

The second thing is that in my view, and my submission to the Commission is that I urge you to do so
10 because it is necessary to protect our processes. Thank you, Chair.

CHAIRPERSON: Thank you, thank you. I doubt that you would want to say anything to that.

ADV PREMhid: I am covered.

CHAIRPERSON: Thank you, thank you very much. As I indicated at least then, I said the Commission was minded to, let me outright say the Commission is going to set the criminal process in motion. The Commission will direct the relevant functionary, and as you anticipated it, Mr Premhid,
20 that functionary will be Dr Vukuza sitting across there, who is the Commission Secretary, and for her to lay a criminal charge, not to make a recommendation, to lay a criminal charge against Mr Carrim. If the Commission were not to do that, it would itself not be taking its processes seriously.

This is something that the Commission just has to do, otherwise, witnesses will choose to come or not to come testify before it willy-nilly, and we cannot and we will not have that. So the Commission will lay criminal charges against Mr Carrim.

Whether he has defences to that, that is something for him to raise in that criminal process. Thank you. I will not even say that this is what the sort of decision that one usually has in mind in the context of decisions that are
10 taken and which are reviewable, but of course I can never stop Mr Carrim taking us on review on this, but I would be very surprised if he were to do that. I am just announcing what the Commission is minded to do.

I have a note. Let me, I will do a trump on my colleagues, both of them have sent me notes. Two issues. One is that is the end of the road insofar as us having Mr Carrim before us. That is it. Then what's happening next?

ADV SEGEELS-NCUBE: Chair, Ms Ramsamy is ready to continue with her evidence.

20 **CHAIRPERSON:** What is the time now? Mr Premhid, you are excused, but we are taking the adjournment now anyway.

ADV PREMHD: Thank you, Chair.

CHAIRPERSON: Ms Carrim, you too are excused.

ADV PREMHD: [Indistinct]...

CHAIRPERSON: I am very sorry. You must object, yes. You too are excused, Ms Hassim. So we will take the adjournment now and resume at 20 past 11. Let us adjourn.

ADV SEGEELS-NCUBE: Thank you, Chair.

ADV PREMHID: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SEGEELS-NCUBE: Good morning, Chair.

CHAIRPERSON: Yes, Ms Segeels-Ncube. Good morning,
10 Ms Ramsamy.

ADV RAMSAMY: Good morning, Chair. Good morning, Commissioners.

CHAIRPERSON: Good morning, Mr Ramatsekisa.

MR RAMATSEKISA: Good morning, Chair and the Commissioners.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Chair, we are continuing with Ms Ramsamy's evidence. If memory serves me, when we left off, we were still on page 18 of her statement,
20 supplementary statement, and she was dealing with the aspect of a meeting where reference was made to General Matlou on the 27th of May, but in her statement she was still busy with the authorisation of the Medicare 24 investigation.

Before we continue with that, Chair, there is a

matter that Ms Ramsamy, that I would like to bring to the Commissioners' attention related to the issue about the IGI report that Ms Ramsamy testified about that she said in a meeting on 1 September 2025, Mr Perumal had told them that that report was flown to the Eastern Cape by the Minister. That is how I recall her evidence, and I looked at the transcript. That is how she said it.

She since listened, she recorded the meeting. It is a lengthy meeting, but to that aspect, we would like to play
10 that audio because Chair will recall her evidence is obviously hearsay as to what happened, but Mr Perumal, on the recording, it is Mr Perumal indicating how the report got into his possession, and we would like to play that recording, and then she will just clarify her recollection of the, and what her evidence was regarding that.

Yes, there is two recordings that will be played. The one is just in respect of Mr Perumal. That audio is fine. We think you will be able to hear it without the headsets. There may be another recording that we play, it
20 will depend on how the evidence goes, and for that one, you may need headsets because it is a conversation where one person is very audible and the other person is not, Chair.

CHAIRPERSON: Do we have the headsets for...

ADV SEGEELS-NCUBE: We do not need the headsets now, Chair.

CHAIRPERSON: No, no, no. When we get to that point.
Are there any in front of you, Mr Ramatsekisa?

MR RAMATSEKISA: None.

ADV SEGEELS-NCUBE: If we do play the recording,
Chair, we will make arrangements.

CHAIRPERSON: All right.

ADV SEGEELS-NCUBE: Yes.

[RECORDING PLAYED BACK]

10 “**ADV SERUNYE**: No, no, no, it is fine, it
is fine, it is fine, ja.

MR PERUMAL: I am going to give you all
this now because I have informed the ID,
right, before this taking over matter.

ADV SERUNYE: Ja

MR PERUMAL: So there was a gentleman
that was flown in secretly over the
weekend from the Minister's office to
bring a document to me. I did not know
what the document was going to be.

20 **ADV SERUNYE**: Okay.

MR PERUMAL: I received the document, I
have informed the ID, and I am just going
to read... just because of this. Because
what, can we agree that Brian and I stop
working on, you know, all the pointers for

you on the Lushaba housebreaking and concentrate more on the Mokwele issue?

ADV SERUNYE: Ja.

MR PERUMAL: Right, so am going to read now. So what it is that I received, it is the report which the ID asked me to keep ...[intervenes]”

CHAIRPERSON: Please pause.

ADV SEGEELS-NCUBE: Do you want to try the...

10 **CHAIRPERSON**: Can you please improve the sound?

ADV SEGEELS-NCUBE: Can you try the earphones, Chair?

CHAIRPERSON: All right.

MR RAMATSEKISA: Chair, in the meantime, on this one, we can follow.

CHAIRPERSON: Oh, okay.

MR RAMATSEKISA: Ja. Maybe the next one, that is when we... But this one, we can follow.

CHAIRPERSON: Can we please start from...

20 [RECORDING PLAYED BACK]

“**ADV SERUNYE**: No, no, no, it is fine, it is fine, it is fine, ja.

MR PERUMAL: I am going to give you all this now because I have informed the ID, right, before this taking over matter.

ADV SERUNYE: Ja

MR PERUMAL: So there was a gentleman that was flown in secretly over the weekend from the Minister's office to bring a document to me. I did not know what the document was going to be.

ADV SERUNYE: Okay.

10 **MR PERUMAL:** I received the document, I have informed the ID, and I am just going to read... just because of this. Because what, can we agree that Brian and I stop working on, you know, all the pointers for you on the Lushaba housebreaking and concentrate more on the Mokwele issue?

ADV SERUNYE: Ja.

20 **MR PERUMAL:** Right, so am going to read now. So what it is that I received, it is the report which the ID asked me to keep just with me for now until I meet with her, but I am going give it, just let you in on what they say about Mokwele's appointment. So the report comprises of various parts of our criminal investigations here, the buying of the buildings, Khumalo's appointment,

Mokwele's appointment and others. So I am just going to quickly read to you what they say about her appointment.

ADV SERUNYE: Ja?

10 **MR PERUMAL**: The Inspector General of Intelligence. Because I think what the ID needs to do when you look at people is to find a way, because if there is good synergy between the Inspector General of Intelligence and the ID now for them to be convinced to get somebody from the IGI to give an affidavit in support of this endeavour. You know?

ADV SERUNYE: Mmm.

20 **MR PERUMAL**: So they say the following. They say investigation methodology. Several documents relating to this appointment were perused for the purposes of analysing the process of recruitment followed by the management of CI..."

ADV SEGEELS-NCUBE: Thank you, Chair. Then it goes into the detail of the report, which we are not going to deal with, but the clarification from Ms Ramsamy is that Mr Perumal says that the report was flown in from the office of

the Minister and her evidence was that it was the Minister. So she wanted to clarify that Mr Perumal in that audio says the office of the Minister, whereas her evidence had said the Minister himself. So that is the clarification on that.

And the reason why we played it a bit further is so that you could hear him identifying it as the IGI report and that it is into the investigation, Crime Intelligence investigations and the appointments of General Khumalo and Madondo, et cetera. So that is the recording on that.

10 And then I would like to ask Ms Ramsamy one or two questions from that recording. Ms Ramsamy, Mr Perumal ...[intervenes]

CHAIRPERSON: Sorry, just a minute. Is Ms Ramsamy going to identify the voices for us?

ADV SEGEELS-NCUBE: That is what I was going to ask her, yes.

CHAIRPERSON: All right, thank you, thank you.

ADV SEGEELS-NCUBE: To identify the voice of the gentleman that is speaking about the report being flown by
20 the Minister's office to Eastern Cape.

CHAIRPERSON: Perhaps let me say this. There is the louder voice and then there is a softer voice.

ADV RAMSAMY: The louder voice is Advocate Serunye and the softer voice that is speaking about the IGI report is Mr Perumal.

ADV SEGEELS-NCUBE: And the setting was that it was the 1 September 2025 meeting that was called by the ID, Advocate Johnson, to, as you say, convince Mr Serunye about the merits of the Operation Diversion matters, after his email that he had sent in August or one of three emails to question the merits of the cases.

ADV RAMSAMY: Correct, that is correct.

ADV SEGEELS-NCUBE: And it is during the course of that meeting that Mr Perumal then brings up this issue about
10 having been given this report.

ADV RAMSAMY: Yes.

ADV SEGEELS-NCUBE: Okay. And ways in which they were going to attempt to get the report into part of your investigation in a lawful way, to do an affidavit from the IGI's office.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And then he says something about the ID and the IGI's office now have a good relationship or something to that effect, on good terms now.
20 Do you know why he was referring to as on good terms now? And this would have been September 2025.

ADV RAMSAMY: My understanding of that statement was that Advocate Jay Govender had retired from the IGI office and Advocate Govender is a stickler to the rules. She does not bypass the rules neither does she hold back on her

words. So my understanding from that is that because the person that was providing the legal advice to the IGI to not break procedure and what is legislated, had gone on early retirement.

ADV SEGEELS-NCUBE: And now they had a better relationship, so they, so now you could get the report, when previously when, I think you had even reported to the ID that you had a fruitless meeting with the IGI with Govender in January.

10 **ADV RAMSAMY:** Yes, correct.

ADV SEGEELS-NCUBE: So now with Govender being gone there would now be a better relationship between the ID and the IGI. Okay. And then if I understand it Mr Perumal, it was a Teams meeting and Mr Perumal was in the Eastern Cape at the time.

ADV RAMSAMY: Correct, Mr Perumal was in the Eastern Cape and Mr Padayachee had logged on from KwaZulu-Natal. It was myself, Advocate Hlatshwayo and Advocate Serunye that were sitting in the boardroom. We were using
20 my laptop.

ADV SEGEELS-NCUBE: And initially the Advocate Johnson was also in the meeting.

ADV RAMSAMY: Advocate Johnson called for the meeting. She had spoken extensively as I had testified about how Advocate Serunye needs to understand what these cases

are and that Mr Perumal and Mr Padayachee were going to explain it to the prosecutors and that she had said that it is state capture. This investigation falls under the mandate because it is state capture.

ADV SEGEELS-NCUBE: Okay. Then can we, unless there is any questions flowing from that, we can go back to your statement. Page 18 of your supplementary statement.

ADV RAMSAMY: Paragraph 38.

ADV SEGEELS-NCUBE: I think let us start from 37. From
10 'the file was encrypted'. That was the IGI report which was being used as a basis for the section 28(1) authorisation. So you can start from 'thereafter, Advocate Johnson gave me the password'.

ADV RAMSAMY: It is not the IGI report that we refer to here.

ADV SEGEELS-NCUBE: No. The preliminary report, my apologies, yes.

ADV RAMSAMY:

20 "The file name of the report had a date of 30 January 2025, but I do not know when it was given to IDAC by General Matlou. The file was encrypted and Advocate Chabalala could not remember the password. I responded to Advocate Johnson that I could not access the report

because of the encryption. Thereafter Advocate Johnson gave me the password. It is clear from the email that Advocate Johnson wanted to authorise the report by Friday, 16 May 2025. I did not understand the urgency.

10 If there was a preliminary audit report dealing with the matter, I did not understand why Advocate Johnson needed to urgently authorise the investigation and even bypass the section 28(13) process. I can only speculate that General Matlou must have informed Advocate Johnson that General Masemola had intended to cancel the Medicare 24 contract and that he would do so soon, which may undermine any allegations that he failed to act, but this is only speculation.”

20 **ADV SEGEELS-NCUBE:** And you say that now but that was not what you suspected at the time? You did not know that that was the, or you did not have that suspicion at the time?

ADV RAMSAMY: No, it is only after hearing all the evidence.

ADV SEGEELS-NCUBE: Okay.

ADV BALOYI SC: From where you started reading, you say that you need to authorise the report by Friday. I take it you mean the investigation. Where you started?

ADV RAMSAMY: Yes.

ADV BALOYI SC: Yes. Okay.

ADV RAMSAMY: Thank you, Commissioner.

ADV SEGEELS-NCUBE: And if we can just go to that email again, in fact Advocate Johnson wanted it finalised by
10 the Thursday, so file 10-285. File 10-285 and it is the email at the bottom of the page. Okay. What I want to highlight is again the date of the email, which is the 13th of May and then the second paragraph where Advocate Johnson says:

“General Matlou contacted me and I want to authorise by Thursday.”

And just about that, in fact the sentence just above that.

“I need you to look at it urgently and then submit. General Matlou contacted me and I want to authorise by Thursday.”

20 Now we have heard evidence at the Commission that the Medicare 24 contract was in fact cancelled on the 13th of May 2025. You were not aware of that at the time.

ADV RAMSAMY: No I was not.

ADV SEGEELS-NCUBE: Okay. And so you would not have been aware that that could have been a motivating factor

for the urgency in trying to authorise the 28(1).

ADV RAMSAMY: No, I would not have known because even the subject says:

“SAPS/Tembisa Hospital tender”

ADV SEGEELS-NCUBE: And at that stage, Medicare 24 was not yet, well it would have appeared on your 28(1) but when she sends this email to you at the time you have not seen any documents yet.

ADV RAMSAMY: No I have not, so I was not aware that it
10 was in fact the 360.

ADV SEGEELS-NCUBE: Okay. Then we can go back to your statement paragraph 38.

ADV RAMSAMY:

“I enquired as to how the allegations in the draft section 28(1) came about and where did Advocate Chabalala find the suspects et cetera. Advocate Johnson indicated that I should speak to Mr Perumal. When I asked Mr Perumal he
20 indicated that he did not know where Advocate Chabalala got the details. Be that as it may, I perused the draft 28(1) application which was quite detailed. I did not make any changes to the documents and sent to Advocate Johnson.

She authorised the section 28 investigation on the 16th of May 2025. Prior to 16 May 2025, there was no authorised investigation by IDAC into the Medicare 24, yet Mr Perumal, Bellochun and Padayachee were already investigating the matter.”

If I may just add here...

ADV SEGEELS-NCUBE: Is that at paragraph 38?

10 **ADV RAMSAMY:** Yes. When I say I did not make any changes, I did not make any changes to the averments that Advocate Chabalala had made or the list of the suspects. I did however follow instructions of Advocate Johnson and amend the designated persons, to remove three advocates and add Mr Manillal, Advocate Manillal, Advocate Hlatshwayo and myself.

ADV SEGEELS-NCUBE: And do you recall who those advocates were, would Advocate Chabalala have been one of them?

20 **ADV RAMSAMY:** It was Advocate Chabalala, it was Advocate Rashakala and Advocate Paul Louw.

ADV SEGEELS-NCUBE: Okay and was on Advocate Johnson’s instruction?

ADV RAMSAMY: Yes, it is in the first email.

ADV SEGEELS-NCUBE: Okay.

CHAIRPERSON: So, Advocate Johnson had formally announced that she was changing the team. She did not just ask you to effect the change. She announced formally and you then...

ADV RAMSAMY: Chair, it is in the email where Advocate Johnson says, remove Paul, Tilas, et cetera.

CHAIRPERSON: Okay.

ADV SEGEELS-NCUBE: Yes, that is in that same email, 285.

10 “Kindly remove Tilas, Paul, et cetera from the designations. Add Santos as the advocate as he will oversee when I am unable to attend to things.”

So, when she says I am unable to attend to things, it was the intention that Advocate Johnson would be in charge as the prosecutor.

ADV RAMSAMY: Correct. She would be the supervisor of the matter.

ADV KHUMALO SC: When did it become a Medicare 24?
20 Because on this email, it is still being referred to as SAPS Tembisa Hospital.

ADV RAMSAMY: Correct.

ADV KHUMALO SC: When did it formally become a Medicare 24 investigation?

ADV RAMSAMY: When... So, the formalisation of the

name itself only took place on the meeting of the 27th of May.

ADV SEGEELS-NCUBE: But that was not the name Medicare. That was an operation, something else, which you will get to.

ADV RAMSAMY: Yes, it was called a different operation, like Diversion was.

ADV SEGEELS-NCUBE: Okay. But you do not know when it became Medicare 24 itself because you were referring to
10 it as an operation internally.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. Well, prior to the authorisation, it was the SAPS tender, Tembisa contract, and then when she officially, Advocate Johnson officially named it, that is the name that you continued using.

ADV RAMSAMY: Correct, yes.

ADV SEGEELS-NCUBE: Okay. 28(1), you are dealing with investigations that were undertaken prior to the authorisation.

20 **ADV RAMSAMY:**

“Mr Perumal received the 30 January 2025 preliminary report from General Matlou before the section 28(1) authorisation. Advocate Johnson was communicating with General Matlou about

the matter before the section 28(1) was authorised, but more importantly, before there was a section 27 referral affidavit.

It may be that section 28 entitles Advocate Johnson to conduct the investigation with or without a section 27 referral, but Advocate Johnson testified before the Ad Hoc Committee that the investigation emanated from a section 27 referral affidavit with supporting documents, which was referred to IDAC on the 16th of February 2025. I have not seen such a referral, and as far as I am aware, Advocate Johnson has not produced that referral before the Ad Hoc and this Commission.

The investigation must still be authorised, even if it does not emanate from a section 27 referral. The investigation was only authorised, if one can even call it that, on the 16th of May 2025.”

ADV SEGEELS-NCUBE: Continue.

ADV RAMSAMY:

“The section 27 referral affidavit relied on by Advocate Johnson during her evidence

before the Commission, is an affidavit by General Matlou Commissioned in June 2025, after the section 28(1) authorisation.”

ADV SEGEELS-NCUBE: And that is the document that we looked at the last time on page 2985 of the bundle.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: We will not go there again. Continue.

10 **ADV RAMSAMY**: Thank you.

“As stated above, I have seen the affidavit of Lieutenant-Colonel Khumalo regarding Mr Perumal's request for the data on Mr Matlala's devices on the 30th of May 2025. I can confirm that around that time of the irregular section 28(1) authorisation, May 2025, there was a lot of hubbub about the need to get Mr Matlala's devices as soon as possible.

20 Initially, there, Mr Perumal, Bellochun and Advocate Johnson wanted to collect devices from the PKTT, and I indicated that you cannot go and collect someone else's exhibits.

You have to go and serve a subpoena on

Mr Matlala and subpoena on the current possessor, being the PKTT, or whichever SAPS unit had the devices, and then go with a service provider or a person who is an IT expert that is accepted in terms of the Cyber Crimes Act and mirror image those devices. This seems to be what was then ultimately done on the 30th of May 2025.

10 I am still unclear as to what section 28(1) was used to gain access to the devices because there is now a backdated 30 May 2025 authorisation in respect of the Mokwele matter and an irregular authorisation in respect of the Medicare matter dated 16 May 2025. At this stage, I was exasperated and fed up with the whole situation. It was just shortly after this that I engaged the DPCI in late June
20 2025.

There was once again no supervision on this matter at DDPP level. Everything was going through Advocate Johnson in consultation with Mr Perumal. Even though there was a DPP, Advocate

Manillal who had been briefed, he had no knowledge of what was happening, and the project was still being run out of Advocate Johnson's office.”

ADV SEGEELS-NCUBE: And then before you go to the next paragraph, if I could take you to file 10, page 328, because you do not deal with this in your statement. You skipped to 2 June, so I would like you to just address in sequence where now this WhatsApp exchange is between
10 you and Advocate Johnson on the 20th of May 2025 after the authorisation, and it is an email that you sent to Advocate Johnson. If you can just read it, and then you can read her response, I will tell you where you can find that.

ADV RAMSAMY: 328?

ADV SEGEELS-NCUBE: Yes, of file 10.

ADV KHUMALO SC: Please remind her that she has the screen available to her.

ADV RAMSAMY: Sorry. Thank you.

ADV KHUMALO SC: If you are struggling with the files,
20 remember it is flighted also.

ADV RAMSAMY: Thank you, Commissioner.

“Morning, Advocate Johnson. Trust you are well. I need your leadership, prosecutor’s guidance, and instructions on legal and evidential aspects. On

Project Diversion and the link of a 28 on
 Diversion, I ask that they not finalise the
 affidavit as it contradicts Mr FK's
 affidavit. But this person that was a 28
 interview, is a listed suspect on the new
 matter with a strong criminal link to the
 offences. Mr Bellochun has asked P.M.
 (Project Manager) on the new matter, to
 arrange a briefing with the General on
 10 Monday 26th with DD and two PPs. I need
 clarity on your instructions on how we
 proceed with the project. I am almost
 done with the report for you on evidence,
 just adding most recent affidavits, and I
 will have a draft charge sheet for HB
 ...[intervenes]”

ADV SEGEELS-NCUBE: That is housebreaking.

ADV RAMSAMY: Correct.

20 “...matter ready by Friday. I am waiting
 for the last affidavit so that we can have
 sufficient evidence of corruption.”

ADV SEGEELS-NCUBE: If you can then go to, ‘so please
 advise if I may ask Inno too’, and then go to 327, the top of
 327.

ADV RAMSAMY:

“Please advise if I may ask Inno to schedule a 30-minute meeting when you are available this week. Thank you.”

Advocate Johnson replies:

“Sorry, which General must be briefed and which DD and PPs? At present, I am the supervisor on the matter, and as such, all decisions must be run by me.”

ADV SEGEELS-NCUBE: And you respond?

10 **ADV RAMSAMY:**

“You have so much on your plate, sorry to add. That is why I asked you. He asked Tsepo to make arrangements with Santos, Joe, and myself, and he made arrangements with General Matlou to brief us. My understanding was that it must go through you, and only when you are not available to Santos.”

She replies:

20 “You are correct. I have not briefed Santos yet, so they must run everything past me.”

I reply:

“Noted, thank you. I will advise PM to hold on everything, and he must inform

Bellochun.”

She replies:

“Thanks.”

ADV SEGEELS-NCUBE: Now, the briefing with General Matlou, what was the purpose of that? Was it explained to you?

ADV RAMSAMY: Briefly by Mr Bellochun, where he indicated General Matlou was going to brief us on the reports, and they were going to brief her on where they are
10 with regards to the investigation.

ADV SEGEELS-NCUBE: And they were intending to have that sometime on the 26th of May, around about there?

ADV RAMSAMY: Correct, and the authorisation was only on the 16th of May. That is why or how I knew that investigations had started already.

ADV SEGEELS-NCUBE: And at this stage, there is still no section 27 affidavit that you have seen?

ADV RAMSAMY: Correct, that I have seen.

ADV SEGEELS-NCUBE: Okay. And when – was General
20 Matlou going to come to your offices? What was the arrangement going to be, and who was arranging this? Was it Mr Bellochun?

ADV RAMSAMY: Mr Bellochun was arranging everything, and the boardroom – we were previously, we are now at CSIR, but previously we were at the Linton House, the old

SARS building. So the SARS boardroom was booked.

ADV SEGEELS-NCUBE: Okay. So then it seems that there is a meeting that is held on the 27th of May, but I do not think that is the one with General Matlou, if we go to page 51 of file 11, which is your written notes.

ADV RAMSAMY: Sorry, what page?

ADV SEGEELS-NCUBE: Page 51 of file 11. We had dealt briefly with this. I just want to deal with it in sequence.

ADV RAMSAMY: Correct.

10 **ADV SEGEELS-NCUBE**: There is a reference there. So this meeting, it says Brian, Dylan, Tsepo, Pat, Charles, ID, and you, of course. And there is a reference to Tembisa. Would that be now what we know as the Medicare 24?

ADV RAMSAMY: Correct. It was at this point that the name of Project Wellness was given.

ADV SEGEELS-NCUBE: Okay. We will get to that one. If you go to the next page, here there is a discussion about search at the house, at J51, all on one day. What was that about?

20 **ADV RAMSAMY**: Advocate Johnson indicated that the name or the designation needs to be changed to include the name of the service provider that would be present for the seizure of the cell phones and that the search must all happen on the same day. So they must search Mr Matlala's house and obtain the devices on the same day.

ADV SEGEELS-NCUBE: And then on the next page, the top entries?

ADV RAMSAMY:

“Advocate Johnson asked questions with regards to General Matlou’s report. The questions were:

Has the Minister received the report?

What usually happens after a report like this, requests are complete?

10 And forensic investigation, who, how, when will it be finalised?”

ADV SEGEELS-NCUBE: Why was she asking these questions?

ADV RAMSAMY: Because I had raised it.

ADV SEGEELS-NCUBE: Okay. You had raised the questions about General Matlou's report.

ADV RAMSAMY: Correct. My question with regards to that was, how are we investigating based on a preliminary? And then there is still a finalised report that needs to follow
20 that would or most probably affect the investigation as it stood or continuing.

ADV SEGEELS-NCUBE: Okay. Because at that stage, you just had the report that stated – at that stage, did you still only have the report that said it is 30 January 2025?

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. You did not have the April report yet?

ADV RAMSAMY: No.

ADV SEGEELS-NCUBE: Okay. And then on the next page, page 54, there is a reference to General Matlou again. What was that?

ADV RAMSAMY: Advocate Johnson had indicated that she wanted to be present in the meeting with General Matlou. It was supposed to take place at Fire and Ice at 10 o'clock. It
10 did not, that meeting did take place, but General Matlou did not join.

ADV SEGEELS-NCUBE: So that would have been still on the 27th?

ADV RAMSAMY: It would have been between the 27th and the 28th.

ADV SEGEELS-NCUBE: Okay. And then the next page, there is also a reference third line, ask General Matlou.

ADV RAMSAMY: With regards to this, it was because NasCom had Commissioned this internal audit, my
20 understanding was that NasCom had given General Matlou access to all the bid documents and files with regards to the tender. And so it was a question to ask Matlou to release that information to IDAC, those files.

ADV SEGEELS-NCUBE: And then the next entry refers to Cat and Cartwright. What is that?

ADV RAMSAMY: MJ... MJ is a reference to a witness from Vetting.

ADV SEGEELS-NCUBE: It is fine, you do not have to say the witness's name.

ADV RAMSAMY: And that witness confirmed that Cat has a personal relationship or personal friends with Cartwright.

ADV SEGEELS-NCUBE: And Cat would be Mr Matlala?

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And Cartwright would be
10 Cartwright in respect of that has been charged in the
Medicare 24 matter?

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. One of the suspects. And was this witness, MJ, was this a witness that was from the Crime Intelligence wing investigations as well or had not featured there?

ADV RAMSAMY: It is a witness from the Crime Intelligence Matters, from the Vetting department.

ADV SEGEELS-NCUBE: And who had told you, who had
20 communicated that MJ confirms that Cat is personal friends
with Cartwright in that meeting?

ADV RAMSAMY: It would have been Mr Perumal because he was doing most of the talking during the meeting.

ADV SEGEELS-NCUBE: Okay. And then there is again a reference, you have got two arrows and:

“Chain statements = not yet done,
legislation applicable, and then ask
Matlou release of info.”

Is this the digital files that you were, the documents that the
documents you were referring to?

ADV RAMSAMY: Correct. Those are the documents.

ADV SEGEELS-NCUBE: That General Matlou was going to
release, make available to you.

ADV RAMSAMY: To make available to IDAC, yes.

10 **ADV SEGEELS-NCUBE:** Okay. At what stages do you
know and were you present in any discussions about the
fact that an affidavit was now, a section 27 affidavit was
needed in respect of General Matlou? Because we know
there is an affidavit that she deposes to in June of 2025
where she asks for an investigation to be initiated. When
were those discussions held that such an affidavit must
come?

ADV RAMSAMY: So after the July 6th media briefing, that
team were, they were trying to get what Advocate Johnson
20 called the house in order. Because there was even a
meeting, I must place on record that at some point Advocate
Johnson was not allowing me to take notes. She did say
while she was testifying that I take comprehensive notes
and on a particular meeting she was like, you do not need
to take notes, just listen. So not all the meetings have

been documented. It is where I could take notes.

So in that particular meeting, Advocate Johnson even indicated that the Crime Intelligence Project Diversion dockets cannot only be held by Mr Padayachee. So she indicated that it must be put in the names of the other investigators, but only for the purposes of the name of the holder of the dockets. Everything else will continue between Mr Padayachee and Mr Perumal.

ADV SEGEELS-NCUBE: Okay, so, but I am asking, were
 10 you present in any meetings where a discussion was had that General Matlou has to do an affidavit to initiate, asking for the investigation to be initiated?

ADV RAMSAMY: No, I was not directly involved in that specific aspect.

ADV SEGEELS-NCUBE: Okay, then we can go to the 2 June meeting in your affidavit, page 20, paragraph 43.

ADV RAMSAMY:

20 “On 2 June 2025, before General Matlou deposed to the affidavit of 6 June 2025, a meeting was held on the Medicare 24 matter, where General Matlou was present. This was highly irregular for obvious reasons, but her presence was justified by Advocate Johnson. I have been unable to retrieve these notes.

They were at the office and I have not
been able to return to the office since.”

ADV SEGEELS-NCUBE: I think, just to clarify, you do have notes for 2 June 2025, but not all the notes for that entire day.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: So if we go to page 45 of file 11, there are some notes that deal with the Medicare 24 matter, so maybe you can just take us through that. Page 45 on file
10 11. We see Wellness at the top, what is that?

ADV RAMSAMY: That is the name of the project, Project Wellness.

ADV SEGEELS-NCUBE: Which is the Medicare 24 investigation?

ADV RAMSAMY: Yes.

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY: The first aspect that was discussed, and Commissioners, this is now the 2nd of June 2025. They are already discussing that Mr Matlala is a possible 105A,
20 meaning plea agreement, which then ...[intervenes]

ADV BALOYI SC: At this point, had they spoken to him, to your knowledge?

ADV RAMSAMY: The way they were conversing, it was almost as if it was already a done deal.

ADV SEGEELS-NCUBE: Okay, but you did not know

whether they had engaged Mr Matlala.

ADV RAMSAMY: No, I do not have knowledge about that.

ADV SEGEELS-NCUBE: Okay. Are you saying at this stage they were already discussing the possibility of Mr Matlala, of entering into a plea and sentence agreement with Mr Matlala?

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And had they discussed what the nature of that would be?

10 **ADV RAMSAMY:** No, that discussion did not take place in detail.

ADV SEGEELS-NCUBE: Okay. You can refer to your statement or the notes, whichever, but on paragraph 43 you deal with that meeting on page 20.

ADV RAMSAMY:

20 "I had a huge disagreement with Mr Perumal regarding the aspect of the matter, which I cannot disclose before the Commission at this stage because the matter is currently scheduled to proceed to trial. Another bone of contention between Mr Perumal and me was the issue of section 204 witness (sorry) engagements with Mr Mike van Wyk. I wanted to know how Mr Bellochun could

have already met with Mr van Wyk, when the authorisation had just been granted on the 16th of May 2025, and already progressed to the point where Mr van Wyk was being considered as a 204 witness at the time of our meeting.

In fact, there is no 27 referral affidavit. There is a preliminary report at that stage, I am not aware of a final report, and yet there are engagements for arrangements on a potential section 204 witness. I said this cannot be. I was invited to a meeting with Mr van Wyk and his attorney on the 28th of May, but I did not attend."

10

ADV SEGEELS-NCUBE: We can go to that page 615 of file 10-2, which is an exchange between you and Mr Bellochun. So part 10, part 2, page 615. I was not sure of the date, and I do not think you came back to me on the date, but it would have been around that time because the screenshot does not have the date.

20

ADV RAMSAMY: It was between the 27th and 28th of May.

ADV SEGEELS-NCUBE: Okay. And we see here that he says, I think the third white block, he says:

"Will do, please avail yourself of the

meeting with Mike.”

Is that Mike van Wyk?

ADV RAMSAMY: Correct. I replied:

“I have a meeting with the ID now.”

And then later on during the day, I sent a message at 13.43:

“Did Mike come?”

His reply is:

10 “No, tomorrow at 12.00. Please be
available tomorrow for the meeting with
Mike and his attorney. I need your
football approach.”

I reply:

“I really, really need to finish drafting.”

ADV SEGEELS-NCUBE: So you did not want to attend the
meeting?

ADV RAMSAMY: No, I did indicate last, on Tuesday, that I
found every excuse not to go to meetings after a certain
point.

20 **ADV SEGEELS-NCUBE:** Then we can go back to your
statement, paragraph 44 on page 21.

ADV RAMSAMY:

“General Matlou then informed us of the
developments regarding the internal
investigation, which really did not shed
light on the matter because the

preliminary report had already been disclosed. I do not know when General Matlou's 6 June 2025 affidavit was submitted to IDAC, but in it, she calls for an investigation to be conducted when she already knew that Advocate Johnson had approved a section 28(1) investigation, because Advocate Johnson had told us in her email in May 2025 that

10 she received a call from General Matlou and that she, being Advocate Johnson, wanted to authorise a section 28(1) by 16 May 2025. There was no further discussions regarding subpoena ...[intervenes]"

ADV SEGEELS-NCUBE: There were further discussions.

ADV RAMSAMY: Sorry.

20 "There were further discussions regarding subpoenas and bank statements. But after that meeting, I completely excluded myself from the investigation. I would find excuses not to attend any of the Medicare 24 meetings."

If I may just explain or expand on the statement about the subpoenas and the bank statements. I had gone at length

to explain you cannot start an investigation with a 204 because the 204 is going to mislead you. You need to investigate and then approach.

So in this meeting, Mr Van Wyk had provided three bank account details for Mr Matlala and Mr Bellochun had indicated they were only going to subpoena those accounts. And I said, no, you cannot do that. You have to send a subpoena to all the banks with the ID number, because we are dealing with money laundering. We cannot go on the
10 three bank accounts only that are provided by someone who is also implicated. And Mr Bellochun said to me, F that, I am doing this my way.

ADV SEGEELS-NCUBE: And so that is, again, one of the issues that you have with him, that he just does his own thing without prosecution involvement.

ADV RAMSAMY: Correct. And no matter how you complain, nothing changes. That team pretty much does whatever they want. And if you complain to Advocate Johnson, I have explained what happens.

20 **ADV BALOYI SC:** Could it not be said that because she was in charge, I mean she is a prosecutor, she was in charge of this project, so they were doing it with the directions? They may not have listened to you, but the person in charge clearly they were engaging with.

ADV RAMSAMY: I gathered so.

ADV SEGEELS-NCUBE: Okay. We can then move on to another topic, which is a prosecution memo on General Masemola and General Khumalo, page 21, paragraph 45 of your statement.

ADV RAMSAMY:

“After ...[intervenes]”

ADV BALOYI SC: Maybe before you do that, and it may be that you are dealing with it in this very next heading, the report, the audit report, to my recollection, does not make
10 any allegations or accusations of General Masemola?

ADV RAMSAMY: No, nothing. Not even the final report.

ADV BALOYI SC: Yes. And then it takes me to my next question, which is really more a process question, that is there any reason that you would have excluded, when I say you, I mean IDAC, that you would have kept the National Commissioner in the dark, where you are looking at Medicare 24 based on a report that does not make any allegations against him? In your operation, how does that work in your operations?

20 **ADV RAMSAMY:** Commissioner, once again, you are so far ahead of us. I do deal with that with my notes on the 8th of July.

ADV BALOYI SC: You will deal with it when you get there.

ADV RAMSAMY: Thank you.

ADV SEGEELS-NCUBE: Okay. 45.

ADV RAMSAMY:

“After the arrest of General Lushaba and three others, and thereafter General Khumalo and others in the Mokwele matter, we were in the process of moving offices, yet the pressure to enrol matters against General Masemola and General Khumalo did not ease. There were already draft J50 affidavits for the arrest of General Masemola and General Khumalo in respect of the appointment of General Khumalo to Divisional Commissioner of Crime Intelligence. It was sent to us on the 2nd of July 2025.”

ADV SEGEELS-NCUBE: Can we go to that document, page 500 of 10, part 2? It is an email from Mr Perumal to you and Advocate Hlatshwayo regarding Brian affidavit.

CHAIRPERSON: 5-0-0?

ADV SEGEELS-NCUBE: Yes, Chair.

20 **CHAIRPERSON:** Oh, thank you.

ADV SEGEELS-NCUBE: So it is at the 2nd of July 2025, 11.13.34:

“Hi, attached as requested.”

And I think we will see later why you probably requested it on that day, because you were busy preparing a memo.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. So we then can go to the document on page 502, which is an affidavit by Mr Padayachee, a draft, in support of an application for a warrant of arrest in terms of section 43 of the Criminal Procedure Act. And he gives in paragraph 1:

“I am tasked with the investigations of a case docket referenced Pretoria Central CAS (no number)/06/2025.”

10 Why would he do that?

ADV RAMSAMY: At this point, they were opening new dockets. They were not going according to the dockets that were referred to IDAC by Mr Fadiel. So he had left that space open. But Commissioners, if we take note of the fact that, of what I said on Tuesday, this is coming from Mr Perumal in the Eastern Cape, drafted in the name of Mr Padayachee.

ADV SEGEELS-NCUBE: Okay. He says at paragraph 4, so it deals with IDAC, and then at paragraph 6:

20 “I therefore bring an application for the authorisation of warrants of arrest in terms of section 43 of Act 51 of 1977 for the seven suspects whose details appear in the attached J50s, and who summarily are Sehlahle Fannie Masemola, Leneo

Nkua, Sidney...”

I think he meant to say Samuel;

“...Dumisani Khumalo, Timothy Moyana,
Gerhardus Jacobus Kemp, Abram Kibitle
Sichede [?], and Ntuseng...”

I will not say the surname.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And those were the
suspects that he had prepared a J50 for on the 2nd of July.

10 **ADV RAMSAMY:** Correct.

ADV SEGEELS-NCUBE: Now, just take us back to the
process under, so this would have been under what leg of
Operation Diversion?

ADV RAMSAMY: It would have been leg three.

ADV SEGEELS-NCUBE: Which is the Masemola, Khumalo,
the vetting?

ADV RAMSAMY: It is the appointment of General Khumalo
by General Masemola without General Khumalo having his
security clearance, and there were flimsy allegations about
20 General Masemola asking General Khan about how he, oh,
to just follow the process.

ADV SEGEELS-NCUBE: We will get to the detail of it
when we look at your prosecution memo. And at paragraph
7.1 we can see the background of the case. He talks about
that it is regarding the unlawful appointment of Khumalo.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And then he talks about, on page 505, the vetting and appointment of Khumalo as Divisional Commissioner, so he sets out everything in that, in his affidavit.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And the intention was that there would be, he would use this for purposes of getting the warrant of arrest.

10 **ADV RAMSAMY:** Yes. And Advocate Hlatshwayo and I were being put under immense pressure to start drafting the in consultation note, the prosecution memo, and the charge sheet for enrolment.

ADV SEGEELS-NCUBE: And the prosecution memo was necessary because you needed to support the J50.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: As the prosecutor.

ADV RAMSAMY: Correct.

20 **ADV SEGEELS-NCUBE:** Could it go ahead without your prosecution memo? Forget about Advocate Johnson pulling rank, but the normal process.

ADV RAMSAMY: No, the normal process is that you have to put in a prosecution memo to support the evidence, or rather to show that the evidence obtained in the docket supports the offences that you are providing.

ADV SEGEELS-NCUBE: So we will come back to this. Let us go back to your statement so that we can understand. You get this email with this affidavit in support of a J50 for the arrest of, amongst others, the National Commissioner and the Divisional Commissioner of Crime Intelligence.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And so you say you and Advocate Hlatshwayo then meet, so you can continue from there.

ADV RAMSAMY:

10 “On 2 July 2025, Advocate Hlatshwayo and I met to discuss the case regarding the appointment of General Khumalo ...[intervenes]”

ADV SEGEELS-NCUBE: I just want you to elaborate on this briefly, because when you were discussing it with me in consultation, you elaborated on what the relationship was like at the time between the two of you and why it is significant that the two of you got together to prepare this memo.

20 **ADV RAMSAMY:** Advocate Johnson ran the office as divide and conquer. You are scared to even speak to your colleague because you do not know what gossip or twists. So it is a very uncomfortable, toxic environment where we just do not trust each other. So Advocate Hlatshwayo and I were not... We had not worked together before. We did not

know, I did not know where she stood. She did not know where I stood. But when we were being forced to do these things, she and I had a conversation. The conversation went along the lines of, these guys are going to ruin our careers. These are HR matters. We are not putting it on the roll. It is then that we decided on 2nd of July to meet and attend to the memo.

ADV SEGEELS-NCUBE: Okay. And you can then... So you meet to discuss the case regarding the appointment of
10 General Khumalo.

“...and at the time, there was a lot of distrust created by Advocate Johnson.”

And then:

“...however, we knew that we had to make our views known on these matters.”

So you can start from, ‘we discussed the evidence’.

ADV RAMSAMY:

“We discussed the evidence and agreed that there was no *prima facie* case
20 against the Generals. In fact, we were both of the view that something was amiss on the part of Advocate Johnson, Mr Perumal, Bellochun, and Padayachee. We decided to prepare a prosecution memo for Advocate Johnson, setting out

our analysis of the evidence. Our recommendation was that there was no *prima facie* case. This was not the first memo that I had prepared regarding the Crime Intelligence matters prior to the arrest of General Khumalo and others in the Mokwele matter.

10 I had commenced drafting a memo indicating that there was no *prima facie* case against the accused. Unfortunately, I fell ill, I could not finalise and submit the memo. It is also for this reason that I was not aware of the enrolment of the Mokwele matter and arrest. Returning to the memo of 2 July 2025, we submitted the memo to Advocate Johnson on the same day, and to our utter surprise, she agreed with the assessment that there was no *prima facie* case.”

20 **ADV SEGEELS-NCUBE:** So can we go to first the email and then the memo, page 379 of file 10? Just from a timing point of view, so while you find the page 379, you get the affidavit, the draft affidavit of Mr Padayachee that morning, Wednesday, and at 18.47, that same day, you send a prosecution evidence report, Vetting and Promotions Leg 4.

You say it is to Advocate Johnson, the project manager, Mr Sesoko, you have Joy in there and then the PA of Advocate Johnson.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. You can read the email.

ADV RAMSAMY:

“Good evening, ID Trust you are well. I apologise that we could not submit earlier, we only finished drafting at 5 p.m.

10 Attached is our combined report and submissions after careful consideration of all factors. Kind regards.”

ADV SEGEELS-NCUBE: Now, had Advocate Johnson expected you to submit this report because Mr Padayachee had his draft affidavit for the J50 or...?

ADV RAMSAMY: Advocate Johnson was expecting us to submit the charge sheet in the prosecution memo showing that there is evidence linking it to the offences, elements of the offence, and the consultation note for the DDPP.

20 **ADV SEGEELS-NCUBE:** Okay. So she was expecting to get a document that was supportive of the J50 essentially.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And then if we can go to the memo on page 382 and we will just highlight certain aspects of it. You can read. So it is memorandum,

prosecutor's report, evidence, vetting and promotions, titled State Advocates 2 July 2025. It is from you and Advocates Hlatshwayo to Advocate Johnson.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Just read in paragraph 1, the purpose.

ADV RAMSAMY:

10 “The purpose of this memorandum is to
 make submissions to the Investigating
 Director, ID, regarding the lack of
 material evidence in leg four of Project
 Diversion.”

My apologies, Commissioner Khumalo. It is leg four, not three.

ADV KHUMALO SC: Yes, leg three is Madondo.

ADV SEGEELS-NCUBE: He was going to correct you later. Okay. It is just because of the order in which it was done, and you explained that in your memo why it is leg four first. So let us do that, paragraph 2.

20 **ADV RAMSAMY:**

 “In summary, the prosecutors were
 informed that a decision was taken to
 move forward with leg four before leg
 three and that a charge sheet and all
 accompanying documents were to be

drafted. This was communicated to us on Friday, the 27th of June 2025, by Chief Perumal. Below is a summary of the statements contained in the dockets and evidential flaws. It is our submission that there is currently no *prima facie* case, thus there is currently no reasonable possibility of a successful prosecution.”

ADV SEGEELS-NCUBE: Now, can I just understand, were
 10 you told why there was this change in order, why you were going to do leg four, which is the arrest of General Masemola with General Khumalo, amongst others, as opposed to leg three, which would have been the primary suspects there was General Khumalo and General Madondo?

ADV RAMSAMY: No, there was no explanation. It was just Mr Perumal telling us this is what the ID wants.

ADV SEGEELS-NCUBE: Did you have any idea, did you have a suspicion as to what it could be?

20 **ADV RAMSAMY:** If I keep voicing my suspicions, I am getting into trouble. And I will go back to my first statement, I think it was paragraph 59, where I said there was an orchestrated attack. And there was issues or complaints by Mr Padayachee and Mr Perumal and Advocate Johnson at the time that NasCom, General

Masemola, was not acting on suspending the CI7 accused.

ADV BALOYI SC: This is after their arrest?

ADV RAMSAMY: Yes.

ADV SEGEELS-NCUBE: And this would make sense because it was communicated to you, you say the decision to move leg four up was communicated on Friday the 27th of June.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Which would have been after the
10 arrest and after the first appearance.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And that is a decision that was, did you know who took that decision? I know it was communicated by Chief Perumal, but do you know who took that decision?

ADV RAMSAMY: Mr Perumal said that it was instruction of the ID, being Advocate Johnson.

ADV SEGEELS-NCUBE: Okay. We are not going to do the summary of all the witness statements, but can we do the
20 A1? That is Mr Adams.

ADV RAMSAMY: Correct.

“A1, Fadiel Adams. He received
anonymous information that Divisional
Commissioner Masemola ...[intervenes]”

ADV SEGEELS-NCUBE: You mean National

Commissioner?

ADV SEGEELS-NCUBE: Sorry, National Commissioner. It is supposed to have been National Commissioner;

“...Masemola appointed Khumalo to Head of Crime Intelligence and that Bheki Cele, who was then the Minister of Police, was involved while highly skilled Generals were overlooked.”

ADV SEGEELS-NCUBE: Did Mr Adams tell you who the
10 highly skilled Generals were that were overlooked?

ADV RAMSAMY: No.

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY:

“Further, that Khumalo's vetting was allegedly fast-tracked by Masemola and that Masemola knew that Khumalo did not have top security clearance, that he suspects vetting process was manipulated in favour of Khumalo. He further states
20 that Khumalo worked as a captain. He had no skills or experience in CI at senior management level.”

ADV SEGEELS-NCUBE: And you can do the A3?

ADV RAMSAMY: A3 is a General? General Feroz Khan.

ADV SEGEELS-NCUBE: Yes, do not forget it is General.

ADV RAMSAMY:

“He is a Major General CI, Head of Counter and Security Intelligence. He is responsible for national border security and counterintelligence, inclusive of vetting section and the counter intelligence investigations. He was not involved in the vetting process of Khumalo. He was contacted on the 28th of November 2022 on an urgent basis to see NatCom Masemola. I was instructed to check-up...”

And we are now quoting from his statement;

“I was instructed to check up on the TSC, top security clearance, of the incoming DivCom Khumalo, and I was asked to give him support. It did not contact anyone at his office, found this conduct to be unprofessional and improper.”

20 **ADV SEGEELS-NCUBE:** Meaning he found General Masemola's conduct to be unprofessional.

ADV RAMSAMY: Correct, and improper.

“Further states that Lushaba was acting DivCom and that the post could not be filled as Lieutenant-General Jacobs was

removed and temporarily placed in another post by previous NatCom Sithole due to internal disciplinary and criminal proceedings.”

If I can just clarify, this Lieutenant-General Jacobs is the same Lieutenant-General Jacobs that the dockets were collected from at Inspectorate.

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY:

10 “He indicates he does not know what informed Masemola to appoint Khumalo, as he did not have top security clearance at that point. He states that Masemola knew that Khumalo should have TSC as a senior manager. He further states that Khumalo did not have managerial experience within...”

It is supposed to be Div of CI;

“...and it raised his concerns.”

20 **ADV SEGEELS-NCUBE:** Then there is an A4 by Dimpane who is now, it is the General Dimpane, the current acting National Commissioner.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And it is, I think it is in the form of an information note, if you can read from ‘she was

concerned at the post’.

ADV RAMSAMY:

“She was concerned that the post in question was critical. There was a critical post dealing within CI, dealing with sensitive intelligence and secret service accounts. Khumalo did not have TSC. She called in Letsea, could not get hold of her, then contacted Major General Al Govender, who indicated that the TSC is to be obtained within six months of appointment, if already not in possession of one.”

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY:

“She signed off the info note.”

ADV SEGEELS-NCUBE: Then if we can go to ...[intervenes]

ADV BALOYI SC: Can I just ask, was there an explanation why there would be a witness statement from the Chief Financial Officer on this HR matter? Did anyone offer an explanation why General Dimpane was invited or offered, whichever it was, to submit a statement?

ADV RAMSAMY: There is these corridor rumours that General, Lieutenant-General Dimpane, Ms Dimpane was

friendly with Mr Perumal, and so she was being cooperative in the investigation.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Okay. Then if we can go to 385 and I am looking at the A8. We are not going to deal with the A7 because I think the A7 is the 204.

ADV RAMSAMY: Yes, correct.

ADV SEGEELS-NCUBE: Yes. A8.

ADV RAMSAMY:

10 “Colonel ... (he is off the Polygraph Unit) received a request to attend to a polygraph test the next day. He merely indicated that he replied that he was available, conducted polygraph, and Khumalo passed.”

ADV SEGEELS-NCUBE: Then the A9.

ADV RAMSAMY:

20 “Ian Cameron, on the 2nd of April 2025, DivCom, appeared before Portfolio Committee and that he stopped questioning because there was no evidential value. However, he believes that the NatCom deceived the committee. However, the minutes of the committee inquiry was not provided to the

prosecution team.”

ADV SEGEELS-NCUBE: And then we can...

ADV BALOYI SC: You said DivCom. Is that DivCom or NatCom? Should we be making a correction? Because in the same paragraph you referred to NatCom.

ADV RAMSAMY: Ja, I think it is NatCom.

ADV SEGEELS-NCUBE: Thank you, Commissioner Baloyi. The correction is that under Ian Cameron 2/4/2025, it must be NatCom, not DivCom.

10 **ADV RAMSAMY:** Correct.

ADV SEGEELS-NCUBE: And then if we go to 386, your submissions.

ADV RAMSAMY: 4.1.

“No other statements say or confirm that fast tracking is irregular or uncommon. None of the other affidavits confirm that there was manipulation of the vetting process, only that it was made a priority and sped up.

20 A1 statement is merely hearsay.

A3, Feroz Khan says that he was contacted to go and see the National Commissioner and that he was instructed to check up on top security clearance on the upcoming Divisional Commissioner,

but was not asked to manipulate or interfere with the processes.”

ADV BALOYI SC: You say Fazal Khan.

ADV RAMSAMY: Yes, correct.

ADV SEGEELS-NCUBE: Because Fazal is from the IGI, and that is a surname.

ADV RAMSAMY: We were typing as fast as possible.

ADV SEGEELS-NCUBE: You are forgiven.

ADV RAMSAMY:

10 “That he was contacted to go and see the National Commissioner and that he instructed him to check on the top secret security clearance on the upcoming Div Commissioner or Divisional Commissioner, but was not asked to manipulate or interfere with processes. A3 indicates that he found the conduct of the National Commissioner to be unprofessional and improper. However,

20 he does not elaborate on why it was improper.

A3 indicates that he does not know why General Masemola appointed Khumalo in the post as he did not have the security clearance at the time. Furthermore,

Khumalo did not have senior managerial experience within Crime Intelligence and that raised his concerns.”

ADV KHUMALO SC: Ms Ncube, are we doing all of them? I will tell you why. When Advocate Johnson was here, she was referred to the Public Service Commission report, and she already conceded that because Public Service Commission dealt with the same issue in 2023, IDAC should not have dealt with it. Now, because here it is 2025 and
10 they are dealing with it, although they say there is no *prima facie* case, I am just wondering what the value of still dealing with it is.

ADV SEGEELS-NCUBE: You will see when you get to the meeting of 8 July, there is a clear indication that Advocate Johnson, although she agreed with this report and the findings, that she still wanted the investigation to continue, notwithstanding that the prosecutor said there was no *prima facie* case. So that is why I just want them to do it, because these same things are being raised again, which
20 she agrees with. You will see her signature at the end, but in the later meeting, she revives it. So that is why I wanted her to deal with it, but she can just go to, I guess, the last one. Which is 414 and 416, and then the conclusion.

ADV RAMSAMY:

“A7, despite being a 204, does not

indicate any of her actions were unlawful, nor does she indicate any of the actions in the vetting process were flawed, nor does she indicate that there was any irregularities in speeding up the process.

A8 does not suggest that request to set the polygraph on the next day is irregular or unusual. He merely states that when he received the request, he indicated that he was available.

10

A10 does not indicate that the processes followed were flawed or irregular. He merely indicates that it was unusual for that person to call the applicant directly while the panel was sitting and request outstanding documents information. He merely states that they will usually reconvene after obtaining the documents.”

Before I move on, Commissioner Khumalo, if we take note of the listed suspects on the J50, the draft J50, there was mention of the PSC report. Mr Perumal repeatedly indicated, because I wanted to read it and I still do not have it, Mr Perumal repeated that Kemp lied in that report, and that is why he was supposed to be a suspect in this matter, because none of the statements even speak to Kemp.

20

ADV SEGEELS-NCUBE: Okay, thank you. Then your conclusion?

ADV RAMSAMY:

“We submit based on the above that there is no *prima facie* case and no reasonable prospect of successful prosecution at this point.”

Signed by Advocate Hlatshwayo and myself, State Advocates, on the 2nd of July 2025.

10 **ADV SEGEELS-NCUBE:** And then I think you must just place on record that there is a version of this document that was given to Advocate Johnson and she in manuscript said that she agrees with you that there is no *prima facie* case.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: And that was dated the 4th of July.

ADV RAMSAMY: Yes.

ADV SEGEELS-NCUBE: So the one that is in the bundle is not the one that has, and we will include that one in the
20 where she has in manuscript that she agrees with your recommendations.

ADV RAMSAMY: Correct. She did, however, she backtracked on that agreement.

ADV SEGEELS-NCUBE: Yes. And then this was, she asked you to send it to the team. So if we go to paragraph

46 of your statement, on page 22.

ADV RAMSAMY:

“Thereafter we emailed the memo to the entire team. Mr Sesoko called us, us being Advocate Hlatshwayo and myself shortly thereafter, and told us that Mr Perumal was calling him, spitting fire regarding the memo that had just been emailed to the team. According to Mr
10 Sesoko, Mr Perumal threatened to resign because they had worked so hard on the case to get it ready for enrolment and then we derailed the entire process. Advocate Johnson sent an email on the 4th of July 2025, effectively responding to Mr Perumal's reaction to the memo.”

ADV SEGEELS-NCUBE: You can go to that email before you go to this display. It is on page 457 of file 10 part 2.

CHAIRPERSON: I am sorry, which page?

20 **ADV SEGEELS-NCUBE:** It is 457, Chair, of file 10 part 2. It is an email from Advocate Johnson on the 4th of July 2025 at 1.35 p.m. And she is copied a whole lot of people in there. Importantly, Mr Bellochun, Mr Padayachee, yourself, Mr Perumal, Hlatshwayo, Mr Sesoko, and ja, those are the important ones I wanted to highlight. Subject Diversion,

you can read it because it is an important email.

ADV RAMSAMY:

“Colleagues, Inno will schedule a meeting for Tuesday and it is in person. You will attend. Because you come ...[intervenes]”

ADV SEGEELS-NCUBE: Before you.

ADV RAMSAMY: Oh sorry.

10 “Before you come to the meeting, I want to remind all of you of the following. You work as a team. When you do not agree, I suggest that you engage constructively. We deal with evidence, not assumptions or personalities. IDAC is prosecution-led and where advocates request evidence to be obtained, it is not an investigator's discretion to ignore it unless there is a very good reason that why that evidence cannot be obtained. No matter how

20 experienced we are, we must always listen to others in the team. At no stage must it seem that cases in IDAC are part of some kind of witch hunt and our integrity and objectivity must always be at the front of what we do and say. Mr

Sesoko and I will make final decisions, but these will always be fair and objective and based on facts. When prosecutors have to make decisions, they must apply their minds only to evidence and that would be evidence in the docket or case file with supporting documents.

10 It saddens me that time and again Mr Sesoko and I have to intervene because personalities in this team are too big for the work at hand. You all have a role to play. You all bring experience to these really difficult cases and the ID expects only the best from every team member. I suggest you all read this email many times before you come to the meeting. Do not engage me or Mr Sesoko on this email. You will be able to engage all the issues at the in person meeting on
20 Tuesday.”

ADV SEGEELS-NCUBE: I mean, when you received this, it must have been a very refreshing email to receive from her, that she was supportive of your decision, you and Advocate Hlatshwayo, not to continue with the matter of General Masemola and General Khumalo.

ADV RAMSAMY: We were relieved, yes, but it was short-lived relief.

ADV BALOYI SC: When you say she supported and accepted your conclusions, this is the email you are referring to or is there separate, standalone decisions?

ADV SEGEELS-NCUBE: Yes, Commissioner Baloyi, we indicated that the memorandum that we went through, there is a version with Advocate Johnson's manuscript where she writes that the ID is supportive of this, there is no *prima*
10 *facie* case, and it is dated 4 July 2025, which we will include in the bundle because that was the hard copy that the witness had. This was the attachment to the email.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: So we can go back to your statement, paragraph 46 on page 23, 'this display'.

ADV RAMSAMY:

20 "This display of sound judgment by Advocate Johnson was regrettably short-lived. I do not know why Advocate Johnson agreed with our memo. It was the right thing to do and I hope that is why she agreed with us. However, there is also the real possibility that:

1. Advocate Johnson was aware of the optics of arresting the most senior

SAPS officials and one of the most senior SAPS officials so soon after June 2025 arrests; or

2. Advocate Johnson had been made aware that there was something brewing and she needed to hang ten.”

But again, it is pure speculation.

ADV SEGEELS-NCUBE: When you say that something was brewing, what are you referring to? We are now on 4 July
10 2025.

ADV RAMSAMY: In the meeting on the 8th of July, Advocate Johnson mentioned that ...[intervenes]

ADV SEGEELS-NCUBE: Wait, you are going to spoil it. Let us go to it. File 11, page 62. It is the second entry. You will explain to the Commissioners later about this meeting, but since you have mentioned this now, you can explain your note on page 62, the second one after, ‘on hold for two reasons’, one, and then the second one.

ADV RAMSAMY:
20 “KZN Mkhwanazi gauntlet.”

ADV SEGEELS-NCUBE: So you can go now back to...

ADV BALOYI SC: That is cryptic. Explain.

ADV SEGEELS-NCUBE: Yes.

ADV RAMSAMY: Advocate Johnson had in – well, at that time, I am going to deal with the 4th of July first, at that

time, we did not know what was at play. Advocate Hlatshwayo and I were in the dark, we were just assessing the evidence. Although we did feel that there was something off, and we did say that these are HR matters that we are now being dragged into for SAPS. But on the 8th of July, Advocate Johnson mentioned on two occasions that Khan said this was going to happen, Khan said this was going to happen. So we took it to mean that General Khan had already alerted her to certain things. Because she said
 10 her words were, he keeps telling us that something big is coming, and then F-O or F-A.

ADV SEGEELS-NCUBE: Which means, do not say the word. But she is meaning that it does not happen.

ADV RAMSAMY: It has not. Nothing happens.

ADV SEGEELS-NCUBE: So prior to 6th July, they had been, Advocate Johnson had indicated that... Was it General Mkhwanazi specifically, or was it General Khan that was saying to them something big is going to happen, and then nothing happens?

20 **ADV RAMSAMY:** It was General Khan that was informing Advocate Johnson something big is going to happen. Because in the 8th of July meeting, she also said, he keeps saying they are coming for me.

ADV SEGEELS-NCUBE: Okay. And her reference earlier on when you said, when she says, but then nothing

happens, is it is not the first time he is warned them. So she did not think much of it, or she would take his advice and not do anything, because something big was going to happen.

ADV RAMSAMY: No, she sounded, she voiced her exasperation of the fact that he keeps messaging that something is going to happen, and nothing happens.

ADV SEGEELS-NCUBE: Okay. So we can then go back to your statement, page 23, paragraph 48, and it is the
10 General Khumalo and General Madondo warrants.

ADV RAMSAMY: May I please ask for two-minute comfort break so I can take my medication?

ADV SEGEELS-NCUBE: Okay, sure.

CHAIRPERSON: Let us adjourn, you will indicate when you are ready, thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SEGEELS-NCUBE: Thank you, Chair.

20 **CHAIRPERSON:** Thank you.

ADV SEGEELS-NCUBE: Ms Ramsamy, we will be on page 23 of your statement, paragraph 48.

ADV RAMSAMY: Thank you, Chair.

ADV SEGEELS-NCUBE: It is the General Khumalo and General Madondo warrant.

ADV RAMSAMY:

“As I indicated, the display of sound judgment by Advocate Johnson was short-lived. On 7 July 2025, Advocate Hlatshwayo and I prepared another memorandum for Advocate Johnson in respect of the Khumalo and General Madondo matter. We concluded that there was no *prima facie* case against the
 10 Generals in this matter as well. We did not receive a response on that day. Instead, Advocate Johnson called a team meeting. She did not immediately address our memo, but later indicated that since we were of the opinion that there was no *prima facie* case in both matters, she wanted a report from both sides, meaning the investigators on the one side and the prosecutors on the other
 20 side and then she will decide. Mr Perumal refused to prepare the reports.”

ADV SEGEELS-NCUBE: Can we just go for the record to the second memo, which is on the email that you sent, is on page 537, file 10, part 2, and it is 7 July 2025 memo.

ADV RAMSAMY: Sorry, what page?

ADV SEGEELS-NCUBE: File 10, part 2, page 537. It is an email, 7 July 2025, from you to Advocate Johnson and Mr Sesoko, and it says:

“Prosecutors’ Memo, Leg Three,
Diversion.

Good afternoon, ID. This is a soft copy of
the document submitted earlier.”

So you had taken a hard copy to her.

ADV RAMSAMY: We had submitted a hard copy, the
10 original signed copy by both Advocate Hlatshwayo and
myself and handed it to her PA.

ADV SEGEELS-NCUBE: Okay, and then at 539, we have
the memo. Maybe if you can just read, I think, the purpose,
the background, and the A1 statement.

ADV RAMSAMY:

20 “The purpose of this memorandum is to
make submissions to the Investigating
Director, ID, regarding the lack of
material evidence in leg three of Project
Diversion.

Background:

In summary, the prosecutors have
perused the docket containing all
statements obtained to date and
summarised below for leg three of

Diversion. It is our submission that there is currently no *prima facie* case, thus there is currently no reasonable prospect of successful prosecution. However, we include outstanding investigations.”

ADV SEGEELS-NCUBE: And what were the outstanding investigations?

ADV RAMSAMY: It was investigations that we had asked Mr Padayachee and Mr Perumal to attend to.

10 **ADV SEGEELS-NCUBE**: Page 541.

ADV RAMSAMY: 546 and...

ADV SEGEELS-NCUBE: 541.

ADV RAMSAMY: 541.

ADV SEGEELS-NCUBE: I think.

ADV RAMSAMY: No, the outstanding investigation that we attached was 545.

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY: And 546.

ADV SEGEELS-NCUBE: 545 and 546.

20 **ADV RAMSAMY**: Correct.

ADV SEGEELS-NCUBE: Explain that. Oh, that is your... 546, I see, questions for section 28 interview, and then you have interview questions, and on page 547 you say:

“These questions are not exhaustive but must be answered in the interview and

explained in full and clear details in the affidavit. This document is not to be shared with any other person except team members and not to be given to the persons who are being interviewed.”

So you wanted these to be addressed even though at that stage you thought there was no *prima facie* case.

ADV RAMSAMY: No, no. This question or document was submitted in April already of 2025.

10 **ADV SEGEELS-NCUBE:** Okay.

ADV RAMSAMY: And the purpose of this document was to determine whether the processes of the vetting had been flouted. And the only way we were going to understand if in fact there was any corruption or flouting or whatever the case must be, was to understand the inner workings of SAPS HR.

ADV SEGEELS-NCUBE: Okay, I am with you. And so your memo was saying they must conduct, that I think is at 541, further investigations, and at 542, paragraph 545.4:

20 “Please see the sheet of previous instructions drafted and shared to the investigators in April 2025 for questioning.”

ADV RAMSAMY: Commissioners will also note that in 546, there is also questions relating to the Mokwele matter that

remained unanswered.

ADV SEGEELS-NCUBE: Okay. At 546?

ADV RAMSAMY: 546.

ADV SEGEELS-NCUBE: Okay.

ADV RAMSAMY: With 545, there is section 2(A)(viii)(a) and (b) with regards to Major General Madondo. It is in relation to the National Strategic Intelligence Act. It says that:

10 “Major General Madondo has 60 days
from the date on which the applicant is
informed of the decision...”

Meaning that she was refused security clearance;

“...in order to appeal to the Office of the
Minister of Police.”

How are you going to charge someone if you do not have confirmation whether it has been referred and what the outcome of that referral is? So that is why we included this as well.

20 **ADV SEGEELS-NCUBE**: Okay. Then if we can go to 541,
which is your submissions, instead of going through the affidavits, 541, 4.1 relates to the A1, which is Mr Adams again.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Can you read that?

ADV RAMSAMY:

“He is just raising concerns and opinions that the procedures and policies were severely undermined, which makes the statement hearsay.”

And the A3?

ADV SEGEELS-NCUBE: A4. You can read the A4. A3 was General Mkhwanazi, and A4 is General Khan.

ADV RAMSAMY:

10 “His statement takes this case no further, as it provides an explanation of vetting processes and deals more with his own current situation than the case at hand.”

ADV SEGEELS-NCUBE: What did you mean by that?

ADV RAMSAMY: That affidavit by General Feroz Khan spoke about how General Khumalo had refused to sign off on his vetting or security clearance, as opposed to the issue of Madondo and General Khumalo allowing Madondo to continue working without clearance.

20 **ADV SEGEELS-NCUBE:** Okay. And then we have done your submissions. You can just then read the conclusion at 542, ‘we submit’.

ADV RAMSAMY:

“We submit based on above that there is no *prima facie* case and no reasonable prospect of successful prosecution at this

point.”

ADV SEGEELS-NCUBE: Okay. So that was on the 7th of July that you submitted it to Advocate Johnson. There is no response, but she calls for a meeting on the 7th for the 8th.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. And the purpose of that meeting is to discuss what? Because now we know that the 6th of July press briefing of General Mkhwanazi has happened.

10 **ADV RAMSAMY**: Advocate Johnson gives us various instructions on the meeting of the 8th of July.

ADV SEGEELS-NCUBE: My question is, did she tell you what the purpose of the meeting would be?

ADV RAMSAMY: In her email?

ADV SEGEELS-NCUBE: Yes.

ADV RAMSAMY: No.

ADV SEGEELS-NCUBE: Okay. So then we can then go to your statement on page 24, paragraph 49.

ADV RAMSAMY:

20 “To date, we have not received a response to our 7th of July 2025 memo. However, I must state that our memo of 7 July 2025 relates to the very matter we in IDAC had intended to arrest General Khumalo and General Madondo in June

2026, which has been widely reported in the media. These warrants have since been held in abeyance. I am not aware of any new evidence that could have justified the issuing of these warrants after our memo.”

ADV KHUMALO SC: Were you replaced as prosecutors? What happened to you and Mr Hlatshwayo, Advocate Hlatshwayo? Because the memo was by the two of you, so
10 I assume you were the prosecutors appointed. What happened? Were you replaced by other people?

ADV RAMSAMY: We were replaced by a different team, or different prosecutors under Advocate Santos Manilla.

ADV KHUMALO SC: And you do not know if that team prepared a new memo disagreeing with your memo?

ADV RAMSAMY: We were not even allowed to communicate with them. So in essence, Advocate Johnson did not even want us to tell them that we prepared a memo, that there is no *prima facie* case.

20 **ADV SEGEELS-NCUBE:** Okay. And we can continue in
49. ‘This just further demonstrates’ to you, I think you may say.

ADV RAMSAMY:

“This just further demonstrates to me the determination with which this project was

conducted. In my view, the intention was to target General Masemola and General Khumalo until they were no longer in office. The attack against General Masemola may have intensified when he did not suspend General Khumalo and the other accused in the Mokwele matter after their arrest, because during the 8th of July 2025 meeting, Advocate Johnson made her position clear regarding General Masemola.”

ADV SEGEELS-NCUBE: And then we now go to that meeting of 8th July 2025, and this topic is further instructions regarding General Masemola. For this, I will ask the Commissioners to go to file 11, page 60, which is your notes, your written notes and written notes. And you can just tell us who was present at that meeting before you deal with what was discussed in the meeting. So, are you on page 60 of file 11?

20 **ADV RAMSAMY:** I am.

“Present at the meeting is the ID, Sesoko, Joyce, Sunil, Dylan, Brian, Tsepo, Pat, and Charles.”

ADV SEGEELS-NCUBE: And you, yes. Okay. And it is Diversion?

ADV RAMSAMY: The first part of the meeting was Diversion. If I can just elaborate on how the meeting started. Advocate Johnson said, the day before, on the 7th of July, Advocate Johnson had made a comment to Advocate Hlatshwayo and myself, saying that she can see that Mr Perumal is bullying Hlatshwayo and myself. However, when she started, and she was going to deal with it in the meeting the next day, however, on the 8th of July, the meeting started with, I am not going to deal with the
10 meeting how everyone thinks I am going to do it. And Advocate Hlatshwayo and I were chastised, or scolded, and made to give an updated report on the two matters that were in court.

ADV BALOYI SC: Is anyone of these people a DDPP?

ADV RAMSAMY: No.

ADV BALOYI SC: Thank you.

ADV RAMSAMY:

20 “She had given us instructions with Lushaba that, on or before the 30th of July, it must be signed off by Sesoko on a letterhead, and that the index of the docket must be disclosed and signed off by Chief, being Mr Perumal.”

ADV BALOYI SC: Was that regular practice that the investigator would sign off on what is disclosed,

discovered?

ADV RAMSAMY: No, Commissioner. It is also not procedure that we do not get the original docket, but when it comes to that team, we only get scanned copies.

ADV BALOYI SC: And who would sign off on what gets disclosed?

ADV RAMSAMY: The indexes that I have done, it is myself and the investigator that would sign off on the index itself.

ADV BALOYI SC: Thank you.

10 **ADV SEGEELS-NCUBE:** Okay, I think you can go to your statement and we will display your notes, so you can read from paragraph 50.

ADV RAMSAMY:

“At the meeting of the 8th of July 2025,
Edward Johnson, amongst others,
instructed us as follows:

The only person who can veto Mr Perumal
is Mr Sesoko.

20 The case strategy is supposed to be led
by a prosecutor.

However, the case strategy would be led
by Mr Perumal, and he has carte blanche.
In other words, the investigator was in
charge of the prosecution-led
investigation and the prosecutors had to

defer to Mr Perumal.

All information regarding the case strategy had to be sent by Mr Perumal, not the prosecutors.”

I think we just need to correct that. Had to be sent by, not to, Mr Perumal. By Mr Perumal, not the prosecutors.

“Mr Sesoko and Advocate Johnson would sign a letter addressed to Digital Forensic Services for a quick snapshot analysis of data on Mr Matlala's devices.”

ADV SEGEELS-NCUBE: And for that, you go to 62 of the notes, the handwritten notes. Commissioners, we are there now. So, 50.4 is the analysis from the forensic services. ‘The analysis had to’?

ADV RAMSAMY:

“...focus on whether any communication was found on the devices between or relating to the following persons. Minister Mcunu, Brown Mogotsi, General Bheki Cele, NasCom General Masemola, General Sibiya, General Bongani Ngwenya.”

ADV SEGEELS-NCUBE: I think on your notes you have more, so it just ends on four, but if we go to page 63 of your notes, you can explain.

ADV RAMSAMY: Andrew Chauke, as number seven, is the DPP of Johannesburg South Prosecution. Advocate Johnson had indicated that she had received a formal reference from NDPP, being Advocate Shamila Batohi, to investigate Andrew Chauke. At this point, when we are being asked to do a digital snap analysis, there is not even authorised 28(13) into Advocate Chauke. And even though it was referred by the NDPP, there still needs to be an authorisation.

10 The other thing that was very concerning about number 7 is that how did Advocate Johnson or Advocate Batohi get information to link Advocate Chauke to Mr Matlala's devices. Number 8 was the most distressing for me, and it is one of the reasons I will explain later.

“Advocate Johnson indicated that there must be a snapshot analysis on Mr Matlala's phone to link Fannie Masemola's daughter.”

ADV SEGEELS-NCUBE: To link the National
20 Commissioner's daughter to Cat Matlala's devices?

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Okay. Can we go back? We will keep displaying your notes because I am following on both, but can we go to paragraph 51?

ADV RAMSAMY:

“Before I continue with the other instructions, it should be mentioned that this meeting was held after General Mkhwanazi's 6 July 2025 press and media briefing. The name ...[intervenes]”

ADV BALOYI SC: Sorry, Ms Ramsamy. Let me ask about this list. Was an explanation given why there should be a snapshot view or look into- you have referred specific, well, I think with Chauke, you say she said she had received
10 federal information from the NDPP then. About General Masemola's daughter, was there an explanation offered?

ADV RAMSAMY: Commissioner, as I have been explaining constantly, there is never an explanation, but Advocate Johnson always has this information and then she issues instructions. It is the same thing as I explained with where Mr Hudson works and how he was supposed to be picked up. She always had the information, but she never divulged. However, I did explain that there was always undertones that Mr Perumal, Bellochun, and Mr
20 Padayachee, and Advocate Johnson knew exactly what was happening, and we were playing catch up, but not fast enough.

ADV BALOYI SC: I think she did not say why are we looking at the connection with the daughter.

ADV RAMSAMY: No.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Okay, back to 51. So you say it is after the briefing, and then you say the names?

ADV RAMSAMY:

10 “The names of Minister Mcunu, Mr Brown Mogotsi and General Sibiya had been mentioned during the media briefing. I could understand why there would be a focus on communication between Mr Matlala and these individuals on the device and perhaps even General Cele. However, General Masemola's name seemed misplaced to me. There was no suggestion that he was linked to Mr Matlala, and at this stage, even IDAC's own section 28(1) process had not mentioned General Masemola, nor had there been any links between Mr Matlala and General Masemola mentioned.

20 Back to the instructions. Advocate Johnson instructed that we must determine from Mr Matlala's devices if there is any link to Andrew Chauke because Advocate Johnson had received a formal referral from the NDPP, being

Advocate Batohi. There was no further elaboration. I have not seen this formal referral. Advocate Johnson also said that the snap search analysis on Mr Matlala's devices should look for links with General Masemola's daughter. Advocate Johnson then went away for a week, and she wanted a full briefing the following week when she returned."

10 **ADV SEGEELS-NCUBE**: Before you go there, can we just go back to your note? There is an aspect that you do not deal with in your statement, but that is in your notes. On page 61, at the bottom of page 61, and just to highlight to the Commissioners that you explained that the numbering in the bottom left corner of these notes, starting on page 60, has the number 1 in a circle. Then we have number 2 on page 61, but then it jumps to 4. You indicated there is not a page 3 missing. It is just...

ADV RAMSAMY: My dyslexia.

20 **ADV SEGEELS-NCUBE**: It seems to be prominent in this team here. Then if you can, so we are not missing a page, so if you can just deal with what the bottom instruction is. 'ID will read the docket', and this related now to, as you said, the two memos that you and Advocate Hlatshwayo prepared on the General Masemola and the General

Khumalo matters, leg three and 4.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Leg 4, we know that she was in agreement with you, but now there is the change, because now she wants input from the investigators. She now wants their input as to whether there is a case, and she will consider both.

ADV RAMSAMY: If I may quote what was said:

10 “The investigators must do a report to
show and explain to the prosecutors what
evidence is in the dockets.”

ADV SEGEELS-NCUBE: Okay, so in other words, your mind will be changed after that, or she is going to take their views.

ADV RAMSAMY: Correct, the latter.

ADV SEGEELS-NCUBE: But then she says, according to your notes, both sides to give report, and then you say on the next page, but this is on hold for two reasons.

ADV RAMSAMY: Correct.

20 **ADV SEGEELS-NCUBE:** So what are the two reasons? That now the investigations into General Masemola and General Khumalo, Madondo, why are those on hold? That is how I understand it. There are two reasons.

ADV RAMSAMY: It is a correct understanding. The first is that we must do nothing else but the Matlala tender

dockets, so all our concentration must be on that matter. And then the KZN Mkhwanazi gauntlet. So they were waiting for the dust of the 6 July media briefing to die down.

ADV SEGEELS-NCUBE: Before they were going to revive the General Masemola investigation.

ADV RAMSAMY: Correct. On the meeting of the 1st of September 2025, where Advocate Johnson strongly informed Advocate Hlatshwayo and myself that the two matters will be enrolled.

10 **ADV SEGEELS-NCUBE:** Okay. Then we can go back to your statement, paragraph 53 on page 26.

ADV RAMSAMY:

20 “Advocate Johnson then went away for a week, and she wanted a full briefing the following week when she returned. She indicated to the prosecutors that she no longer wanted email correspondence going forward, but preferred office notes. The office notes must be signed by the person receiving it and a copy filed in the office file. and that both dockets for the arrest of General Masemola, Khumalo and General Madondo, Khumalo must be provided to her office. After this ...[intervenes]”

ADV SEGEELS-NCUBE: Sorry, can I just say, insofar as this instruction that there must be no email correspondence, there is also from the 1 September meeting, where Advocate Johnson repeats that instruction, that because of the Madlanga Commission and the Ad Hoc Committee, she does not want a paper trail. effectively.

ADV RAMSAMY: Correct.

ADV SEGEELS-NCUBE: Can you just elaborate on that for the Commissioners?

10 **ADV RAMSAMY:** Advocate Johnson became paranoid and said that her devices were being watched, et cetera. Also, if there is no emails like what I am providing to the Commission now, there is no proof that these things were said or done. So she wanted to curtail it.

ADV SEGEELS-NCUBE: And she specifically referenced Advocate Serunye's email, his detailed email from August 2025, where he challenges the merits of the case as being:

20 “One such email that if it got into the hands of either the Ad Hoc Committee or the Madlanga Commission, these kind of things would come back to bite you.”

ADV RAMSAMY: Correct. Those were her words.

ADV SEGEELS-NCUBE: You may continue.

ADV RAMSAMY:

 “I sent a WhatsApp to Advocate Johnson

asking to be released from the matter due to safety issues. I needed a reason to get off the matters immediately. I had to put it in a way so that I would not get forced or instructed to stay on the matter, because when you say you want to be removed or you do not want to do something that Advocate Johnson wants you to do, she will still instruct you on the matter. I just knew after this meeting that there would be more illegalities. Why would they want to look for links with General Masemola's daughter or investigate General Masemola insofar as Mr Matlala is concerned, when there was absolutely nothing pointing to any link with General Masemola? It was clear, at least to me, that General Masemola was a target and the rules would be broken to catch him by any means necessary. All the instructions given by Advocate Johnson on that day did not sit well with me. My further concern was where was Advocate Johnson getting the information regarding the potential suspects,

especially General Masemola?

When we met with General Matlou regarding this Medicare 24 matter, she indicated that we would not need to subpoena General Masemola for documents relating to this investigation because he was cooperating. If that was the case, why would he be identified as a suspect in any investigation where he was cooperating without the need of a subpoena?

The next day, Advocate Johnson sent a WhatsApp to me, stating that she had discussed my request with Mr Perumal and Sesoko and that she was excusing Advocate Hlatshwayo and me from the Medicare 24 investigation in totality, except for where she would require assistance from us, then she would ask. She indicated that she herself would be the prosecutor on the matter until she finds a senior.”

ADV SEGEELS-NCUBE: Conclusion.

ADV RAMSAMY:

“I hope that my testimony will be of

assistance to the Commission. I have not dealt with all the events that transpired in between. These main events set out in my two statements, such as Mr Raphesu's victimisation regarding the Nkabinde matter, and I have elaborated on this during my oral testimony. This does not mean that this testimony is not important or less important than what is contained in my two statements. The victimisation of officials in the office is a serious matter that warrants attention.

10

In conclusion, let me say that I had to strike a balance between the good IDAC and the bad IDAC, as General Mkhwanazi had called it. There are very good people that work at IDAC and who do amazing work in the pursuit of justice. I hope that we will all not be painted with the same tainted brush as Advocate Johnson and the investigators, Mr Perumal, Padayachee, and Bellochun, that she allowed to compromise the integrity of IDAC as an institution.”

20

There is just one aspect that I missed in August. On the 8th

of August last year, a member of Mr Perumal's team contacted me telephonically and had indicated that Mr Perumal, Mr Padayachee, and another senior state advocate were plotting to have me arrested so that I could be discredited before any Commissions or committees could be established.

ADV SEGEELS-NCUBE: Thank you, Ms Ramsamy. Chair, that is the evidence of this witness. Finally, we are done.

ADV BALOYI SC: I am sorry...

10 **ADV SEGEELS-NCUBE**: Okay, not quite.

ADV BALOYI SC: I am sorry to disappoint you. I was promised that you will answer my question, and we did not get there about, I had asked you about, and it arose, rather, in the context of the Matlou, the General Matlou report, which does not make any allegations against General Masemola, and then I then asked a process question. Under what circumstances would you keep from the head of institution or even a manager your investigations and keep them completely in the dark? In this case, the case is
20 where the National Commissioner may not have been aware. Under what circumstances, as a matter of practice or protocol even?

ADV RAMSAMY: There should never be such an instance, ever.

ADV BALOYI SC: Unless, of course, they are a suspect,

no?

ADV RAMSAMY: Unless they are a suspect.

ADV BALOYI SC: Yes.

ADV RAMSAMY: But we had to go back to the preliminary report. Firstly, it was mandated by General Masemola. Secondly, during the preliminary, there was no findings of General Masemola being involved in any form. So that is why it raised serious concerns as to why he is now being mentioned to be investigated, to be linked to.

10 **ADV BALOYI SC:** All right, thank you. And then, second question. This note that we end up with, it is on the 8th of July. So that must mean, and maybe I am stating the obvious, just for the record, that must mean that when Ms Johnson was testifying before the Ad Hoc Committee that there was never an investigation into the National Commissioner in particular, that evidence would have been false, again?

ADV RAMSAMY: Correct. And Commissioner Baloyi, it was after listening to her testimony that I contacted the
20 DPCI again to say, I have proof in the form of an affidavit from the 1st of April that Advocate Johnson deceived the Ad Hoc Committee.

ADV BALOYI SC: Thank you. And then lastly, I think she was asked a question about prosecutions for Public Finance Management Act infractions. And this relates directly to,

arises from the charges against the National Commissioner. And I do not remember the exact formulation of the question, but her answer was, we have prosecuted people for pure public finance management contraventions that is similar to what, and I paraphrase, similar to what the National Commissioner is facing or charged with. The question is, is there such a history, and in particular, such charges not linked to allegations of corruption or charges of corruption under PRECCA or other relevant legislation?

10 **ADV RAMSAMY:** Commissioner, with regards to the matters that I have worked on and the matters that are now set down for trial, we have never charged only on PFMA. There is always predicate offences that, and then the PFMA. So the matters that I am currently involved in with PFMA is a charge. No, we have always linked the person to something else.

ADV BALOYI SC: Thank you.

CHAIRPERSON: But that actually accords with our interpretation, which we put to Advocate Johnson and I
20 think some other witness after her. Yes, yes, yes.

ADV SEGEELS-NCUBE: Thank you, Chair. That is it for the witness.

CHAIRPERSON: Thank you. We may have to wait, but maybe outside for Advocate Chaskalson. When we adjourn, if we are to grant the witness plea application, we want to

adjourn for the day in open session. But Ms Ramsamy, thank you very much.

ADV RAMSAMY: Thank you, Chair. Thank you, Commissioners.

CHAIRPERSON: We truly appreciate you sitting here for days and days. Thank you very much. You are excused. Perhaps there is anything to say, Mr Ramatsekisa?

MR RAMATSEKISA: Thank you, Chair, for the opportunity. I think I just have to use it also just on one issue.

10 **CHAIRPERSON:** Yes.

ADV RAMSAMY: Am I getting cross-examined by my own counsel? [Laughter]

MR RAMATSEKISA: Not at all. We, knowing how the Commissions operate, you know that at some point we are offered an opportunity to re-examine certain issues. So there is just one issue that I just want your understanding. In paragraph 52 of your supplementary affidavit, it is your evidence here that there was an instruction that was given from the former NDPP to Advocate Johnson, wherein you
20 were given instructions to determine if there are links between the phone of Mr Matlala and Advocate Chauke.

And I am asking this on the background that it is in the public domain that we know that there was Nkabinde Enquiry wherein the former NDPP was complaining of some sort. So I want to check as to, did this instruction relate to

that or it related to other things pertaining to what you are stating here? Because for Advocate Chauke's name just to come from the blue, from the former NDPP, it is just surprising.

ADV RAMSAMY: I am going to give you, one, observation that I made. But first let me answer the referral. I had seen it, but I was not able to read it. It was flashed in front of us in a meeting in Advocate Johnson's office. But it was signed by Advocate Batohi. And once again, I found the
10 timing very, very coincidental that Advocate Batohi was asking IDAC to investigate Advocate Chauke because it was at the time that the President was about to announce the Nkabinde Enquiry. So it did not make sense. Why are we investigating? Are we doing a parallel investigation? Or are we trying to add meat to Nkabinde's enquiry or Nkabinde Enquiry? Have I answered you?

ADV KHUMALO SC: You said you were going to answer and then you are going to have an observation. So have you done both?

20 **ADV RAMSAMY:** Yes, Commissioner Khumalo. My observation was with regards to the timing.

ADV KHUMALO SC: Okay.

CHAIRPERSON: Thank you again. You are excused.

WITNESS EXCUSED

ADV RAMSAMY: Thank you. Thank you, Commissioners.

Thank you, Chair.

CHAIRPERSON: Thank you. Mr Ramatsekisa and your team, you are also excused.

MR RAMATSEKISA: Thank you.

CHAIRPERSON: Thank you very much. Yes, Mr Chaskelson.

ADV CHASKELSON SC: Thanks, Chair. Should I not wait for Ms Ramsamy to leave?

CHAIRPERSON: No, that is in order, that is I order.

10 **ADV CHASKELSON SC**: To move out.

CHAIRPERSON: I see, whilst Ms Ramsamy is walking out, I looked at Mr Maaga. It looked like he wanted me to specifically say that he too is excused. You are excused, Mr Maaga.

ADV CHASKELSON SC: Thank you, Chair. There is an *in camera* application before the Commission. It is an application that was made by the witness, but which the evidence leaders certainly support and we have received no notice of opposition from anyone. So I would just move for
20 an order in the terms set out in that notice of motion, which would provide that the applicant's testimony is heard *in camera*, and that the transcript, recording and documentation relating to the applicant's evidence, is kept confidential.

CHAIRPERSON: A ruling is so made.

ADV CHASKELSON SC: Thank you, Chair.

CHAIRPERSON: Yes, and I assume that you will then prepare the document that is going to be signed by the Commission's secretary.

ADV CHASKELSON SC: Indeed.

CHAIRPERSON: Let us take the adjournment, which is an adjournment for the day, and for us to then proceed *in camera*.

ADV CHASKELSON SC: Indeed, Chair.

10 **CHAIRPERSON:** Yes. And we will resume at 9.30 tomorrow morning. Oh, it is Saturday. I want us to finalise all the testimony. On Monday at 9.30 a.m. Thank you.

INQUIRY POSTPONED TO 17 AUGUST 2026

INQUIRY ADJOURNS

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