

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 5245/25

In the matter between:

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| THABO MVUYELWA MBEKI | 1 st Applicant |
| BRIGITTE SYLVIA MABANDLA | 2 nd Applicant |
| And | |
| LUKHANYO BRUCE MATTHEWS CALATA | 1 st Respondent |
| ALEGRIA KUTSAKA NYOKA | 2 nd Respondent |
| BONAKELE JACOBS | 3 rd Respondent |
| FATIEMA HARON MASOET | 4 th Respondent |
| TRYPHINA NOMANDLOVU MOKGATLE | 5 th Respondent |
| KARL ANDREW WEBER | 6 th Respondent |
| KIM TURNER | 7 th Respondent |
| LYNDENE PAGE | 8 th Respondent |
| MBUSO KHOZA | 9 th Respondent |
| NEVILLE BELING | 10 th Respondent |
| NOMBUYISELO MHLAULI | 11 th Respondent |
| SARAH BIBI LALL | 12 th Respondent |
| SIZAKELE ERNESTINA SIMELANE | 13 th Respondent |
| SINDISWA ELIZABETH MKONTO | 14 th Respondent |
| STEPHANS MBUTI MABELANE | 15 th Respondent |
| THULI KUBHEKA | 16 th Respondent |
| HLEKANI EDITH RIKHOTSO | 17 th Respondent |
| TSHIDISO MOTASI | 18 th Respondent |
| NOMALI RITA GALELA | 19 th Respondent |

Thabo M. Mbeke

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| PHUMEZA MANDISA HASHE | 20 th Respondent |
| MKHONTOWESIZWE GODOLOZI | 21 st Respondent |
| MOGAPI SOLOMON TLHAPI | 22 nd Respondent |
| FOUNDATION FOR HUMAN RIGHTS | 23 rd Respondent |
| GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA | 24 th Respondent |
| PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA | 25 th Respondent |
| MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT | 26 th Respondent |
| NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS | 27 th Respondent |
| MINISTER OF POLICE | 28 th Respondent |
| NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE | 29 th Respondent |

In re:

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| LUKHANYO BRUCE MATTHEWS CALATA | 1 st Applicant |
| ALEGRIA KUTSAKA NYOKA | 2 nd Applicant |
| BONAKELE JACOBS | 3 rd Applicant |
| FATIEMA HARON MASOET | 4 th Applicant |
| TRYPHINA NOMANDLOVU MOKGATLE | 5 th Applicant |
| KARL ANDREW WEBER | 6 th Applicant |
| KIM TURNER | 7 th Applicant |
| LYNDENE PAGE | 8 th Applicant |
| MBUSO KHOZA | 9 th Applicant |
| NEVILLE BELING | 10 th Applicant |
| NOMBUYISELO MHLAULI | 11 th Applicant |
| SARAH BIBI LALL | 12 th Applicant |
| SIZAKELE ERNESTINA SIMELANE | 13 th Applicant |

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| SINDISWA ELIZABETH MKONTO | 14 th Applicant |
| STEPHANS MBUTI MABELANE | 15 th Applicant |
| THULI KUBHEKA | 16 th Applicant |
| HLEKANI EDITH RIKHOTSO | 17 th Applicant |
| TSHIDISO MOTASI | 18 th Applicant |
| NOMALI RITA GALELA | 19 th Applicant |
| PHUMEZA MANDISA HASHE | 20 th Applicant |
| MKHONTOWESIZWE GODOLOZI | 21 st Applicant |
| MOGAPI SOLOMON TLHAPI | 22 nd Applicant |
| FOUNDATION FOR HUMAN RIGHTS | 23 ^d Applicant |

and

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| GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA | 1 st Respondent |
| PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA | 2 nd Respondent |
| MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT | 3 rd Respondent |
| NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS | 4 th Respondent |
| MINISTER OF POLICE | 5 th Respondent |
| NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE | 6 th Respondent |

FOUNDING AFFIDAVIT

I, the undersigned,

THABO MVUYELWA MBEKI

do hereby make oath and say:

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68. During the meeting it was agreed that the DSO should have access to any relevant Crime Intelligence files. It would read these at the Crime Intelligence offices rather than take them away to study in its own offices.
69. After this meeting, nothing was ever reported to me that the SAPS were obstructing the work of the NPA.
70. The next time I had to deal with this matter was when Adv Pikoli informed me that he had a Warrant to search the SAPS Headquarters and National Commissioner Selebi's house.
71. I then asked Adv Pikoli to meet me at the Official President's residence in Tshwane, Mahlambandlopfu. I also invited DG Chikane to attend the meeting.
72. During the meeting, Adv Pikoli confirmed that he had applied for and obtained the said Search Warrant. He said that he had to execute it immediately or within a week.
73. I told the Adv Pikoli that (in my view), the SAPS would oppose any attempt to search its Headquarters. I also said that so bad were the relations between the SAPS and the NPA and DSO that members of the SAPS might even open fire against the NPA search team. I therefore asked Adv Pikoli to give me a fortnight within which I would engage the SAPS and take all necessary measures to ensure that the NPA and DSO carry out their searches without problems.

Tom.
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74. I also told Adv Pikoli that I was surprised that he had sought a Search Warrant, knowing very well that I was ready to intervene with the SAPS, as I had already done successfully, to help the NPA.
75. Adv Pikoli did not explain why he had opted to get a Search Warrant.
76. However, he turned down my suggestion to delay executing the Search Warrant, undertaking to engage the SAPS so that the NPA could search the SAPS Headquarters with no opposition after a fortnight.
77. He insisted that he had to execute the Search Warrant within the short period he had indicated.
78. However, he conceded that indeed there might be a shoot-out at the SAPS HQ, saying that he based himself on what had nearly happened when a DSO unit had tried to search then Deputy President Jacob Zuma's residence at Forest Town in Johannesburg.
79. During this meeting, I also expressed concern that the NPA had decided to grant immunity to the assassins of Brett Kebble as part of the process of prosecuting National Commissioner Selebi.
80. I was of the view that both the National Commissioner and the assassins should be charged for whatever offence they were responsible, without wilfully exempting people who had committed murder.
81. Adv Pikoli responded by saying that it was normal to us 'small fry' to 'catch bigger fish', which is what the NPA was doing by granting immunity to the assassins.

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103. For all the reasons submitted above, it would be in the interests of justice to grant the intervention application as per the notice of motion.

104. It is contrary to South Africa's constitutional order for the court to decide issues raised in the *Calata* application, without affording Ms Mabandla and I the opportunity to be heard. An adverse finding without hearing us would offend against our right to equality (in section 9 of the Constitution), human dignity (in section 10 of the Constitution) and access to court (in section 34). If the common law does not recognise our right to intervene in the present circumstances, it should be developed to recognise such right.

105. Once intervention is granted, Ms Mabandla and I request the Court to afford us a fair opportunity to file an answering affidavit in which we will address all the relevant allegations in the founding affidavit. Given the extensive historical nature of the allegations of fact made, and the extensive annexures on which the applicants rely, it will take significant time to put together a proper answer to the allegations. This could not be done in the time afforded us to bring this application. There are also other relevant and historical material that may have to be obtained, in some cases from archives, to respond properly to the allegations made. Various persons will need to be consulted also to put together a proper answer to the allegations.

WHEREFORE, the applicants pray for an order as set out in the notice of motion.


THABO MVUYELWA MBEKI

I certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and deposed before me at JOHANNESBURG on this the 31 day of March 2025, and that the provisions of the regulations contained in the Government Notice R1258 of the 21st of July 1972, as amended, and Government Gazette Notice R1648 of the 19th of August 1977, as amended, have been complied with.



COMMISSIONER OF OATHS

FULL NAMES: **Goodman Ntandazo Vimba**
CAPACITY: **Practising Attorney
Commissioner of Oaths**
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Tim