

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

**CASE NO: 2026-026936**

In the matter between:

**JACOB GEDLEYIHLEKISA ZUMA**

**APPLICANT**

And

**THE CHAIRPERSON OF THE COMMISSION**

**1<sup>ST</sup> RESPONDENT**

**SECRETARY OF THE COMMISSION**

**2<sup>ND</sup> RESPONDENT**

**ADVOCATE ISHMAEL SEMENYA SC**

**3<sup>RD</sup> RESPONDENT**

**COMMISSIONER FRANS KGOMO**

**4<sup>TH</sup> RESPONDENT**

**COMMISSIONER ANDREA GABRIEL SC**

**5<sup>TH</sup> RESPONDENT**

**THE CALATA GROUP**

**6<sup>TH</sup> RESPONDENT**

**THABO MVUYELWA MBEKI**

**7<sup>TH</sup> RESPONDENT**

NATIONAL PROSECUTING AUTHORITY

8<sup>TH</sup> RESPONDENT

MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT

9<sup>TH</sup> RESPONDENT

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

10<sup>TH</sup> RESPONDENT

**FILING NOTICE**

**DOCUMENT: 10<sup>TH</sup> RESPONDENT'S EXPLANATORY AFFIDAVIT**

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**TO:** THE REGISTRAR OF THE ABOVE HONOURABLE COURT  
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**AND  
TO:**

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**REF: Ms. B Nkoana 011/000482/26/03/P21**

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION, JOHANNESBURG**

**CASE NO: 2026-026936**

In the matter between:

<b>JACOB GEDLEYIHLEKISA ZUMA</b>	Applicant
and	
<b>THE CHAIRPERSON OF THE COMMISSION</b>	First Respondent
<b>SECRETARY OF THE COMMISSION</b>	Second Respondent
<b>ADVOCATE ISHMAEL SEMENYA SC</b>	Third Respondent
<b>COMMISSIONER FRANS KGOMO</b>	Fourth Respondent
<b>COMMISSIONER ANDREA GABRIEL SC</b>	Fifth Respondent
<b>THE CALATA GROUP</b>	Sixth Respondent
<b>THABO MVUYELWA MBEKI</b>	Seventh Respondent
<b>NATIONAL PROSECUTING AUTHORITY</b>	Eighth Respondent
<b>MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS</b>	Ninth Respondent
<b>PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA</b>	Tenth Respondent

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**EXPLANATORY AFFIDAVIT**

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I, the undersigned

**MATAMELA CYRIL RAMAPHOSA**

do hereby make oath and state

TRV



1 I am the President of the Republic of South Africa. I have been cited as a respondent in the recusal applications by former Presidents Mbeki and Zuma. They seek the recusal of Justice Khampepe whom I appointed as the Chair of the TRC Commission of Inquiry. I file this explanatory affidavit in response to both applications.

2 I do not oppose:

2.1 The recusal applications;

2.2 The application of former Presidents Mbeki and Zuma seeking an order directing me to terminate the appointment of Justice Khampepe.

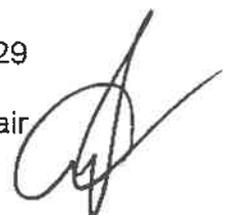
3 The affidavits in the recusal applications contain allegations that call for an explanation or response by me. Consequently, I respond only to the relief sought against me and those allegations requiring my explanation relating to the appointment of Justice Khampepe as Chair of the Commission.

4 Unless otherwise stated, the facts deposed to below are within my personal knowledge and I believe them to be true.

**Establishment of the Commission and Appointment of Justice Khampepe**

5 I established the Commission and appointed Justice Khampepe on 29 May 2025. I considered Justice Khampepe a suitable appointment to chair

TRW



the Commission because: she is a former Constitutional Court judge; she served as a respected judge on the Constitutional Court from October 2009 until her retirement from the judiciary in October 2021.

- 6 The allegations about how the Commission came to be established after the launch of a declarator and review application in the High Court by the Calata family under case number 2025-005245, are not disputed. They have been set out in affidavits by me in the Commission and in the High Court. In summary, after the High Court application was brought by the applicants, I agreed with them that I would establish a Commission. That is why the relief relating to the establishment of a Commission is no longer pursued in the High Court application.

#### **Allegations Supporting the Recusal Allegations**

- 7 Former President Zuma alleges that the Chair coached Mr Semenya on how he should respond to the application for his recusal to be decided by the Chair.
- 8 I have no knowledge of that allegation. Consequently, I do not respond to or deal with it.
- 9 As for the rest of the allegations, I understand and believe them to include the following:

TRV



- 9.1 In 1995, the Chair was appointed by former President Mandela as a TRC Commissioner and in the following year she was appointed a member of the TRC's Amnesty Committee.
- 9.2 Between September 1998 and December 1999, the Chair was a Deputy National Director of Public Prosecutions. During this period, she apparently played a role on the Human Rights Investigation Unit (HRIU), established by then NDPP Bulelani Ngcuka to advise him on how to handle the cases referred to the NPA by the TRC."
- 9.3 As a member of the Amnesty Committee, the Chair refused the killers of Richard and Irene Motasi amnesty. This appears in schedule 17 of the TRC's Amnesty Committee's decision AC 99/0035. The family members of Richard and Irene Motasi are applicants before the Commission and the eighteenth applicant in the High Court application and a party at the Commission.
- 9.4 As a member of the Amnesty Committee in AC/2001/064, the Chair considered and denied amnesty to RJ Venter, in the 'Pebco Three' murders near Cradock. The family members of the Pebco Three are parties in the Commission. They are also the sixteenth, twentieth and twentieth-first applicants in the High Court application and parties at the Commission.

TRW 

9.5 In AC/99/0046 several members of the ANC sought amnesty. Amongst those are two parties who have been cited as interested persons in these proceedings. They are former Presidents Mbeki and Zuma. The Chair was part of the panel that refused their amnesty applications.

### **Knowledge of Allegations**

10 At the time that I appointed Justice Khampepe as the Chair of the Commission, I was unaware of the allegations in paragraph 9. I became aware of these allegations only after her appointment and during the course of the recusal applications. By then, I had already appointed Justice Khampepe as the Chair. I had no further role in her appointment or removal as Chair.

11 I am advised and submit the following:

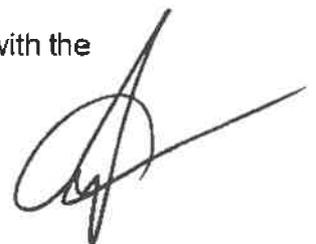
11.1 The appointment involves the exercise of my s84 constitutional powers by way of a proclamation published in the Government Gazette.

11.2 Having exercised that power, that the law prohibits me from playing any further role in her appointment or removal. That is why I did not participate in the recusal application. It is also why I chose to abide the decision of the Commission.



- 12 Since her appointment, Justice Khampepe has not informed me of her prior involvement at the TRC or NPA.
- 13 The applications for the recusal of Justice Khampepe had to be decided by the Commission. The refusal of the recusal applications by Justice Khampepe, is subject to review by the High Court. The recusal applications had to take their course without my participation. I am advised that as a co-respondent, that has not intervened as an applicant, I can do no more than record that I do not oppose the review applications. That is why I submit this explanatory affidavit.
- 14 Had I been aware of these allegations at the time that I appointed Justice Khampepe as Chair of the Commission, I would not have appointed her. That is because I would have sought to avoid potential public criticism of the Commission, or the Inquiry, or a review attack on the appointment of Justice Khampepe as Chair, arising out of those allegations.
- 15 The criticism I would have sought to avoid, and as a rule seek to avoid when appointing a Chair of a Commission, is that the work of the Commission would not be carried out:
- 15.1 impartially and with an open and enquiring mind;
- 15.2 without association or perceived or suspected association with the interest of any party at the Commission;

TRV



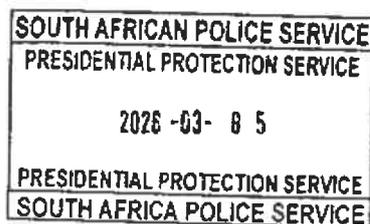
15.3 in a way that restores public confidence in the matters under investigation, in government's role in those matters and in public inquiries.

16 I requested that the Minister of Justice to approach the Justice Khampepe to consider standing down as Chair. She was asked that, in light of the controversy over her appointment and the damage to the public image of the Commission. I am informed that she declined to step down. Consequently, she remains the Chair until removed by Court. As I say above, I have no objection to the Court ordering the removal of the Chairperson.



**MATAMELA CYRIL RAMAPHOSA**

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me on 5 March 2026 at **JOHANNESBURG**, and the deponent's signature was placed thereon in my presence, the regulations contained in Government Notice R1258 dated 21 July 1971 and R1648 dated 19 August 1977, having been duly complied with.



1033961-8  
W/O  
Kusobana

**COMMISSIONER OF OATHS**

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