

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CCT 295/20
CASE NO:

In the matter between:

**SECRETARY OF THE JUDICIAL COMMISSION OF
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR
INCLUDING ORGANS OF STATE**

and

JACOB GEDLEYIHLEKISA ZUMA



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DATED AT JOHANNESBURG ON THIS 3rd DAY OF DECEMBER 2020



STATE ATTORNEY, JOHANNESBURG

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TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT

Private Bag X1

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Johannesburg

By email: generaloffice@concourt.org.za

AND TO: MR JACOB GEDLEYIHLEKISA ZUMA

Respondent

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By hand and By email

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

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In the matter between:

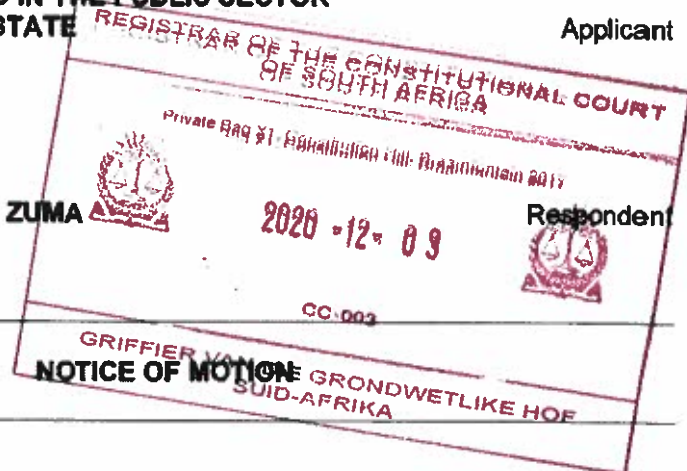
**SECRETARY OF THE JUDICIAL COMMISSION OF
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR
INCLUDING ORGANS OF STATE**

Applicant

and

JACOB GEDLEYIHLEKISA ZUMA

Respondent

**NOTICE OF MOTION**

TAKE NOTICE THAT on a date to be determined by the Registrar of the above Honourable Court the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, the applicant herein, intends to apply on an urgent basis to the above Honourable Court on the basis of this Honourable Court's exclusive jurisdiction under section 167(4)(e) of the Constitution, alternatively under section 167(6)(a) of the Constitution and rule 18 of the Rules of the above Honourable Court, for an order in the following terms:

- 1 In terms of rule 12 of the Rules of this Honourable Court leave is hereby granted that this application be heard as one of urgency, the rules and forms

of service dispensed with in accordance with any directions that the Chief Justice may issue.

2 In terms of section 172(1)(a) of the Constitution it is declared that:

- 2.1 Mr Jacob Gedleyihlekisa Zuma (**“the respondent”**), in his capacity as the former President and head of the national executive of the Republic of South Africa, is constitutionally obliged to appear before the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (**“the Commission”**) and account by giving evidence and answering the allegations that concern his alleged failure as President and head of the national executive to fulfil his constitutional obligations, in terms of sections 1(d), 83(b), 83(c), 96 and 182(1)(c) of the Constitution and his oath of office.
- 2.2 The respondent is obliged to comply with any summons signed and issued by the Secretary of the Commission served on the respondent, in accordance with section 3(2) of the Commissions Act 8 of 1947.
- 2.3 The respondent’s conduct in excusing himself and leaving the venue of the Commission hearing on 19 November 2020 without the permission of the Chairperson is unlawful and breaches section 3(1) of the Commissions Act 8 of 1947.
- 2.4 The respondent’s failure to appear before the Commission on 20 November 2020 in accordance with the summons issued and

served on him, without seeking and/or obtaining the permission of the Chairperson, is unlawful and breaches section 3(1) of the Commissions Act.

- 3 The respondent is ordered to comply with the summons issued by the Secretary of the Commission directing him to appear before the Commission on 18 to 22 January 2021 (both dates inclusive) and 15 February 2021 to 19 February 2021 (both dates inclusive) at 10h00 on each day, unless directed otherwise by the Chairperson.
- 4 It is ordered that, when appearing before the Commission and after he has taken the oath or affirmation, the respondent shall answer any questions put to him by the designated Evidence Leader(s) and the Chairperson of the Commission, subject to the privilege against self-incrimination, and may not rely on the right to remain silent.
- 5 Unless excused by the Chairperson, the respondent is ordered to remain in attendance at the Commission from 10h00 on 18 to 22 January 2021 (both dates inclusive) and from 10h00 on 15 to 19 February 2021 (both dates inclusive), or any other date, in respect of which a summons has been issued and served on the respondent.
- 6 The respondent is ordered to comply with the Directives issued by the Chairperson of the Commission under regulation 10.6 of the Regulations of the Commission ("the Regulations") on 27 August 2020 and 08 September 2020, and any further directives under regulation 10.6, by submitting his affidavits on the matters contemplated in those directives, by no later than 10 January 2021.

- 7 The respondent is ordered to comply with any directives that the Chairperson may validly issue in the future against the respondent in respect of matters being investigated by the Commission.
- 8 The respondent is ordered to pay costs of this application, on the scale of attorney and own client.

TAKE NOTICE FURTHER THAT, if the respondent intends to oppose the relief sought in this application he is required, given the urgency of the matter, within five (5) days of the date of this notice of motion, to notify the Registrar of this Court and the applicant in writing of his intention to do so, and further that he is required to appoint in such notification an address at which he will accept notice and service of all documents in these proceedings.

TAKE NOTICE FURTHER THAT the Court is requested to issue directions to the parties, should the respondent give notice to oppose, regarding:

- (a) the filing of answering and replying affidavits;
- (b) the filing of written submissions;
- (c) any further matters it may require to be addressed by the parties.

TAKE NOTICE FURTHER THAT the applicant has appointed the State Attorney, Johannesburg, as his attorney of record and his address, as set out below, as the address where he will accept notice and service of all documents in these proceedings.

TAKE NOTICE FURTHER THAT the accompanying affidavit of the applicant will be used in support of this application.

DATED AT JOHANNESBURG ON THIS 3rd DAY OF DECEMBER 2020

STATE ATTORNEY, JOHANNESBURG

95 Albertina Sisulu Road

10th Floor North State Building

Johannesburg

Per: Mr Johan van Schalkwyk

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Ref: 1544/18/P45

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TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT

Private Bag X1

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By email: generaloffice@concourt.org.za

AND TO: MR JACOB GEDLEYIHLEKISA ZUMA

Respondent

Kwadakwadunuse Homestead, KwaNxamalala, Nkandla, King

Cetshwayo District, Kwazulu-Natal

CARE OF: MABUZA ATTORNEYS

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**SECRETARY OF THE JUDICIAL COMMISSION OF
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Applicant

and

JACOB GEDLEYIHLEKISA ZUMA

Respondent

	<p>REGISTRAR OF THE CONSTITUTIONAL COURT OF SOUTH AFRICA</p>
FOUNDING AFFIDAVIT	<p>Private Bag 21, Constitution Hill, Braamfontein 2017</p>
I, the undersigned	<p> 2020 -12- 03 </p>
ITUMELENG MOSALA	<p>CC 003</p>
	<p>GRIFFIER VAN DIE GRONDWETLIKE HOF SUID-AFRIKA</p>

do hereby make oath and state that:

- I am an adult male employed as the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission"), with its main place of business situated at Hillside House, 17 Empire Road, Parktown, Johannesburg. My appointment as such is effective from 1 October 2020. I am duly authorised to depose to this affidavit.

J. A.