

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

29 JULY 2021

DAY 424



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Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN



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PROCEEDINGS RESUME ON 29 JULY 2021

CHAIRPERSON: Good morning Mr Hulley, good morning everybody.

ADV HULLEY SC: Morning Mr Chair.

COLONEL MHLONGO: Good morning Mr Chair.

CHAIRPERSON: Morning. Are we ready, I see we have had quite a few technical hitches? Mr Hulley are we ready?

ADV HULLEY SC: We are ready to proceed now Mr Chair.

10 **CHAIRPERSON:** Yes.

ADV HULLEY SC: Thank you very much. Mr Chair today's evidence would relate to Colonel W S Mhlongo. You may recall that he was implicated by General Johan Booyen relating to an affidavit that Mr Booyen – or that General Booyen attached to his affidavit. That affidavit being of Mr Terence Joubert.

You would recall that Mr Joubert has testified and Mr – Colonel Mhlongo started to testify on the last occasion I believe it was the 2nd of March but unfortunately
20 we ran out of time and you indicated that we would have to arrange for him to complete his testimony.

Today is the date for the completion of that testimony. I understand that he is still represented by Advocate Manala today and there will be a – there will be an interpreter that he will interpret through.

CHAIRPERSON: Yes.

ADV HULLEY SC: Thank you Mr Chair.

CHAIRPERSON: Okay thank you. Will his counsel place himself on record please.

ADV MANALA: Good morning Mr Chair.

CHAIRPERSON: Good morning.

ADV MANALA: Yes I confirm I still appear on behalf of COLONEL MHLONGO – Colonel Mhlongo and that I am instructed by Maringa Attorneys.

10 **CHAIRPERSON:** Yes just mention your name again.

ADV MANALA: Manala ME.

CHAIRPERSON: Yes okay thank you very much.

ADV MANALA: Thank you Mr Chair.

CHAIRPERSON: Thank you. Is our interpreter Mr Mzotho?

ADV HULLEY SC: That is so Mr Chair.

CHAIRPERSON: Okay Mr Mzotho are you there?

MR MZOTHO: I am Chair good morning.

20 **CHAIRPERSON:** Good morning. Thank you for availing yourself. Let us just do the oath again. Please just state your full names again Mr Mzotho.

MR MZOTHO: Yes, Khulekani Dumolwakhe Mzotho.

CHAIRPERSON: Do you have any objection to taking the prescribed oath?

MR MZOTHO: I do not Chair.

CHAIRPERSON: Yes. Do you consider it binding on your

conscience?

MR MZOTHO: I do.

CHAIRPERSON: Yes. Do you swear that you are proficient in English and in Isi-Zulu and that you are able to interpret/translate from English to Isi-Zulu and vice versa and that if you are called upon to translate or interpret from Isi-Zulu to English and from English to Isi-Zulu in these proceedings you are undertaken to do so to the best of your knowledge and ability and honestly?

10 **MR MZOTHO:** Yes I do Chair.

CHAIRPERSON: Thank you. Raise your right hand and say, so help me God.

MR MZOTHO: So help me God.

CHAIRPERSON: Thank you Mr Mzotho you are duly sworn in. Okay. Mr Hulley.

ADV HULLEY SC: Thank you Mr Chair.

CHAIRPERSON: You – you may proceed. Maybe just in one or two sentences you can for the benefit of the public mention what the real issue or issues are that we are going
20 to cover in – with Mr – or Colonel Mhlongo’s evidence. As I recall the real issues was that it had been I think General Booyesen had testified that or rather you – Mr Joubert had testified that Colonel Mhlongo had told him certain things which were – which if true would implicate Advocate Jiba.

ADV HULLEY SC: Correct Chair.

CHAIRPERSON: About Mr Nxasana. Is that right?

ADV HULLEY SC: That is correct. That is correct Chair.

CHAIRPERSON: Ja. Do you want to just cover that in two or three sentences before we continue?

ADV HULLEY SC: Thank you Mr Chair. So in a nutshell insofar as the dispute between Mr Joubert and Colonel Mhlongo is concerned according to Mr Joubert he had had a discussion with Colonel Mhlongo in which Colonel Mhlongo had indicated to him that is to Colonel – ah to Mr
10 Joubert that it was the intention on the instructions of Ms – of Advocate Jiba to find dirt on Mr Nxasana who was at that stage the newly appointed National Director of Public Prosecutions.

To place that in context you may recall that Advocate Jiba had been the acting National Director of Public Prosecutions and after her acting appointment – her acting appointment came to an end and Mr Nxasana had been appointed to take over the role of the National Director of Public Prosecutions.

20 **CHAIRPERSON:** Yes.

ADV HULLEY SC: So that in a nutshell.

CHAIRPERSON: Ja.

ADV HULLEY SC: Is what the issue was about.

CHAIRPERSON: Ja.

ADV HULLEY SC: And what transpired in those

conversations that took place before – between Colonel Mhlongo and Mr Joubert.

CHAIRPERSON: Ja okay. No that is fine. And then – then the Registrar can swear in the witness. Please administer the oath Registrar to the witness.

REGISTRAR: Colonel Mhlongo will you be taking the oath or the affirmation?

COLONEL MHLONGO: I will take the oath.

REGISTRAR: Please state your full names for the record.

10 **COLONEL MHLONGO:** Names are Welcome Sithembise Mhlongo.

REGISTRAR: Do you have any objection to taking the prescribed oath?

CHAIRPERSON: Interpreter.

REGISTRAR: Do you have any objection to taking the prescribed oath?

COLONEL MHLONGO: No.

CHAIRPERSON: Hang on – hang on. Mr Interpreter can you hear the Registrar? I think there is a problem.

20 **ADV HULLEY SC:** I think this is the problem you were having before Mr Chair that is why we took so long to start.

CHAIRPERSON: Ja. Ja and we do not know what is causing it.

ADV HULLEY SC: No. I cannot be – be of any assistance when it comes to technology.

CHAIRPERSON: Ja. I have got somebody who is a technician this side but he can only check if there is a problem from this side as I understand the position. Registrar could you ask him to come and check and be able to tell whether it is a problem that can be from this side or whether it is not this side. Can you hear us now Mr Mzotho? No he still cannot hear us. It is on his side. Oh is that so. Mr Mzotho can you hear me now? No he cannot hear. Mr Hulley you can still hear me?

10 **ADV HULLEY SC:** I can hear you clearly Mr Chair.

CHAIRPERSON: Ja. Ja. Oh. The – wait this is going to be a problem now. I am not sure – maybe we should adjourn. Maybe we should adjourn to try and see whether the problem can be fixed to enable us to continue until we are finished without keeping it coming up. Ja. Okay I think let us adjourn and the technical people can try and find out how to fix it but I do not want a situation where it is fixed for five minutes – we start and then we have to adjourn again. If it cannot be fixed properly we might have
20 to see what else can be done.

ADV HULLEY SC: I see Mr Mzotho has sent a message to the effect that he can hear us now but his screen had frozen for a while.

CHAIRPERSON: Mr Mzotho can you hear me?

MR MZOTHO: I can DCJ yes. Everything just went frozen

and it is a go.

CHAIRPERSON: And do you know whether there is any particular problem from your side?

MR MZOTHO: None – none that I can see from the look of things.

CHAIRPERSON: Ja.

MR MZOTHO: It froze when the Registrar was administering an oath.

CHAIRPERSON: Ja. Okay let us hope it is going to be
10 fine now. Let the Registrar start afresh with the oath and then hopefully we will be able to continue. Registrar just start afresh with administering the oath.

REGISTRAR: Please state your full names for the record.

COLONEL MHLONGO: Name is Welcome Sithembiso Mhlongo.

REGISTRAR: Do you have any objection to taking the prescribed oath?

COLONEL MHLONGO: I do not.

REGISTRAR: Do you consider the oath binding on your
20 conscience?

CHAIRPERSON: Hang on. Is there a delay in – in people being heard? Registrar is there a delay before you hear what the witness is saying.

REGISTRAR: Yes – yes Chairperson there is a delay.

CHAIRPERSON: When I am speaking is there a delay as

well.

REGISTRAR: It seems to be fine now.

CHAIRPERSON: Oh okay. Okay I think just repeat the last question to the witness.

REGISTRAR: Do you consider the oath binding on your conscience?

COLONEL MHLONGO: Yes I do.

REGISTRAR: Do you solemnly swear that the evidence you will give will be the truth; the whole truth and nothing
10 but the truth; if so please raise your right hand and say, so help me God.

COLONEL MHLONGO: So help me God.

CHAIRPERSON: Thank – thank you Colonel Mhlongo. Okay let us continue then. Mr Hulley.

ADV HULLEY SC: Thank you Mr Chair. Colonel welcome back. Now on the last occasion that you testified we were at a point where we were going to move onto your – to the transcript of a conversation which occurred between you and Mr Joubert. You indicated of course that conversation
20 took place on the 25th of November of 2013. Do you recall what I am referring to?

COLONEL MHLONGO: Yes.

CHAIRPERSON: Allow the interpreter.

ADV HULLEY SC: Now –

COLONEL MHLONGO: Yes I can remember that Chair.

ADV HULLEY SC: Before we go into the transcript and the aspects of the transcript that I would like you to deal with perhaps we can just start with – to place the transcript itself in context. Perhaps we can start off with the – the affidavit of a Ms Queen Mhlongo. Do you recall that?

COLONEL MHLONGO: Yes Chair I do remember that affidavit because I am the one who sent it. Yes Chair I do – I beg your pardon Chair I do remember that affidavit because it was sent to me by the commission.

10 **ADV HULLEY SC:** And in fact you filed a response to that affidavit, is that correct?

COLONEL MHLONGO: Although I cannot remember because it was a long time ago but it is possible that I did reply.

ADV HULLEY SC: Now just to identify the affidavit for you Mr Chair we will be dealing with Bundle LEA10. The specific documents is to be found at page 65 of that bundle.

CHAIRPERSON: Yes I have got it. Mr Interpreter.

20 **MR MZOTHO:** Thank you Chair.

COLONEL MHLONGO: Well Chair my documents are not well organised perhaps it might take a bit of time for me to find it and I ask you to bear with me.

CHAIRPERSON: Is Colonel Mhlongo's counsel or attorney in a different building or away or are they close by?

ADV MANALA: Chair we are in separate buildings.

CHAIRPERSON: You are in separate buildings.

ADV MANALA: Yes.

CHAIRPERSON: You know I do not want us to be delayed because the witness does not have the same bundle as we have. Mr Hulley do you know whether the only document that we will deal with – that you would be referring him to really or there may be two or three others. I am just trying to see whether it is warranted.

10 **ADV HULLEY SC:** Absolutely.

CHAIRPERSON: I just want to see whether it is warranted to adjourn and – and somebody makes sure he has got exactly what we have or whether we will be able to make do without getting him a bundle.

COLONEL MHLONGO: Chair I seem to find the affidavit here but here is written Y11TJ115. It is written 'I, Queen Namisele Mhlongo'.

CHAIRPERSON: Okay all right.

ADV HULLEY SC: He is referring to page 115.

20 **CHAIRPERSON:** Mr Hulley.

ADV HULLEY SC: Thank you Mr Chair I am just trying to see because the affidavit that I am referring to does appear in different places. But now the – so it is possible that he has got a different – or he has got the same affidavit but he is referring to it in a different place.

CHAIRPERSON: Ja I seem to think last time that was one of the problems as well that he would find documents located in a different place from where – I said at least mine were – was located. So did you say Mr Hulley this is the main affidavit you would be dealing with or what is the position?

ADV HULLEY SC: This is – pardon this is one of the affidavits.

CHAIRPERSON: How many documents will you be...

10 **ADV HULLEY SC:** Can I – I am going to be referring to I believe about four documents. Perhaps I can identify them so that the witness can either flag it or take it out separately so that we be ready to deal with it as soon as I mention them.

CHAIRPERSON: Okay.

ADV HULLEY SC: Is that ...

CHAIRPERSON: Okay maybe let us – let us do it this way. Ja mention the documents let us see if he can find them. Or what I am going to do let me adjourn – identify the
20 documents, tell him the documents – let him have them ready at hand so when I come back we deal with each one he does not have to look while I am waiting here. Let him have them ready that will be those that would be referred to and then we can – we can – and then we can refer to paragraphs in those documents rather than the page

numbers for – for – to make sure that there is no problem. But you can always just announce what the page numbers are but we can just mainly use the paragraphs of the documents.

ADV HULLEY SC: Thank you Mr Chair.

CHAIRPERSON: Because his documents are not the same as ours. So let me adjourn for what ten minutes.

ADV HULLEY SC: Thank you Mr Chair I think that will be more than sufficient.

10 **CHAIRPERSON:** Ja okay. I will adjourn for ten minutes to enable that to happen.

ADV HULLEY SC: Colonel.

COLONEL MHLONGO: Yebo.

ADV HULLEY SC: Now the first document I want you to look at is at page 6 of Bundle LEA that is your affidavit, your first affidavit to the commission which is dated the 9th of May 2019.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **REGISTRAR:** We will now resume with today's proceedings.

CHAIRPERSON: Can you hear me?

ADV HULLEY SC: I can. Thank you, Mr Chair.

CHAIRPERSON: Okay, thank you. Has the problem been sorted out?

ADV HULLEY SC: I believe it has, Mr Chair. It seems that the power was simply rearranged for mister – for Colonel Mhlongo. So that is where the difficulty came in, but he has the same documents.

CHAIRPERSON: Ja.

ADV HULLEY SC: And he has the same numbering system as well. Perhaps with the exception of one document, but he does have the same numbering system as us.

10 **CHAIRPERSON:** Ja. Okay, alright. Let us continue then.

ADV HULLEY SC: Thank you, Mr Chair. So, Colonel – sorry. We – I had referred you to the affidavit of Ms Mhlongo and that affidavit appears at page 65 of Bundle LEA-10. You have got it?

INTERPRETER: Yes.

COLONEL MHLONGO: Yes, I found it Chair.

ADV HULLEY SC: And I indicated to you that you had had an opportunity to consider that affidavit and had, in fact, filed a response to the affidavit.

20 **COLONEL MHLONGO:** Yes. That is correct, Chair.

ADV HULLEY SC: And your response is in your affidavit dated the 22nd of February of 2021 which appears at page 210.27.

COLONEL MHLONGO: That is correct, Chair.

ADV HULLEY SC: And if you would turn to the second

last page of your affidavit which is 210.38, Mr Chair.

COLONEL MHLONGO: [No audible reply]

ADV HULLEY SC: 210.38.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: You will see from that – the heading; Discussion with Ms Queen Ncamisile Mhlongo, you will see from paragraph 36 to 40, you deal with her affidavit.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: And if I understand you correctly and
10 having read through your affidavit, if I understand what you
are saying in your affidavit correctly. You are admitting the
fact that you did have a discussion with Ms Mhlongo and
you are also admitting the fact that the – while what she
says is correct, if I understand you correctly, you are
saying, you disagree with the context in which – she has
not properly placed it in context. Do I understand that
correctly?

COLONEL MHLONGO: That is correct, Chair.

ADV HULLEY SC: Now, let us then go to Ms Mhlongo's
20 affidavit. So that, once again, is at page 65 of the same
bundle.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: I would like to look at paragraph 2 of
that affidavit.

COLONEL MHLONGO: I see it.

ADV HULLEY SC: According to Ms Mhlongo, she says that”

“On Friday, the 15th of November of 2013, during the day, I went to the third floor in the Southern Life Building to see Colonel Welcome Sthembiso Mhlongo, as I usually do...”

COLONEL MHLONGO: Yes.

ADV HULLEY SC: If I understand correctly, you confirm that is in fact accurate.

10 **COLONEL MHLONGO:** Chair, I can say that it is correct in the sense that she usually came to see me because we were in the same building. So she frequented my office. So even though I cannot say with certainty that on this particular day on this particular time she did come and see me but she did frequent my office.

ADV HULLEY SC: And she goes on to say that:

20 “We sat and we started talking about the appointment of Mxolisi Nxasana as the new National Director of Public Prosecutions and how happy I was as someone who is from Durban who happens to be a close person to me.

I thought he was going to share the same sentiments as he knows Mxolisi as well...”

Now do you confirm that those sentences ...[intervenes]

INTERPRETER: [Interpreting]

COLONEL MHLONGO: Chairperson, I dispute that as utter lies that we did have a conversation to this effect. I dispute that.

ADV HULLEY SC: We will get to that in a moment. She goes on to say:

“However, he started...

That is now reference to you.

“...started saying that he hopes that Mxolisi can let Richard Mdluli off the hook as he has been
10 promised to head the Intelligence Unit in the KZN if Mdluli is not recharged...”

You have ...[intervenes]

INTERPRETER: [Interpreting]

COLONEL MHLONGO: Chairperson, we did not have a conversation to this effect with Ms Mhlongo. And I would also ask the Chairperson to remember that she has indicated that she had recorded these conversations but when asked to produce the recordings, the same was not forthcoming. So, this affidavit, I will ask that it not be used
20 because it is full of lies. We did not have any conversation to this effect. These are utter lies simply made up to support what was said by Mr Joubert.

CHAIRPERSON: Mr Interpreter, two questions back when Mr Hulley asked a question and referred to Mr Mdluli or referred to what Ms Mhlongo said colonel – Ms Mhlongo

said Colonel Mhlongo said. You just said Mdluli without mentioning his name. The name reflected in paragraph 2 is Richard Mdluli but probably Colonel Mhlongo knew that you were referring to Richard Mdluli. Do you want to just confirm with the witness that he understood that when you said Mdluli you were referring to Richard Mdluli?

INTERPRETER: Yes, thank you, Chair.

COLONEL MHLONGO: Yes, Chair, I understood.

CHAIRPERSON: Okay, thank you. Mr Hulley.

10 **ADV HULLEY SC:** She goes on to say:

“He also...

Referring, once again, to you.

“He also mentioned that the right candidate was
Nomgcobo Jiba...”

CHAIRPERSON: Nomgcobo Jiba.

INTERPRETER: [Speaking vernacular] ...Nomgcobo Jiba.
Thank you. Thank you, Chair.

COLONEL MHLONGO: Once again, Chair. That is a lie. I
only know this young lady as Mhlongo. When she came
20 here, I got to know her that she is Mhlongo and her parents
and I go to the same place of worship. And I would have
never discussed with her, given her level, matters of this
sensitivity. What I think is happening here is that this
whole thing has once again been made up so that it will
confirm the lies that were told by Mr Joubert.

ADV HULLEY SC: Then in paragraph 3 she says the following:

“He...

Once again referring to you.

“...started telling me that Mxolisi Nxasana was not a kind man as I thought and that he knew this from interviewing his relatives.

At the time I did not understand what was going on.

10 He continued by telling that he knows Mxolisi Nxasana from a long time ago when they had had altercation about a client of Nxasana whom he (Mhlongo) had arrested...”

Did you have a discussion about that?

COLONEL MHLONGO: Chairperson, I dispute that. We never had such conversation. It is a lie. And at no stage did I ever arrest Mr Nxasana’s client.

CHAIRPERSON: Before you continue, Mr Hulley. Mr Interpreter, I am going to suggest that where
20 Ms Mhlongo is talking about what Colonel Mhlongo said, you use direct language to Colonel Mhlongo and say: Ms Mhlongo says this – you said this, you said that you said that so that it is clear that you are saying Ms Mhlongo is saying things that she is attributing to Colonel Mhlongo. Because when you use a third person, the way you have

done it, it might cause confusion as to whom Ms Mhlongo – whether you are talking about Ms Mhlongo having said those things or Colonel Mhlongo. Is that fine with you?

INTERPRETER: No, that is fine, Chair. That is fine.

CHAIRPERSON: [Speaking vernacular] Okay, alright.

INTERPRETER: I...

CHAIRPERSON: Okay, alright. Please continue, Mr Hulley.

ADV HULLEY SC: Thank you, Mr Chair. She then goes
10 on to say that he, referring to yourself:

“He then continued to tell me that Nxasana has many properties around Durban and he mentioned Ntuzuma, Umlazi, Pinetown and Kloof, amongst others...”

So what she is saying is that you informed her that Nxasana had many properties around Durban and the properties that you mentioned were in Ntuzuma, in Umlazi, in Pinetown and Kloof.

COLONEL MHLONGO: I dispute that, Chair. At no stage
20 did I speak to her about Mr Nxasana’s properties because I do not know where Mr Nxasana’s properties are situated.

ADV HULLEY SC: Now, if we can turn then to your affidavit which, once again Mr Chair, for your benefit is at page 210.27.

CHAIRPERSON: Yes, are you ...[intervenes]

INTERPRETER: [Speaking vernacular]

CHAIRPERSON: I am sorry. Are you going to come back to this affidavit, Mr Hulley, or you are done with it?

ADV HULLEY SC: I am done with it. I might refer back to it depending on how he respond to some of the questions but for present purposes, I am done with it. Thank you, Mr Chair.

CHAIRPERSON: Yes, okay, alright. Okay, continue.

ADV HULLEY SC: So, I would like you to look at page
10 210.38, sir. That is from paragraph 36.

CHAIRPERSON: Did you say 36, paragraph 36, Mr Hulley?

ADV HULLEY SC: Thank you, Mr Chair. That is correct.

CHAIRPERSON: Okay. Have you got it, Colonel Mhlongo?

COLONEL MHLONGO: Yes, I have got it. In my last affidavit.

INTERPRETER: Yes.

CHAIRPERSON: Mr Interpreter, he has confirmed that he
20 has got ...[intervenes]

INTERPRETER: Yes, Chair.

CHAIRPERSON: Ja.

ADV HULLEY SC: Now in your affidavit, sir, you say the following:

“Ms Mhlongo’s affidavit takes the substance of

our discussions out of context.

We were colleagues talking about the appointment of our new Head, the National Director of Public Prosecutions...”

Paragraph 37. So, maybe you should translate that.

CHAIRPERSON: Ja.

ADV HULLEY SC: I am not sure if it requires a translation but that is the translation.

CHAIRPERSON: Yes.

10 **INTERPRETER**: [No audible reply]

CHAIRPERSON: Mr Interpreter.

INTERPRETER: [Interpreting]

CHAIRPERSON: Mr Hulley.

ADV HULLEY SC: Go on to paragraph 37, to say:

“I mentioned to Ms Mhlongo, as I have mentioned to Mr Joubert, that Mr Nxasana had treated me badly in one case involving one of his clients as an attorney and that I did not like him from that incident...”

20 **INTERPRETER**: [Speaking vernacular] ...[intervenes]

ADV HULLEY SC: [Indistinct]

INTERPRETER: [Interpreting]

COLONEL MHLONGO: Yes, sir.

CHAIRPERSON: Do you understand ...[intervenes]

INTERPRETER: Yes.

CHAIRPERSON: Do you understand, Colonel Mhlongo, that what Mr Hulley is referring to, is what you said in your affidavit, responding to Ms Mhlongo's affidavit? Do you understand that?

COLONEL MHLONGO: I do understand that Chair, but if I may perhaps explain here that this is a conversation I was having with Ms Mhlongo as another person who is also of Mhlongo surname. We were discussing him. I mentioned that he is quite harsh and we were otherwise excited that
10 he had been appointed but I did say, perhaps it would be best that he keeps a close check on his temper.

And I did mention that there was an incident when he interfered with my work when I was supposed to arrest a person where he indicated that I did not affect an arrest but we were speaking on casual terms as people from Mhlongo surname, both sharing the same surname.

CHAIRPERSON: Mr Hulley.

ADV HULLEY SC: Thank you, Mr Chair. Now, you go on to say in paragraph 38:

20 "The comment regarding his properties arose, as I said (you have got people who are generally well-off have a tendency of disrespecting others).

I mentioned his properties in that context..."

COLONEL MHLONGO: That is correct, Chair. But once

again, I was not saying that Mr Mhlongo(sic) should be fired or he should not be appointed ...[intervenes]

COLONEL MHLONGO: Mr Nxasana.

CHAIRPERSON: Mr Nxasana.

INTERPRETER: Mr Nxasana, yes.

CHAIRPERSON: Ja.

COLONEL MHLONGO: ...that he be removed. This was just something we were speaking about in generally casual terms. And we also happy because this is a person that we
10 all knew. And another thing that we were talking about is the fact that Mr Nxasana's mother, her maiden surname is Mhlongo and most Mhlongo – and Ms Mhlongo is also Mhlongo. So, we were generally happy for him.

ADV HULLEY SC: Paragraph 39 you say:

“I also came to know of his properties as I knew him from an early age and because we share family relations...”

COLONEL MHLONGO: It is correct in the sense that we were also – he was the right person and he was a person
20 that we knew. A person who is well-know who also rents out properties.

ADV HULLEY SC: When I questioned you earlier and I took you to Ms Mhlongo's affidavit, you said that you never had a discussion of – about the properties because you knew nothing about the properties.

COLONEL MHLONGO: Yes, Chair. I cannot be able to say where those properties are situated but when we had this conversation we were speaking – being happy that our cousin had been appointed to that position.

ADV HULLEY SC: And when I asked you earlier on about Ms Mhlongo’s affidavit, you said that what she was saying in her affidavit was all lies designed to support what Mr Joubert was saying?

COLONEL MHLONGO: Yes, Chair. What I am indicating
10 is that, in as much as we did have a conversation with Ms Mhlongo, what I indicate is a lie is when it is now being used or presented in such a way that it supports the lies that have been told by Mr Joubert. We did have conversations and they were pleasant in nature and we were all happy but now when they come here or when they are brought here they now being to include – or Mr Richard Mduli which is not correct.

When we spoke about Mr Nxasana we were all speaking in happy terms that he had been appointed. She
20 further, even herself spoke, indicated that she was happy that Mr Nxasana had been appointed and that she wishes that we could just come close and be able to assist Mr Nxasana as he had been recently appointed.

Another thing, Chair. Is the fact that it had been indicated or she had indicated that our conversation was

being recorded but when those recordings are needed, they seem not to be forthcoming which is why I say this affidavit now was being used to support the untruths that were being told by Mr Joubert.

And we were speaking, but we were speaking in happy terms, as I have indicated, that Mr Nxasana's mother being Mhlongo as her maiden surname and we were all happy about that. But now when it is presented here, it is being presented incorrectly.

10 **ADV HULLEY SC:** Now in this affidavit, the present affidavit, your affidavit you say two things about Mr Nxasana. You say firstly. If you look at paragraph 37 that he had treated you badly in a case involving one of his clients where he was acting as an attorney on behalf of a client. And you say further that because of that: I did not like him.

COLONEL MHLONGO: Chairperson, it means... Chairperson, concerning that. I think when the statement was made, the essence of what I was trying to say was not
20 properly captured. What I have indicated or sought to indicate was the fact that there was an incident where Mr Nxasana and I did not see eye to eye concerning the client of his but that I did not like that particular incident, not that I disliked him as a person. I have disliked or was displeased by that particular incident.

But overall, when we had these conversations, I was quite happy that Mr Nxasana has been appointed. Even if – even though I did mention that incident that I say that I was unhappy with, it was not to say he should not be appointed or that he should be removed from the position because even then, I do not think we had any say in whether he gets appointed or not.

ADV HULLEY SC: The second issue that you mention in this affidavit is. You say in paragraph 39:

10 “I came to know of his properties as I knew him
 from an early age and also because we share
 family relations...”

So, on your version that you have given in this affidavit you knew of the properties.

COLONEL MHLONGO: On that particular point, Chair. The issue of his properties, it can be a well-know or a piece of information that is in public domain if his properties are registered and when he rents out – when he is renting out his properties. I beg your pardon. That is
20 information that would be well-known even though I may not have information as to know exactly where those properties are situated.

Another point is. There is no reason why if he has properties that I would have then said he should not be appointed. There are many people who work for the

government who have properties and that is not an issue. And some of these things, I would hear them from Ms Mhlongo herself, Queen.

CHAIRPERSON: Well, Colonel Mhlongo. Let us not confuse things. Did you talk – did your conversation with Ms Mhlongo on that day involved talking about Mr Nxasana’s properties or not?

COLONEL MHLONGO: Yes, Chair, we did speak about that he had properties.

10 **CHAIRPERSON:** Did you tell Ms Mhlongo that you knew that Mr Nxasana had a number of properties?

COLONEL MHLONGO: Yes, confirming – also confirming what she was telling me.

INTERPRETER: [Speaking vernacular]

COLONEL MHLONGO: Yes, Chair, I did mention that but I was also confirming some of the things that she had said.

CHAIRPERSON: I thought you said earlier on when Mr Hulley took you through parts of Ms Mhlongo’s affidavit that you knew nothing about Mr Nxasana having properties,
20 a number of properties. Did I hear you incorrectly?

COLONEL MHLONGO: Chair, you heard me correctly but what ...[distortion present] is that it was Queen who made... [mechanical interruption – speaker lost]

CHAIRPERSON: I think [mechanical interruption – speaker lost]

INTERPRETER: [Speaking vernacular]

COLONEL MHLONGO: Chairperson, I must have spoken somewhat carelessly or negligently when I have indicated that I do not know that Mr Nxasana had properties. I do know about that and we did speak about that when Ms Mhlongo and I were having a conversation that indeed Mr Nxasana does have properties.

CHAIRPERSON: And then at a later stage, I understood you to be saying, you knew that Mr Nxasana did have
10 properties but you did not know where they were located. Did I understand you correctly?

COLONEL MHLONGO: I cannot remember. I cannot remember clearly.

CHAIRPERSON: Okay, let me ask this question. At the time that you had that discussion with Ms Mhlongo, did you know where Mr Nxasana's properties were? Because she says in her affidavit you told her where they were located and she mentioned, Ntuzuma and I think Umlazi. I do not know which other places. Did you know at that time that
20 Mr Nxasana's properties were in those places, or did you not know?

COLONEL MHLONGO: I did not know, Chairperson, where the properties are located. I knew that he had the properties but I did not know where they were located but I did know that his home is situated at Umlazi, E-Section.

CHAIRPERSON: Colonel Mhlongo, you are a police officer. You are giving evidence in this Commission under oath. I just want you to reflect on your evidence. Remember that you are under oath. You are a police officer. I am going to ask you this question again. At the time that you had that discussion with Ms Mhlongo. Did you know or did you not know where Mr Nxasana's properties were?

COLONEL MHLONGO: As I have indicated, Chair. What I
10 did know is that his home, his – or where he grew up or where his family is was at Umlazi, E-Section and that he had now bought him a house of his own that is at Kloof.

CHAIRPERSON: Okay. Did you know whether he had a property in Ntuzuma or not?

COLONEL MHLONGO: I did not know, Chair. I only got that from Queen.

CHAIRPERSON: You see, Colonel Mhlongo. When you responded to Ms Mhlongo's affidavit by way of your own affidavit that we are dealing with now. You never said in
20 that affidavit, as I see it, maybe except paragraph 40 you never said in that affidavit, as I see it, maybe except paragraph 40, you never said that what Ms Mhlongo was saying in her affidavit was not true, all you said that she had taken the substance of your discussion with her out of context. Do you agree that that is what you said in your

affidavit when you were responding to Ms Mhlongo's affidavit namely that, except for paragraph 40 – and we will talk about it just now, except for paragraph 40 there is nowhere where you said what she was saying was not true, all you said was she had taken the substance of your discussion with her out of context.

COLONEL MHLONGO: I confirm that, Chair.

CHAIRPERSON: But you did say earlier on when Mr Hulley was asking you questions on Ms Mhlongo's affidavit
10 that Ms Mhlongo's affidavit was full of lies and it should not be used at all because it was made in order to corroborate Mr Joubert's version. Do you accept that that is what you said?

COLONEL MHLONGO: That is correct, Chair, that is what I said.

CHAIRPERSON: So it seems to me that there are two things you are saying about Ms Mhlongo's affidavit generally speaking. One, in your affidavit you are not saying that what she was saying in her affidavit about your
20 discussion with her was a lie but you are saying it was taken out of context. But when you were asked by Mr Hulley earlier on you said it was all lies.

These are two different things. What is the true position and I want to remind you that you are under oath and you are a police officer. Is the position that what she

has said is all lies and her affidavit should not be used or is the position that no, what she has said is not all lies, she just took the substance of your discussion out of context. What is the true position?

COLONEL MHLONGO: Chairperson, what I am saying is, we did have a conversation with Ms Mhlongo. However, when an affidavit was made it was now presented in an incorrect manner or rather, in an improper context. As she has indicated, we used to see each other, she would come
10 to my office quite often because we were working in the same building, perhaps different floors, but she will frequent my office rather than have some coffee and we would have conversations. We did speak about this but now it has been presented in which a way that it corroborate the version of Terrence Joubert.

CHAIRPERSON: Mr Hulley?

ADV HULLEY SC: Thank you, Mr Chair. Now I would like us to – and if I could just, sorry, make one further point. My understanding is that you knew Mr Nxasana from a very
20 young age.

COLONEL MHLONGO: I know him, Chair, everybody knows him, he is a boy who went to study at Ongoye(?). So everybody know him as a person who grew up in Durban.

ADV HULLEY SC: Now, Mr – you will recall that you were

dragged into this matter because you had been implicated by General Booyesen. Do you recall that?

COLONEL MHLONGO: Yes, I recall that.

ADV HULLEY SC: And you will recall that if you – General Booyesen had provided an affidavit of Mr Joubert to the Commission and that affidavit appears at page 69 of the bundle.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: And you disputed that affidavit, the
10 affidavit of Terrence Joubert.

COLONEL MHLONGO: If you may repeat the question?

ADV HULLEY SC: You disputed this affidavit of Mr Terrence Joubert. Maybe you should look at the actual affidavit, it is at page 69.

CHAIRPERSON: Maybe you can tell him whether it is the first one or the second one, Mr Hulley.

ADV HULLEY SC: Thank you, Mr Chair, it is the first one, it is the affidavit which is dated 25 November 2013.

CHAIRPERSON: Yes, maybe let me – Colonel Mhlongo,
20 let me just explain. You will remember that Mr Joubert deposed to two affidavits. The first one was implicating you in wrongdoing. The second one – in the second one he was saying he had nothing to do with the first affidavit.

The one that Mr Hulley is talking about is the first one where Mr Joubert was implicating you in wrongdoing.

You understand that?

COLONEL MHLONGO: Chair, I understand that.

CHAIRPERSON: Okay, Mr Hulley is now saying do you remember that you disputed what Mr Joubert said in his first affidavit.

COLONEL MHLONGO: Yes.

CHAIRPERSON: Mr Hulley.

ADV HULLEY SC: Thank you, Mr Chair. And when you disputed it, the basis on which you disputed it is because
10 you said that Mr Joubert had withdrawn that affidavit, so it was not a genuine affidavit, it was not his affidavit. Do you recall that?

COLONEL MHLONGO: Yes, I ...[intervenes]

ADV HULLEY SC: If I can just correct one thing? Sorry, I said withdrawn, you did not withdraw it, you disputed it on the basis that he had, that is Mr Joubert, had challenged the authenticity or the genuineness of the first affidavit. He said it was not his affidavit.

COLONEL MHLONGO: Yes, I do recall that, Chair.

20 **ADV HULLEY SC**: Now you filled an affidavit with the Commission. If you would turn with me to page 6, that is your first affidavit before the Commission and it is an affidavit which is dated 9 May 2019.

CHAIRPERSON: Sorry, what page is that, Mr Hulley?

ADV HULLEY SC: Pardon me, Mr Chair, it is page 6.

CHAIRPERSON: Okay, continue.

COLONEL MHLONGO: I do see that affidavit, Chair, commissioned on the 9 May 2019.

ADV HULLEY SC: Turn to page 16 of that document.

CHAIRPERSON: I guess, Mr Hulley, you mean paginated 16, 16 of the affidavit?

ADV HULLEY SC: Pardon me, paginated 16 of the bundle, in other words – not 16 of the affidavit, pardon me, Mr Chair.

10 **CHAIRPERSON**: Did we not cover this, Mr Hulley? I thought we covered this or is there something that you want ...[intervenes]

ADV HULLEY SC: I do not recall that – pardon me, Mr Chair, I do not recall that we did cover this specific affidavit, we recovered the affidavit that I have just dealt with before, but this one he did not confirm – or I do not recall that he confirmed it on the record and I could not find when I read through the transcript.

20 **CHAIRPERSON**: Oh, is that so? Okay, alright. Okay, go ahead?

ADV HULLEY SC: I want to be on the safe side. Thank you, Mr Chair. Do you see this document, Sir, at page 16?

COLONEL MHLONGO: Yes, I am on page 16.

ADV HULLEY SC: And you will see there that there is right at the top it refers to deponent. Do you see that?

And there is a [inaudible – speaking simultaneously]

COLONEL MHLONGO: On page 16 I see written: Introduction.

CHAIRPERSON: No, you are in the wrong place. Let us go to the – to where your affidavit starts, it starts at page 6, says 006. Are you able to find that?

COLONEL MHLONGO: I think I can see now.

CHAIRPERSON: Have you found it? Just a few pages after the beginning of the file.

10 **ADV HULLEY SC**: The document – the first affidavit that I said he must set aside.

COLONEL MHLONGO: Oh, the last one, is it the last one?

ADV HULLEY SC: Not the last one, the first one. The very first one. All that it is has got, AA1, it has got annexure AA1 that is written in manuscript and you referred to that earlier on, during the adjournment.

COLONEL MHLONGO: Yes, I have got it, that one is in front of me. It is annexure AA1. Annexure AA1 and it is 16. It is NEA10/006.

20 **CHAIRPERSON**: Ja, that is the page.

COLONEL MHLONGO: Annexure AA1.

CHAIRPERSON: Ja, where it says 006, that is the page number but when we give you the page we will not say 006, we will just say page 6.

COLONEL MHLONGO: Okay, 006.

CHAIRPERSON: It is no zero zero, okay?

COLONEL MHLONGO: 6, okay, thank you, Chair.

CHAIRPERSON: Okay, go to page 16 of the bundle which is the last page of that affidavit.

COLONEL MHLONGO: Yes, yes.

CHAIRPERSON: You have got it? Go to 16, the last page.

COLONEL MHLONGO: Yes, 16.

CHAIRPERSON: Yes. Well, maybe Mr Hulley I may as
10 well do what I thought you were going to do anyway.

ADV HULLEY SC: Thank you, Mr Chair.

CHAIRPERSON: Is that signature your signature above the word deponent, Colonel Mhlongo?

COLONEL MHLONGO: Yes, it is my signature. That is correct.

CHAIRPERSON: Did you sign this affidavit before a Commissioner of Oaths?

COLONEL MHLONGO: That is correct.

CHAIRPERSON: And was that on the 9 May 2019?

20 **COLONEL MHLONGO:** That is correct, Chair.

CHAIRPERSON: And before you signed did you take an oath?

COLONEL MHLONGO: I did, Chair, the oath was administered by Colonel Majozi.

CHAIRPERSON: And you had read this affidavit before

you took the oath?

COLONEL MHLONGO: That is correct, I read it.

CHAIRPERSON: And you satisfied yourself that its contents were true and correct?

COLONEL MHLONGO: That is correct, Chair.

CHAIRPERSON: Thank you. Mr Hulley?

ADV HULLEY SC: Thank you, Mr Chair. Now I would just like you to turn to page 12 of this document.

CHAIRPERSON: Mr Hulley, I am sorry, I just want us to
10 have more or less the same idea of how long will you be.

ADV HULLEY SC: I had anticipated that we would not be longer than an hour to an hour and a half.

CHAIRPERSON: Yes.

ADV HULLEY SC: I think it takes – but my estimate always seems to be a little bit more ambitious that what actually turns out to be the case.

CHAIRPERSON: Ja.

ADV HULLEY SC: I would imagine that – there is not much to cover in this particular affidavit.

20 **CHAIRPERSON**: Ja.

ADV HULLEY SC: And after this I want to go over to the (indistinct – recording distorted)

CHAIRPERSON: Ja, do you think you might be able to do by half past twelve?

ADV HULLEY SC: It might be a little bit of a stretch but I

am certainly hoping that we can do it.

CHAIRPERSON: Okay, I think try your best, let us see how it goes because I think the essence to a very large extent has been covered but just try your best and see.

ADV HULLEY SC: Colonel Mhlongo, are you at page 12?

COLONEL MHLONGO: Yes, I am.

ADV HULLEY SC: In this affidavit at paragraph 11.2 you deal with the participation of – in finding dirt against Mxolisi Nxasana. Paragraph 11.2.1 you say the following:

10 “The source for ground in allegations of participation in finding dirt against Advocate Mxolisi Nxasana is the alleged affidavit by Terrence John Joubert.”

Then you say at paragraph 11.2.2 that:

“Terrence John Joubert has denied any knowledge or association with the alleged affidavit set forth by General Booysen in his statement.”

And you say:

20 “I attach herewith annexure AA2 in confirmation to the effect that Terrence John Joubert rejected being the author and the deponent of the alleged affidavit as alleged by General Booysen.”

COLONEL MHLONGO: Yes, I saw that. I said that because there was an affidavit signed(?) by him.

ADV HULLEY SC: And if you go – if you turn to page 17,

that is the affidavit that you are referring to.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: And if you go to page 18 at paragraph 3 at the top of that page you will see he says the following:

“I perused the affidavit and saw that my details...”

He is referring now to the earlier affidavit, the affidavit of the 25 November ...[intervenes]

CHAIRPERSON: This is a – Mr Hulley, I am sorry, you say he – you want to make it clear it is Mr Joubert talking
10 now.

ADV HULLEY SC: This is Mr Joubert talking, thank you, Mr Chair.

CHAIRPERSON: Ja, ja. Okay, continue.

ADV HULLEY SC: Says in the third sentence from the top of that paragraph:

“I perused the affidavit and saw that my details were contained in the document as well as a signature which closely resembled mine. I had read the contents of the affidavit and did not recognise
20 any of the information contained therein. I did not associate myself with any of the information contained in the affidavit and it was clear to me that I had not compiled the affidavit. I have absolutely not knowledge of writing anything contained in it.”

That was the paragraph that you were relying upon in this

second affidavit, is that correct?

COLONEL MHLONGO: That is correct, Chair.

ADV HULLEY SC: Now this particular affidavit, where did you get it from? I am talking about this affidavit of Terrence Joubert which is annexure AA2 to your affidavit. Where did you get this affidavit from?

COLONEL MHLONGO: This affidavit was available and was spoken about even on the media newspapers, such as City Press. I cannot remember how I downloaded it, it was
10 an affidavit that was available in the media.

ADV HULLEY SC: But your own knowledge was you knew that this affidavit, if I understand what you are saying in your most recent affidavit, and I am talking about the affidavit of 22 February 2021 that we referred to earlier on. If I understand correctly, you knew that this affidavit of Mr Joubert, the second affidavit of Mr Joubert, you knew that it was false, correct?

COLONEL MHLONGO: I am unable to answer that question, Chairperson.

20 **CHAIRPERSON**: Why are you unable?

COLONEL MHLONGO: Because I do not understand where the person that is asking the question where he is going with it.

CHAIRPERSON: Ja, but that is not important, where he is going with it, what is important is whether you understand

the question and whether you have got an answer to the question. You understand the question, do you not?

COLONEL MHLONGO: Yes, I do understand the question. Yes, I do understand the question though I – yes, really, I could not remember, I do not remember where I downloaded the affidavit.

CHAIRPERSON: Well, do you want to – okay, I see because Colonel Mhlongo has decided to speak in English now. Let me refresh your memory. Mr Hulley's question
10 was this. When you denied what Mr Joubert said in his first affidavit, you denied it on the basis that he had signed an affidavit – he had signed his second affidavit where he was disassociating himself from the first affidavit.

So Mr Hulley's question is when you relied on Mr Joubert's disassociation of himself from the first affidavit you knew what the true position was, is that not so?

COLONEL MHLONGO: That is what I was confused about because the one that I had downloaded, the second affidavit of Mr Joubert where he distances himself with the
20 one that Mr Booyesen had relied on. It then left me wondering which one was Mr Booyesen referring to.

CHAIRPERSON: Mr Hulley?

ADV HULLEY SC: Thank you, Mr Chair. And you knew it was false because you were aware that the first affidavit, that which is dated the 25 November 2013, you knew that

that affidavit had in fact been deposed to by Mr Joubert.
You knew that as a fact.

COLONEL MHLONGO: I would say yes, it was written by him because the signature is the same. When you look at both his affidavits the signature is the same.

ADV HULLEY SC: In fact ...[intervenes]

CHAIRPERSON: One second, one second. Mr Interpreter, maybe you could complete your interpretation. He said he knew – I think he said he knew that the first
10 affidavit had been signed by Mr Joubert because the signature is the same. Did you hear me, Mr Interpreter, or are you frozen again?

INTERPRETER: I seem to be cutting.

CHAIRPERSON: Okay.

INTERPRETER: I can hear portions and others not.

CHAIRPERSON: Okay, I can hear you. Okay, I was saying do you want to redo your interpretation? Colonel Mhlongo said yes he knew that the first affidavit was Mr Joubert's affidavit because the signature was the same,
20 that is the signature in the first affidavit.

INTERPRETER: Yes.

CHAIRPERSON: And the signature in the second affidavit was the same.

INTERPRETER: Yes, yes, that is correct, Chair.

CHAIRPERSON: Okay, alright. Mr Hulley?

ADV HULLEY SC: And in fact you had been – you had occupied an office in an NPA building in Kwazulu-Natal and you had been asked to leave that building because of the first affidavit that became available which accused you of in fact trying to find dirt against Mr Nxasana, is that correct?

COLONEL MHLONGO: I would yes, Chair, that is correct. However, I found out later on as to the reasons why I was asked to vacate that space because initially what had
10 happened was, I received a message from Pretoria saying I should vacate that space or those premises immediately without me knowing the exact reasons as to why but then subsequently when this Commission had commenced its work is when – it is only then that I learnt that in fact the reason why I was asked to leave was because of that affidavit as well as the recordings.

Perhaps to make a correction, Chair, I was told to vacate that space because I was informed that I should vacate because Mr Nxasana says I am going around
20 investigating him. I did then vacate. Then subsequently when I read that affidavit, the first affidavit of Mr Joubert, and further – and connected that to the report that I had initially received that Mr Nxasana says I am going around investigating him, I then saw that this is the reason why I was asked to vacate those premises.

ADV HULLEY SC: Unless I misunderstand your affidavit, I understood that you had received the first affidavit on the 26 November, in other words the day after you had been asked to – sorry, the day after the affidavit had been deposed to.

COLONEL MHLONGO: I also received the affidavit at the Commission when I was now being informed that I have been implicated in the state capture, not at the time when I was dismissed.

10 **ADV HULLEY SC:** Now if you turn with me to bundle ...[intervenes]

CHAIRPERSON: We have hit half past one – half past twelve, I am sorry, half past twelve. I will give you another ten minutes to try and wrap up.

ADV HULLEY SC: Thank you, Mr Chair, I am going to – look, I am going to wrap up this particular thing, so with reference to - this particular proposition with reference to paragraph 18 on page 210.34 of the present bundle. This is the – this is your affidavit dated 22 February of 2021. In
20 other words, your most recent affidavit. Have you got it, Sir? Not paragraph 34, page 210.34 at paragraph 18.

COLONEL MHLONGO: Yes.

ADV HULLEY SC: Then you say in that paragraph:

“The next day...”

That is – and if you look at the preceding paragraph,

paragraph 17, you are talking about the date of the 26 November 2013. You say:

“The next day I received a telephone call from my supervisor informing me that the NDDP had called and wanted me out of their office because I was digging information adverse to him. I thereafter came to know of the affidavit and the audio recording.”

COLONEL MHLONGO: What I want to explain, Chair, is
10 the fact that the issue of me being dismissed is one issue but as for the affidavit of Terrence Joubert, I only got to know about it at the Commission when the Commission had started its work.

CHAIRPERSON: Colonel Mhlongo, did you say just now that you wanted us to separate or distinguish between the audio recording and the affidavit of Mr Joubert?

COLONEL MHLONGO: Chair, what I am saying is, when I was dismissed I was told that I was being dismissed because the NDPP was saying I am investigating him.

20 **CHAIRPERSON:** This is when he was asked to vacate the office, is it not, not being dismissed. When he was asked to vacate the office, is it not? That is what he is talking about.

COLONEL MHLONGO: Chair, I am referring to when we were asked to – when I was asked to vacate the office,

when we were told that we should go back to being under the police. I used the term dismissed because there is a project that I was currently busy with and I had to cut ties with that particular investigation concerning the people that were killed during the apartheid.

CHAIRPERSON: Okay, I may have I misunderstood, now I understand. Okay, so it looks like the vacation went with him being expelled from the NPA. Is that what he means?

COLONEL MHLONGO: Yes.

10 **CHAIRPERSON**: Okay, alright. Mr Hulley? Okay, yes. No, I am sorry, Mr Interpreter, please just interpret that. You know, I sometimes forget because I can understand him. So please interpret.

COLONEL MHLONGO: Yes, I was expelled from the NPA.

CHAIRPERSON: Okay, Mr Hulley?

ADV HULLEY SC: The only point I want to make over there insofar as that was concerned is that you were aware that the first affidavit was in fact correct, so much so that it had been relied upon as the basis to expel you from the
20 NPA. You were aware of that from the outset. So when you presented this second affidavit of Mr Joubert it was your intention to mislead the Commission, is that correct?

COLONEL MHLONGO: It is not so, Chair, what I wanted to show is that perhaps the Commission should look at the fact that here is a witness who is filing two affidavits which

are not the same, or rather contradictory, and this person should in fact be charged for perjury and I wanted to show the Commission that this is not a witness who can be relied upon or is not an honest witness.

ADV HULLEY SC: And yet what you did instead was to accuse General Booyesen of being dishonest because you said General Booyesen should have been aware that in fact the second affidavit had been filed because it was in the public domain, so you did not say that, as you are now
10 putting, that Mr Joubert was the dishonest one, you were in fact relying upon the second affidavit to prove that the first affidavit was not his.

COLONEL MHLONGO: That is correct, Chair, because another question that then rises as to why was Mr Booyesen, who had to come and say these things and not Mr Nxasana. I do know why it was done like that which is a history, if I were to give it will take a number of weeks to conclude, but what did happen also I must state is the fact that Mr Booyesen had said to me I should come to him so
20 that we could talk and that in the event that I do not do this or if I do not want to do that, he would go and cause my name to be tainted or to be brought into disrepute at the Commission.

CHAIRPERSON: Mr Hulley?

ADV HULLEY SC: I want to go over to the transcripts but I

see you have in fact indulged me for an extra 15 minutes.

CHAIRPERSON: Yes, but I think we did deal with transcripts last time.

ADV HULLEY SC: Or part of the transcript but he did not respond really.

CHAIRPERSON: Ja. No, I think we have dealt with the substance because the substance really was about the conversation he had with Mr Joubert and then, of course, Ms Mhlongo's conversation with him. I think those were
10 the important ones, is it not?

ADV HULLEY SC: That is right, Mr Chair.

CHAIRPERSON: Yes, yes. Okay, alright, let me check whether his counsel would like to re-examine or not? Counsel for Colonel Mhlongo, would you like to re-examine or...?

ADV MANALA: Well, Chair, at this stage I do not think it is necessary.

CHAIRPERSON: Yes.

ADV MANALA SC: Because the evidence that has been
20 presented was presented context of his affidavit.

ADV MANALA SC: So (indistinct – recording distorted) those affidavits, so it is not necessary at this point in time.

CHAIRPERSON: Yes, yes. Okay, no that is fine. Mr Hulley, unless you have something else I am ready to release Colonel Mhlongo.

ADV HULLEY SC: Nothing further, thank you, Mr Chair.

CHAIRPERSON: You have nothing further. Colonel Mhlongo, thank you very much for availing yourself to complete your evidence and thank you to your legal team for their cooperation as well. Thank you Mr Hulley and your team.

ADV HULLEY SC: Thank you.

CHAIRPERSON: We have come to the end of the proceedings for today. We are going to then adjourn. We

10 adjourn.

COLONEL MHLONGO: Thank you, Chair.

INQUIRY ADJOURNS

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