



25 April 2019

Adv. Nomgcobo Jiba
Deputy National Director of Public Prosecutions
Private bag X752
PRETORIA
0001

Dear Adv. Jiba,

REPORT BY THE ENQUIRY IN TERMS OF SECTION 12(6) OF THE NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998 INTO THE FITNESS OF ADVOCATE NOMGCOBO JIBA AND ADVOCATE LAWRENCE SITHEMBISO MRWEBI TO HOLD OFFICE OF DEPUTY NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS AND SPECIAL DIRECTOR OF PUBLIC PROSECUTIONS RESPECTIVELY (“Enquiry Report”)

1. Further to my letter to you of 4 April 2019 in which I invited you to give reasons why I should not implement the recommendations of the Enquiry Report, I have received your submissions in response to the Enquiry Report, as well as documentation filed during the Enquiry (as required in clause 7 of the Terms of Reference of the Enquiry, published in Notice 699 of 2018, in Government Gazette 42029 of 9 November 2018 (*the Terms of Reference*)), which includes the submissions you made to the Enquiry prior to the panellists compiling the Enquiry Report.
2. I have taken the Unabridged and the Abridged Report and all your submissions into account in making my decision.
3. I wish to advise that I have accepted the recommendations of the Enquiry.
4. The Enquiry Report deals with the grounds upon which I have based my decision and some of the key reasons are:
 - 4.1. That I have come to the conclusion that, contrary to your assertions, everything was done to ensure the Enquiry was held in a fair manner, which included involving your legal representatives in agreeing to the rules of procedure and admissibility of evidence. I have further concluded from

reading the Report that the Panel dealt extensively with all the evidence that was put before it in a fair and methodical manner.

4.2. That the findings made against you, based on the evidence before the Panel, are of a very serious nature. Your submissions however do not offer any response or reason not to accept the Panel's conclusion on the following matters:

4.2.1. the Panel found that you lied to me. The Panel made this finding after noting that in your submissions of 10 August 2018, you indicated that you appointed prosecutors from outside KZN, in the Booysen matter, on request of the Acting DPP of KZN. However, in your statement under oath before the Panel, you said this was not the case.

4.2.2. the Panel concluded that you acted under external pressure in making decisions on charges against General Booysen on the basis of what was stated to you by IPID officials,

4.2.3. the Panel determined that you failed to review or consider the representations made to review the decision by Advocate Mrwebi to withdraw charges against Mr Mdluli.

4.2.4. the Panel found that you failed to follow legal prescripts in your decisions,

4.2.5. the Panel found that you brought the NPA into disrepute; and

4.2.6. the Panel concluded that you lacked the necessary conscientiousness and independence required of your position.

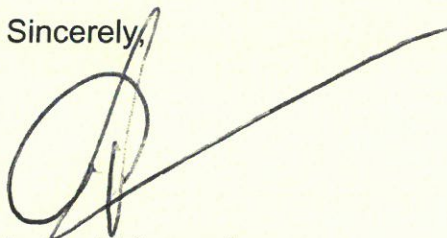
4.3. Your submissions assert that section 42 of the NPA Act precludes your removal through the enquiry process. However I am advised that this section immunises prosecutors from being held personally liable for damages that may result from the decisions they take in the course of their work. It cannot shield a DNDPP from an enquiry about their conduct, competence or fitness to hold such a position. Section 12(6) is a unique process separate from ordinary labour disciplinary processes created by the NPA Act to protect the independence of the NPA.

4.4. Your request to be appointed in a senior position in the Public Service cannot be acceded to because of the findings of dishonesty and disregard for the courts that have been made against you in the Enquiry Report. These findings would preclude your appointment to such position as these are qualities that are required of all senior public servants.

5. Your removal from the position of DNDPP takes effect immediately, as of 26 April 2019. While the Enquiry Report suggests that your removal must await confirmation by Parliament, Section 12(6)(b) of the NPA Act makes it plain that Parliament is not asked to confirm any decision I make but to consider whether,

after removal, you ought to be restored to the position in its view. Until Parliament takes such a resolution, my decision to remove you stands.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Ramaphosa', with a long horizontal stroke extending to the right.

Mr Matamela Cyril Ramaphosa
President of the Republic of South Africa

CC: Adv TM Masutha, Minister of Justice and Correctional Services
CC: Adv Shamila Batohi, National Director of Public Prosecutions