

**ENQUIRY INTO THE SOUTH GAUTENG DIRECTOR OF
PUBLIC PROSECUTIONS' FITNESS TO HOLD OFFICE**

HELD AT

**SALU BUILDING, 316 THABO SEHUME STREET,
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT**

10 MARCH 2026

DAY 41



**ENQUIRY INTO THE
SOUTH GAUTENG
DIRECTOR OF PUBLIC
PROSECUTIONS'
FITNESS TO HOLD OFFICE**

PROCEEDINGS ON 10 MARCH 2026

CHAIRPERSON: A very good morning to everyone. Good morning, Advocate Chauke. I have penned a ruling in which my colleagues concur. Given the fact that when we complete this enquiry, the panel is obliged to present a report as well as the entire record of the proceedings to the President, we consider it appropriate to read this ruling into the record for completeness.

At the heart of this application is the concern raised
10 by the applicant, the National Prosecuting Authority, NPA,
regarding the role played by itself and that expected of its
chosen legal representative in the enquiry proceedings. It is
contended that the NPA's case is not properly advanced and
that the procedure, "followed in the enquiry is preventing a
proper and fair ventilation of the facts", and is adversarial. It
is further contended that the evidence leaders, "are not
sufficiently *au fait* with the intricacies of all the facts related
to the matter and have not managed to digest the sheer
volume of documents and are unable to properly present the
20 true facts".

These remarks are deeply concerning to the panel as they were to Advocate Chauke's legal representatives. It must be said from the outset that these remarks are not only condescending but lose sight of the fact that not only the evidence leaders but also Advocate Chauke's legal

representatives and the panel also had to consider the same sheer volume of documents within a short space of time. Everybody else has done everything they had to do to the best of their ability. The contentions, denigrating as they appear, cannot be used as a basis to draw unfounded conclusions by the deponent to the NPA's founding affidavit.

As it happens, it is understandable why Advocate Hulley SC is more familiar with the contents of the sheer volume referred to. In his own words, he has been involved
10 in these NPA matters for a period spanning almost six years, dealing with different aspects of this matter when everybody else has been involved in this matter for only a few months. The criticism levelled at the evidence leaders is therefore unwarranted and misplaced.

The NPA seeks to assert its alleged right to have its own independent status and to be represented by a counsel of its choice in the enquiry proceedings. Additionally, the NPA asks that the procedural rules of the enquiry be amended with a view to lead evidence and cross-examine witnesses
20 through its chosen counsel, Advocate Hulley SC and Advocate Lekgetho. It is contended that this is to ensure that its interests are best served.

The NPA seeks the following relief.

“1. Permitting the National Prosecuting Authority to participate in the

proceedings of the enquiry as a separate and independent party from the evidence-leading team.

2. In furtherance of prayer 1 above, directing that the NPA, through its chosen legal representatives, may:

2.1 adduce evidence that the evidence leaders had elected not to adduce or have not adduced;

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2.2 question witnesses, including witnesses called by Advocate Chauke and Advocate Chauke himself, on any issue not raised by the evidence leaders;

2.3 raise objections to questions put in the cross-examination by any witness;

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2.4 generally, to make submissions and address the panel on substantive issues that may arise during the proceedings on equal footing with the evidence leaders and counsel for Advocate Chauke.

3. Amending the rules to reflect the directives contained in paragraphs 1 and 2 above.”

The second respondent, Advocate Masinyane Andrew Chauke, opposes the application. The opposition is based on several grounds, broadly that there is neither factual, nor legal basis for granting the relief sought. Advocate Chauke asks that the application should therefore be dismissed. The evidence-leading team does not oppose the application and will abide the ruling of the panel. A brief background is necessary.

10 The complaint which culminated in the establishment of the enquiry was initiated by the NPA through its Head, the erstwhile National Director of Public Prosecution, NDPP, Advocate Shamila Batohi. As gleaned from her affidavit, Advocate Batohi was a prosecutor since 1985 and served as the Director of Public Prosecutions, DPP, of KwaZulu-Natal, KZN, for a period of about 10 years before taking appointment as a Senior Legal Advisor at the International Criminal Court in The Hague in November 2009. She returned to South Africa and took up the position as the NDPP from 1 February 2019.

20 Advocate Batohi states she discovered various allegations that, according to her, had wrecked the NPA and its credibility when she took office as NDPP. Some of these allegations involved certain senior advocates, including Advocate Nomgcobo Jiba, the former Deputy National Director of Public Prosecution, DNDPP. The complaints

against Advocate Jiba involved Major General Booyens, the former Head of the Directorate of Priority Crime Investigation, DPCI, later known as the HAWKS KZN.

The complaint against Advocate Chauke relates to a great extent to the issues that were raised against Advocate Jiba in the Mokgoro Enquiry. It is not necessary for the purpose of this ruling to give details regarding those issues, suffice it to mention that, pursuant to the complaint against Advocate Chauke by Advocate Batohi, the President acting
10 under section 12(6), read with section 14(3) of the National Prosecuting Authority Act, 32 of 1998, the NPA Act, suspended the former provisionally, pending the enquiry into his fitness to hold office as DPP Gauteng-South.

Of significance are the provisions of section 12(6a) in terms of which the period from the time the President suspended Advocate Chauke to the time he decides whether or not to remove him from office may not exceed 12 months. Given the fact that Advocate Chauke was suspended on 20 July 2025, the enquiry must therefore be concluded by 19
20 July 2026. It is for this reason that the work of the enquiry should not be delayed any further.

Having suspended Advocate Chauke, the President established the enquiry on 19 September 2025 in terms of section 12(6a) of the NPA Act. It needs to be stressed that other than Advocate Chauke, neither the NPA, nor the

erstwhile NDPP, Advocate Batohi is the subject matter of this enquiry. Contemporaneously with the establishment of the enquiry, the President appointed a panel consisting of the Chairperson to chair the enquiry and two panel members, ourselves, to assist the Chairperson, me, as a Chairperson, and also determine the enquiry's procedural rules. The task of the panel is to inquire into, report on, and make findings and/or recommendations on allegations levelled against Advocate Chauke.

10 The allegations are set out in the terms of reference, TOR, published in Government Gazette No. 53444, dated 30 September 2025. The Chairperson is empowered, in terms of the TOR, to determine the rules of the procedure of the enquiry. Initially, the enquiry was to be completed within four months. The period within which the enquiry must be finalised has since been extended because, as at the end of the fourth month, only one witness's testimony had been partially tendered.

20 Rule 2(1) of the Enquiry Rules makes it plain that the enquiry shall be conducted in an inquisitorial manner, in other words, the proceedings are not adversarial. The inquisitorial process in an official enquiry in which a panel takes a proactive role is to ascertain the truth while adversarial processes, especially in criminal and civil proceedings, use competitive processes between the parties to determine the

true facts. In both criminal and civil, the proceedings are victory-driven, but the formal process is not.

Despite the fact that the NPA acknowledges the provisions of the rules regarding the nature of the enquiry, the deponent, Advocate Karen van Rensburg, states that the proceedings of the enquiry are in large measure adversarial in nature. On this basis alone, she states that the NPA is concerned that its complaint may not be adequately presented and therefore seeks that it be represented by its
10 own legal representatives.

The posture of the NPA regarding the nature of the proceedings, that it is in large measure adversarial, is unfounded, speculative, and disingenuous. It falls to be rejected outrightly. Principally, the purpose of the enquiry is to unearth the facts and seek the truth.

This application. This application has been in the offing from at least 5 December 2025. This much is confirmed by the NPA deponent. The NPA, through Advocate Hulley, had agreed with the guidance of the panel that the correct
20 approach will be to bring a substantive application in which the relief to be sought will be clearly set out. It was agreed with the counsel for the NPA that the application will be filed as soon as possible. The application was, however, only launched on or about 12 February 2026.

The explanation advanced by the NPA, through

Advocate van Rensburg, is that this application was prepared a while back when Advocate Batohi was testifying. Advocate van Rensburg states that it was decided that the application should not be filed at that stage as doing so will be perceived as an attempt on the part of the NPA to influence Advocate Batohi's testimony. She further says that she was made to understand that the panel was advised that this application would be brought only after Advocate Batohi had completed her testimony.

10 To the best of the panel's recollection of events, no such advice was given. The deponent does not even explain who, according to her, advised the panel. Manifestly, these statements are based on hearsay as there are no confirmatory affidavits to support them. The statement is thus baseless and must be rejected.

 The issues for determination, as distilled from the papers, revolve around the NPA's right to seek full participation in the proceedings. More specifically, it claims for participatory entitlement. Its claim for participatory
20 entitlement is founded on the NPA's alleged right *inter alia*, to (a) adduce evidence that the evidence leaders have elected not to adduce or not have adduced; (b) cross-examine witnesses and Advocate Chauke on any issue not raised by the evidence leaders; and (c) make submissions.

A further question for determination is whether, supposedly if the relief sought as regards the participatory involvement is granted, the rules of the enquiry should be amended. Properly understood, the real basis for the NPA's case, as was submitted in ...[indistinct] during argument when its counsel, Advocate Hulley SC, was confronted with questioning from the panel, is merely anticipatory. As will be shown, this submission is supported by the assertion of Advocate van Rensburg in the founding papers.

10 Determination of issues. Is the NPA entitled as of right to adduce evidence? Before addressing this question, it is important to deal briefly with the roles of evidence leaders and that of the NPA's legal representatives. Tellingly from their title, the responsibility of the evidence leaders, who are led by Advocate Mohlamonyane SC, is none other than leading evidence with a view to assist the panel in the performance of its task in terms of the TOR. In many instances during the proceedings, when evidence leaders drifted away or lost focus from their responsibility, the

20 Chairperson reminded them to be nonpartisan and that they should assume a neutral and independent role in the enquiry proceedings.

Juxtaposing the responsibility of the evidence leaders with the standing and/or role of the NPA, it is beyond question that the NPA was not appointed and/or intended to

lead evidence at an inquisitorial process such as the enquiry. The NPA is the complainant. Its legal representatives were not and could not therefore be appointed to lead evidence in a matter in which it is the complainant, which may be the case in an internal disciplinary hearing. Had that been the case, we consider the work of the panel would be hamstrung. Unmistakably, more specifically given the issues raised in the TOR, the NPA is the repository of most of the documentary evidence relevant for the purpose of the enquiry.

10 Its supportive and/or assistive role was correctly accepted by Advocate Hulley not only during argument in this application but also in the course of the enquiry proceedings on 21 November 2025 when the following pertinent, albeit lengthy, exchange between the Chairperson and him took place:

 “Advocate Hulley SC: There was a lack of pagination and a lack of an index yesterday. We will give an undertaking that we will attend to it. So, I agree with your understanding of how matters get placed onto the record.

20 Chairperson: Thank you, Advocate Hulley and the NPA team. We hope that that will be the case.

 Advocate Hulley: Madam Commissioner,

if I could raise another matter. I just want to make it clear, lest it be misunderstood, the evidence leader, and I am not part of the evidence leader's team, I understand that Madam Chairperson is using that as a shorthand but I do think that it is important to place it on record, lest there be a misconception. The evidence leaders

10 decides how he is going to lead the case

and we will provide him with assistance as you have directed in the past, and we are more than willing to do so. But it is his choice as to which witness he calls, how he conducts the case. It is not our choice and we are not his. My junior is not his junior. She is my junior. For the time being, my junior is assisting him to find pages, find documents and so forth.

20 But we are part of the NPA team. We are not part of the evidence leading team.

Chairperson: Yes, you will recall that we discussed these matters at length because all of you belong to the NPA.

You may be occupying different spaces.

I am saying that in the sense that Advocate Mohlamonyane cannot operate without the NPA.

Advocate Hulley: I accept.

Chairperson: Otherwise we will not be here.

Advocate Hulley: I accept that.

10 Chairperson: And for experiencing, as I mentioned earlier, it will be proper that you work as a team.

Advocate Hulley: Indeed.

20 Chairperson: And I do appreciate that you are not necessarily an evidence leader, but you work as a team to assist the enquiry. So, I think that in that spirit that we spoke about in chambers is to work towards the common goal. We are here to serve the interests of the country, to present evidence, to assist the enquiry. But if you go back and forth and say that this is not my space, then we may as well go home because we are not going to be able to do our work as an enquiry. I still plead with all of you

that we work together to ensure that we have all the material that we need. And despite the fact that you have your junior, I still expect that these two juniors will work together as a team and confer with one another.

Advocate Mohlamonyane: We will, Madam Chair.

Chairperson: In that spirit of collegiality.

10 Advocate Mohlamonyane: Indeed.”

This passage highlights the common understanding between the NPA team and the evidence-leading team of the necessity of a collaborative effort. To recap on the question raised above, the NPA's claim is that it is entitled to adduce evidence with the evidence-leading team elected not to adduce or have not adduced. Contextually, the claim is founded on the following passage. Paragraph 55 of the founding papers:

20 “In short, the NPA is of the view that its case is not being properly advanced in this proceedings.”

Paragraph 56:

“Whilst the NPA understands the independent and neutral role played by the evidence leaders, it is concerned

10 that in discharging this role, there may be and are disagreements between the NPA and the evidence leaders on which witnesses to call and what evidence to present. It is concerning to the NPA that whilst the evidence leaders must be independent and neutral, they are required to represent the NPA, being one of the parties in what has at times become an adversarial dispute. The evidence leaders may also decide not to pose certain questions to witnesses called. In any of these events, the NPA submits that it ought, in the interest of procedural fairness, to be allowed through its chosen legal representatives to present its own case.”

Paragraph 57:

20 “In any of these circumstances, the NPA is in a worse position than an ordinary third party.”

When questioned on the speculative statements apparent from the quoted passages above, Advocate Hulley submitted that the application is anticipatory. A claim for, or an entitlement to procedural fairness must be based on

information that is correct and objectively verifiable and not merely on preventive action based on conjecture. The panel has been referred to numerous authorities regarding the entitlement to adjust evidence. These authorities, upon the case reading thereof, reflect trite principles of law but bear no relevance to the issues of fact raised in this matter.

In any event, the proposed mainstream intervention by the NPA in the enquiry's proceedings will not only cause further delays but also impact unfairly on matters pertaining to the alleged misconduct by Advocate Chauke. Inquiries on matters concerning alleged misconduct, procedurally or substantively, should be dealt with expeditiously.

When asked further about why the evidence leaders will not lead the witnesses and whether there is any evidence showing that the NPA provided them with evidence which they have elected not to adduce, Advocate Hulley responded that:

“The purpose of today's application is simply that we should be allowed to lead evidence if they choose not to lead evidence. That is the purpose.”

counsel accepted the basis of the application was based on what may happen in the future if the evidence leaders decide not to tender the information the NPA presents to them. The NPA has been represented by two advocates since the inception of the enquiry. At no stage has Advocate

Hulley approached the panel and suggested that the evidence leaders have declined to present information to the panel. Moreover, the application does not even disclose what information, if any, the NPA has in its possession that it seeks to present to the evidence leaders.

As correctly submitted by Advocate Ngcukaitobi SC on behalf of Advocate Chauke, there is simply no factual or legal basis for granting the relief sought, i.e. entitling the NPA to lead evidence separately and independently. The
10 claimed entitlement is thus misconceived. The relief sought in paragraph 2.1 of the notice of motion must therefore be refused.

Does the NPA, through its chosen legal team, have a right to cross-examine witnesses, including Advocate Chauke, and raise objections to questions put in cross-examination? It is contended that if the NPA is not afforded this right, its interest will not be best served. Relying on the principle of equality of arms, the NPA compares itself with Advocate Chauke. It is stated that Advocate Chauke is
20 represented by attorneys and counsel who are given leave to cross-examine witnesses called by the evidence leader. They give an example of Advocate Chauke's team having been given the right to cross-examine Advocate Moipone Noko. We hasten to mention that nothing prevented the NPA from presenting its questions to the evidence leading team to pose

the questions to the witnesses.

As regards the question of interest raised above, the NPA seems to be concerned about its interest only. It is unmindful of the deeper public interest in an enquiry such as this one. The enquiry is not an *inter partes* kind of litigation. Instead, it does not only serve to unravel the truth, but seeks also to promote the principle of accountability. Additionally, although the enquiry is not a commission under the Commission's Act, 8 of 1947, its work in searching for the truth will also restore public confidence by revealing the truth on matters of great public interest that the enquiry is investigating.

The principles espoused in the decisions of the Constitutional Court in Premier Western Cape and the Secretary of the Judicial Commission of Enquiry Into Allegations of State Capture, as referred to in footnotes 2 and 3 above, apply with equal force here. The further authorities referred to by the NPA relating to the procedure in an enquiry under section 12(6) of the NPA Act include the *Jiba v President of the Republic of South Africa and others, Jiba, and the Democratic Alliance versus the President of the Republic of South Africa and others, DA*. They also bear no relevance.

In *Jiba*, Advocate Jiba was the then-Acting National Director of Public Prosecutions who had been afforded an

opportunity to respond to the recommendations made by the President and to make representations on why the recommendation should not be implemented. Affording her, Advocate Jiba, those protections, as the court remarked, was also to ensure that the independence of the NPA was protected. In the DA matter, the court dealt with the rationality principle, in terms of which a decision will be irrational when relevant information is ignored.

In this matter, the NPA has not pointed to any
10 evidence that the panel has ignored. The said authorities do not assist the NPA. Therefore, the relief sought in paragraph 2.3 of the notice of motion to cross-examine and raise objections to questions put in cross-examination should be refused.

What is the source of the claimed right? The NPA contended that its claimed rights are sourced, among others, from sections 34 and 35(3)(i) of the Constitution, i.e. the right to fair public hearing and the right guaranteed to every accused person to challenge evidence, respectively.
20 Reliance is also placed on section 166(1) of the Criminal Procedure Act, 51 of 1977, the CPA. That confers upon an accused person the right to cross-examine any prosecution witness.

Furthermore, the NPA relies on uniform rules of court, rules 38(2) and 39(15), the civil trial rules.

Additionally, the NPA relies on the rules of natural justice as well as the principle of legitimate expectation. We will refer to a plethora of authorities in this regard. In our view, the authorities do not assist the claims of the NPA in the circumstances of this matter. The proceedings of the enquiry are neither civil, nor criminal in nature, as Mr Chauke is neither a defendant, nor an accused person. Therefore, the provisions referred to above are of no relevance whatsoever.

As regards the claimed legitimate expectation, the
10 NPA has not shown any such right that stands to be adversely affected by the anticipated recommendation of the panel in the enquiry. The NPA has been represented in this proceedings. The fact that it is not separately and independently represented by the legal representatives of its own choice is not in and of itself prejudicial to it. Its legal representatives are aware of the circumstances that led to Advocate Noko's request that she be called to testify by
either the panel or Advocate Chauke's team. They are also aware that Advocate Noko was called to testify by the panel,
20 which means that she was the panel's witness. Any suggestion that Advocate Chauke's team was not entitled to cross-examine her, is baseless.

The comparison and reliance on the principles of equality of arms in the circumstances of this case is unfounded and falls to be rejected. In contrast, as regards

prejudice, there can be no doubt that Advocate Chauke stands to be prejudiced if the NPA is granted the relief it seeks in the notice of motion. Firstly, as correctly submitted on behalf of Advocate Chauke, he will face duplicative rounds of cross-examination by the evidence leaders and the NPA. Secondly, the proposed structural changes will cause delays in finalising the work of the enquiry, which has been repeatedly mentioned must be finalised by July 2026. As it is, there is still a lot of grounds to cover before this date.

10 Thirdly, the proposed relief will result in different procedural rules applicable to certain witnesses but not to others. Lastly, the enquiry proceedings will, indeed, denigrate into an adversarial process.

In its replying affidavit, the NPA suggests that it does not want to act as a prosecutor. However, its claimed rights is founded on section 35 of the Constitution and section 166(1) of the CPA. This is telling. It follows that the

entitlement the NPA assess are substantively prosecutorial. Clearly, the NPA's spirited argument disregards the nature of
20 the enquiry proceedings and its attitude seeks to favour a particular cause.

The NPA's claim, if successful, will be unhelpful to the enquiry. These views are supported by the NPA's further claim to have the rules of the enquiry amended. In our view, the attitude and approach of the NPA is not only dilatory but

also constitute an abuse of the enquiry process. Such an attitude and approach cannot, in the circumstances, be countenanced.

In closing, we emphasise that the NPA's interests are adequately represented in the enquiry. The evidence leaders are independent and should be neutral. Their independence or neutrality, as Advocate Ngcukaitobi correctly pointed out, does not preclude them, the evidence leaders, from presenting all relevant information to the enquiry, whether
10 favourable to Advocate Chauke or not. This view is consistent with an inquisitorial nature of the enquiry proceedings. The application lacks merit and should be dismissed.

Order. Accordingly, the application is dismissed.

ADV NGCUKAITOBI SC: As it please, Madam Chair.

CHAIRPERSON: We hand the ruling down. Advocate Ngcukaitobi and Advocate Mohlamonyane, through you, Madam, and through my two sisters in front of me, we are going to pause. We had anticipated that we would finish just
20 before 11 o'clock, but we have a full hour for adjournment so that you can prepare yourselves. Please convey to Advocate Mohlamonyane and Advocate Mtsweni that we finished earlier than we had anticipated, but we reckon that this will afford them an opportunity to finalise their cross-examination. And I suppose the one-hour period will also enable our

spokesperson, together with our transcribers, to communicate with the ambassadorial office in Greece to make sure that we do not encounter problems that we encountered yesterday to the extent reasonably possible.

counsel, as we mentioned in chambers, we will use this time between 10 o'clock and 11 o'clock for tea as well, meaning that we will not adjourn until our lunch break, unless we need five or ten minutes to stretch our legs. But we will not adjourn again for tea between say 11 and lunchtime.

10 Thank you, we adjourn.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Yes, thank you, Mr Mohlamonyane. I was in haste for lunch. Mr Danikas, are you there?

MR DANIKAS: Yes, sorry, I was standing up.

CHAIRPERSON: I am not sure whether you are like me. I was hasting for lunch. Are you?

MR DANIKAS: No, I was standing up because you all entered in, so I thought it was appropriate to stand up.

20 **CHAIRPERSON:** Yes, thank you, sir. You are still under oath. Mr Mohlamonyane, you may proceed.

ARISTEIDIS DANIKAS: (still under oath)

CROSS-EXAMINATION BY ADV MOHLAMONYANE SC

(CONTINUES): Thank you, Madam Chair. Let me deal with the Berea CAS 288/05/2008, Madam Chair. Mr Danikas?

CHAIRPERSON: Yes, thank you. Like my sister on the right, I pinned my hand on it because you raised it earlier and I was wondering when you were going to come to it. Do you remember you referred us to it?

ADV MOHLAMONYANE SC: I did, Madam Chair.

CHAIRPERSON: Yes, thank you.

ADV MOHLAMONYANE SC: Thank you. Mr Danikas, are you on page 425, paragraph 79?

MR DANIKAS: Yes, I am there, Chair.

10 **ADV MOHLAMONYANE SC:** Very short paragraphs. Only three paragraphs where you deal with Berea CAS 288/05/2008, where you went to the scene, where you found this person already having fallen to the ground. Do you remember that?

MR DANIKAS: Sir, yes. What do you mean I found him falling to the ground?

ADV MOHLAMONYANE SC: Nowhere in your testimony are you saying that General Booyesen was present, not so?

20 **MR DANIKAS:** No, General Booyesen was never present on that scene, Chair.

ADV MOHLAMONYANE SC: So information that you received was from Inspector Mostert?

MR DANIKAS: That is correct. I received a phone call from Inspector Mostert to attend the scene.

ADV MOHLAMONYANE SC: Were you invited to the scene?

MR DANIKAS: Yes, by Inspector Mostert, a superior officer.

ADV MOHLAMONYANE SC: And he explained to you what had happened?

MR DANIKAS: Not at this time. He just told me quickly, hey boss, come to the scene and give me the address. He explained to happen later on, or the next day when he came back to see me. That is all.

ADV MOHLAMONYANE SC: You are not the investigating officer?

10 **MR DANIKAS**: No, I was not.

ADV MOHLAMONYANE SC: Let us go to Inspector Mostert's statement. It is contained, Madam Chair, in BR1, BR0073. Before we refer to this statement, just keep it in front of you. What is it that Mostert had told you?

MR DANIKAS: Are you referring, Chair, to the phone conversation when he brought me to the scene or afterwards?

ADV MOHLAMONYANE SC: About what happened at the scene, what is it that he told you?

MR DANIKAS: Mostert always used to come to my shop.
20 And when he came to me, he explained to me what actually happened on that scene. Often the members would discuss scenes to me. So do you want me to elaborate on what he told me exactly?

ADV MOHLAMONYANE SC: Yes.

MR DANIKAS: So he told me that they were going to look

for a suspect. That they entered the scene. And he says he saw the *laaitie*. And he says, man, I tried to help him. He apparently tried to escape by getting off, climbed off the window and tried to get to the one window next door. And he mentioned to me that he leaned over. He says, hey, I tried to help the *laaitie*, but then he fell, and I shot him. He was like ...[indistinct]. He was like, you know, that is it. That is all I knew. That is what he told me.

ADV MOHLAMONYANE SC: Did he not tell you that the
10 deceased had a firearm with which he pointed at him?

MR DANIKAS: No, nothing like that. It was a very short conversation. It looked like he was making fun of it. He thought it was funny. As he was falling to his death, he was going like this with his hand, bam, bam, bam.

ADV MOHLAMONYANE SC: You did not see that, not so?

MR DANIKAS: No. Again, I said that this is what he told me.

ADV MOHLAMONYANE SC: Go to his statement.

MR DANIKAS: Where do I find his statement, sir?

20 **ADV MOHLAMONYANE SC:** Can you flag it for us, please, Mr ...[indistinct]? Mr Danikas, they will ...[intervenes].

CHAIRPERSON: It is BR0073 of the Bundle 1 of 1. The Cato Manor dockets Berea.

MR DANIKAS: Is there a page, a PDF page I can type in?

ADV MOHLAMONYANE SC: No, no, Mr Danikas, they will

flag it for you. Do not worry. Can you zoom it, please? In the middle of – I am not going to read the whole statement to you, Mr Danikas. I will read the middle of the fourth paragraph, although they are not numbered. I just counted them from the top. It is the fourth paragraph that starts with at 22:40. Do you see it?

MR DANIKAS: I can see that, sir.

ADV MOHLAMONYANE SC: Now, in the middle of that paragraph Inspector Mostert says:

10 “As I entered, I was confronted by the suspect, Thabo. He was armed with a pistol, pointing it in my direction. I fired three shots in his direction. At this point, he ran towards the enclosed balcony with the window slightly open. He dived through the window and fell to the ground.”

Do you see that?

MR DANIKAS: I see that, sir.

20 **ADV MOHLAMONYANE SC:** Will you dispute that the deceased had a gun?

MR DANIKAS: Sir, I was not there to see that, but knowing, having the experience, reading that sentence, I have my doubts.

ADV MOHLAMONYANE SC: You have what?

MR DANIKAS: I have my own doubts.

ADV MOHLAMONYANE SC: Well, keep your doubts, Mr Danikas. Thank you very much, Mr Danikas.

CHAIRPERSON: Mr Mohlamonyane ...[intervenes].

ADV MOHLAMONYANE SC: I have no further questions ...[intervenes].

ADV NGCUKAITOBI SC: Could I just object? No, I want to object. My learned friend cannot escape with this recklessness. Sorry, sorry.

10 **ADV RAMAGAGA**: I am trying to talk to you.

MR DANIKAS: I am sorry, I was asked if I would dispute that.

ADV RAMAGAGA: But I am not happy.

CHAIRPERSON: Mr Danikas, please just wait a minute.

ADV RAMAGAGA: Ja.

CHAIRPERSON: Please, before you answer, let the Panel deal with the matter, the question, or the manner in which it is posed. My sister?

ADV RAMAGAGA: Thank you very much, Chair. Advocate
20 Mohlamonyane, we are here to get to the bottom of the truth so that we can draw a comprehensive and intelligent report to the President. And I am sure, especially as the leader of the team, the chief evidence leader, you understand how to communicate.

You ask a witness about a statement. He is not part

of drafting that statement. He would or would not know the contents of the statement, but that is not my point of attention. I do not think it is necessary to deal with it now. What has now caught my attention is this response. A witness answers you and he says, well, looking at the background that I have, I have my doubts. And your response is, well, keep your doubts. Keep your doubts to yourself. Do you think it is proper for you to respond in that manner?

ADV MOHLAMONYANE SC: Ja, upon hindsight, Madam
10 Ramagaga, I apologise and I retract that statement and equivocally apologise.

ADV RAMAGAGA: Yes, even when we at times get excited or depressed, can we just not let that get into our way as you do a very important function to assist us to get to the truth.

ADV MOHLAMONYANE SC: I agree.

ADV RAMAGAGA: Maybe also when you apologise to the Panel, I think you are also indebted to the witness. It is proper that the witness understands and gets that apology. Can you do the right thing, please?

20 **ADV MOHLAMONYANE SC:** Yes, I will do that, not only to the witness, but to the public out there. I heartily apologise unreservedly.

ADV RAMAGAGA: Thank you.

ADV MOHLAMONYANE SC: To the witness as well. I think he can hear. Mr Danikas?

ADV RAMAGAGA: It is actually in the main to the witness because it was a response to the answer of the witness.

ADV MOHLAMONYANE SC: Can you hear me, Mr Danikas?

MR DANIKAS: Yes, sir, I can hear you.

ADV MOHLAMONYANE SC: Ja, I apologise for the last remark that I made, unreservedly.

MR DANIKAS: I accept the apology. And if I may ask, English is my second language. I am a non-legal expert, so I might also sometimes give an answer that might not be
10 accepted to you. You can just guide me.

ADV MOHLAMONYANE SC: Ja, thank you.

MR DANIKAS: Thank you, Chair.

ADV MOHLAMONYANE SC: Thank you for accepting. Madam Chair, I have no further questions.

CHAIRPERSON: Advocate Ngcukaitobi, re-examination?

RE-EXAMINATION BY ADV NGCUKAITOBI SC: Thank you, Madam Chair. Mr Danikas, you said that you have enclosed a picture of Mr Booyesen standing next to a deceased African suspect. That picture, is this the one at 4A-20?

20 **MR DANIKAS:** Can I have the PDF page number, please?

ADV NGCUKAITOBI SC: 20, of the annexures. It is going to be flighted now.

MR DANIKAS: Yes, I have seen it. I am watching it also.

ADV NGCUKAITOBI SC: All right, just give us a second ...[intervenes].

MR DANIKAS: I personally took that photo ...[intervenes].

ADV NGCUKAITOBI SC: Sorry, Mr Danikas, just give us a second to put it up. What is happening now? Yes, can you tell us about this picture?

MR DANIKAS: We were having lunch with Johan Booysen. A call came through. Again, the same motive. A call would come through, and Johan Booysen asked me to drive him to the scene. I remember I drove him. I used to have a Mercedes-Benz at the time, and it almost crashed on the
10 corner.

We went to the scene, and Johan Booysen stopped us at the scene and I was asked to take photos of that scene. I have taken, actually, quite a few photos of that particular scene. I was asked by Johan Booysen to take that particular picture as a souvenir picture, where he stands there, as you can see, the body language, all proud. That is how I interpret it.

Next to the two guys, which on the left, that is Mostert. The other one is another person. Give me a second
20 to give you the name. It will be – I will come to the name. It is the same gentleman, wearing the same clothes, that was part of the interrogation, torture interrogation. In fact, he is wearing the same clothes, too. So, I was asked to take that photo, and I took that photo. I gave a copy to Johan because he wanted it for himself, and I kept copies also.

ADV NGCUKAITOBI SC: Who is, out of those three gentlemen, who is Major General Booysen?

MR DANIKAS: This is the person standing in front of the dead suspect with a tie, and a smart, I think, black pants and a smart shirt.

ADV NGCUKAITOBI SC: Yes.

MR DANIKAS: With the dark glasses.

ADV NGCUKAITOBI SC: And Inspector Mostert is the person kneeling with one leg?

10 **MR DANIKAS:** Correct. And the person on the left, it will be – give me a second. I will tell you exactly.

ADV NGCUKAITOBI SC: Well, the two gentlemen that were in the torture video, one was Inspector Panday, and the – I cannot find the second name. The second one was Inspector Maharaj.

MR DANIKAS: Maharaj and Panday. That was Panday.

ADV NGCUKAITOBI SC: All right, thank you. And those three, Mr Booysen, Mr Panday, and Mr Mostert, are they part of the Cato Manor Unit?

20 **MR DANIKAS:** That is correct.

ADV NGCUKAITOBI SC: And why did you take this picture? Because I understand Mr Booysen instructed you to take the picture.

MR DANIKAS: That is correct. Otherwise, I would not have any authority to be on the scene and take the photo. Also,

you will see that they have already marked the evidence, which means the forensics have already been there, because you will see a gun next to the deceased and a yellow circle around it together with the cartridges marked.

Now, I recall that I was taking I was also taking a photo in that scene. They asked me to point a place on the wall where some bullets were. So, I was having – I was officially on duty when I arrived there with Johan Booysen, and the IPID, I think, or the forensics, asked me to assist
10 them by pointing cartridges. It is a procedure we do where we have to use a finger to point out where the cartridges are, and we get photographed pointing at the evidence.

ADV NGCUKAITOBI SC: And when you arrived at the scene, was that firearm already there?

MR DANIKAS: I cannot recall that, Chair. I honestly do not remember.

ADV NGCUKAITOBI SC: Yes. Now, what was put to you in cross-examination is that there are no similar pictures where Major General Booysen is taking pictures as a souvenir, as a
20 sign of pride in having killed black suspects. Is that statement correct or not correct?

MR DANIKAS: That is not correct. Here it is. There is a picture of him standing next to a dead body. I do not see the point of standing there and posing, because that is a pose. You can see the facial expression. He is proud of that. And

they are all sitting there, posing. I do not see the point of them sitting there once the forensics have been through the scene, once they have processed the scene, marked the scene, and those guys go out there and get posing next to the dead body, next to an African dead body.

ADV NGCUKAITOBI SC: Thank you. Now, you were taken to AD15. You remember that?

MR DANIKAS: Would that be Arthur's email?

ADV NGCUKAITOBI SC: Yes, the email from Mr Georgiadis.

10 **MR DANIKAS:** Yes, I remember that.

ADV NGCUKAITOBI SC: Can you go back to that email? It is at page 27 of the annexures.

MR DANIKAS: I am there, Chair.

ADV NGCUKAITOBI SC: Yes. Now, if you forget for a moment about whether General Booyesen invited Mr Georgiadis to witness the killing of the *Mavros* and you just look at what he says actually Major General Booyesen did. The first one that he says that is crucial is in the third paragraph, where he says:

20 “At one stage, they were instructed to collect certain cartridges and to be removed from the scene.”

Can you see that?

MR DANIKAS: I am looking at the screen. A second, please.

ADV NGCUKAITOBI SC: Well, it is the sentence that starts

with:

“Upon his arrival, Johan took control of the crime scene, giving instructions to members of the unit that were involved in the shootings.”

MR DANIKAS: Yes, I am seeing it now.

ADV NGCUKAITOBI SC: So where we are now, General Booyesen has taken control, he is giving instructions, but one of the instructions that he gives is to collect cartridges to
10 remove from the scene. Can you comment on that?

MR DANIKAS: Yes, indeed. Booyesen says, Ari, go around the scene, because remember now being around and familiar with the scene, and pick up only the big, large cartridge, only the long one.

And that, it is my understanding, is the cartridge of the rifle, police rifle, which is the R5. So Arthur was next to me, and as I was picking up the cartridges, Arthur was instructed. And in fact, Arthur was so naive that he actually picked up some cartridges and I ...[indistinct] to him, and I
20 took it off his hands. So I carry on, taking the cartridges, and hand them over to Mostert and Olivier, in front of Johan Booyesen.

ADV NGCUKAITOBI SC: But what is the point of General Booyesen instructing the members, including yourself, to remove cartridges from the scene?

MR DANIKAS: Based on what I have experienced and what I know, it is the fact that they use excessive force, they use automatic machine guns, based on the position of the first suspect, who was dead, trapped in a car, multiple shots on him. I believe that they were executed, and I believe that they used maximum force to shoot to kill. Those men had no chance.

ADV NGCUKAITOBI SC: Yes, but why would he say take away the R5 bullets? What is it trying to achieve?

10 **MR DANIKAS**: Tampering with evidence.

ADV NGCUKAITOBI SC: Yes, thank you.

MR DANIKAS: So the IPID who comes afterwards does not see any wrongdoing with the members of the force, of the police force.

ADV NGCUKAITOBI SC: Yes, thank you.

MR DANIKAS: We need to take all of our evidence.

ADV NGCUKAITOBI SC: Yes, thank you. And then the next thing that is alleged in this, which again is not disputed in your cross-examination, is the following sentence. It says:

20 “Once Johan had completed his tasks at the crime scene, we returned to your apartment where you showed us the videos you shot of the crime scene. Johan commented to you that you had better get rid of it, or you will get yourself into

trouble.”

Now, this completely correlates with your own testimony and recollection of this incident, but I want to ask you a similar question. What would be the reason Mr Booyesen will say get rid of the video that you took from the scene?

MR DANIKAS: Chair, there are two issues here. That is my understanding. One is that the way I took video and photos, it is incriminating, if I am saying the right word, for both the Cato Manor members involved in that shooting and Johan
10 Booyesen himself being at the scene.

Secondly, it was the manner that the way those members were conducting themselves at the presence of a critically, to me critically, wounded suspect who died, and they are all waiting around for him to bleed and die and making fun of him.

Thirdly, and this is something I find out many years later because I do not speak Afrikaans. Obviously, being Afrikaans, they heard the conversation among themselves where they are speaking Afrikaans, making comments. I
20 believe one of the comments was from ...[indistinct] was that step into his stomach. That was the translation. That dog does not want to die or something like that. Step into his stomach to die faster.

Things like that, they will explain to me later. So obviously, he heard them and he thought, oh, we have got a

problem here. What it ...[indistinct] now he has captured? He never thought that that is going to be captured. And when we played in front of an audience, because there were others, to me that was like, hey, come see what I have. It is shocking. And I played because I had nothing to hide in front of witnesses. And he got up and he told me, get rid of it or else, and he walked away. He left.

ADV NGCUKAITOBI SC: But what is he trying to achieve by giving you that instruction?

10 **MR DANIKAS:** Destroy evidence that they are implicating the crime.

ADV NGCUKAITOBI SC: Yes, thank you. And the last thing I want to ask you is around Berea. My understanding of what is being argued by the evidence leaders is that Major General Booyesen had no involvement in Berea. Now, I understand that to be common cause. Correct? You also accept that?

MR DANIKAS: I am sorry. I got distracted because somebody brought something into the room. Can you repeat the question?

20 **ADV NGCUKAITOBI SC:** I am sure they are bringing you lunch.

MR DANIKAS: Yes, they did. Thank you. Thank the Panel for that.

ADV NGCUKAITOBI SC: Yes.

CHAIRPERSON: You will enjoy that lunch soon hereafter.

Soon hereafter, you will enjoy that lunch, Mr Danikas.

ADV NGCUKAITOBI SC: So what is being suggested? I am talking about Berea, that specific scene in Berea where Mostert says to you the *laaitie* tried to get out of the window. I try to help him. It is unclear to me how he helps him by shooting him three times, but that is apparently the language of Cato Manor. But what is being put to you by the evidence leaders is that Mr Booysen was not involved in the actual shooting of the incident. Is that common cause? Let me ask
10 an open question.

MR DANIKAS: Sir, I could confuse ...[indistinct]. Is it common cause? I am sorry.

ADV NGCUKAITOBI SC: Do you admit that he was not involved in the actual interaction with the suspect?

MR DANIKAS: When I went to the scene?

ADV NGCUKAITOBI SC: Yes.

MR DANIKAS: Booysen was not there.

ADV NGCUKAITOBI SC: Yes. That is what I wondered. Now, what you testified about is not his involvement, but his
20 knowledge and his failure to take action.

MR DANIKAS: Absolutely.

ADV NGCUKAITOBI SC: Now, why do you say he had knowledge and he failed to take action?

MR DANIKAS: Chair, as I have demonstrated with my statement and evidence, nothing passed through that

involved, especially when involved, the killing of a suspect by the Cato Manor Unit, but Johan Booysen did not have first knowledge of the incident. It was shoot, phone call. Shoot, phone call.

And when Booysen called, he would come to the scene often to take care of the scene. If he was close by, it was a very serious scene, or something went wrong. So that is what I know. So now, when the scene took place, because I went there and I felt embarrassed, it was 2008, it was at the
10 end of my police career, and the members did not allow me to come in.

I got offended, and I phoned Booysen and I told him what happened. And I said to him, look, this is what happened. This is also what Moses told me. And I went there, there was a shooting. What is going on? He told me, do not worry about it, let it go.

ADV NGCUKAITOBI SC: Yes, but you narrated to him precisely what Mr Mostert told you, which is what you have told this Panel.

20 **MR DANIKAS:** Yes, Chair, because it actually circulated among the members. And I am not going to come across as desensitised, but they were making humorous gestures, which were circulated among the unit. So when we reacted with them, it was like, this is Moses. And I am trying to tell you now what came to my attention.

It was, there is Moses. Here, boys, let me help you, bam, bam, bam, the suspect is lying down. That was exactly what circulated. So I described that to Johan Booysen. I told him exactly what was going on, what I heard. I was not there, but what was circulated by Moses in the unit. And he found it funny, actually.

ADV NGCUKAITOBI SC: Yes, so the idea that he had no knowledge of that incident, is it correct or false?

MR DANIKAS: It is false. He had knowledge of the incident.

10 **ADV NGCUKAITOBI SC:** Yes. Thank you, Madam Chair. Thank you, Mr Danikas. I have no further questions from the Chauke team, except to ask you whether you can help us to trace Arthur Georgiadis.

MR DANIKAS: Indeed. I have provided the particulars of Arthur Georgiadis to your legal team. He is willing to testify and to provide sworn affidavit to the events.

ADV NGCUKAITOBI SC: Thank you. Thank you, Madam Chair.

20 **MR DANIKAS:** Chair, if I may, am I permitted to add something? Yesterday, while we had those Wi-Fi interruptions, my recollection of thoughts got caught and I could not explain what I wanted to explain in a question that was brought to me by the Panel and the Chair, if there is time.

CHAIRPERSON: You have just been cross-examined and re-examined. If you take us back, it means this process is

going to have to follow. Perhaps you can recap and tell us in relation to which question before we consider whether you should deal with that aspect. Do you remember?

MR DANIKAS: Yes, Madam Chair. May I proceed?

CHAIRPERSON: In relation to which aspect you would like to answer?

MR DANIKAS: It was in relation to a question one of the madams addressed me yesterday, which had to do with the Berea case and my OB number records. The question was
10 that there was no year reflected on that particular document that the Panel has.

CHAIRPERSON: I have it right in front of me. It is AD17 at 4A-30. Because of the nature of the enquiry, I must place this on record. We will allow you, Mr Danikas, to deal with that aspect, and we will afford Mr Mohlamonyane an opportunity to deal with this aspect also, if necessary, and the Counsel, if he wishes, can touch on that. Yes, you are referring to AD17, the OB.

MR DANIKAS: That is correct, Madam Chair. That is
20 correct, Madam Chair. So it is ...[intervenes].

CHAIRPERSON: It is at 4A, if you can wait a bit. It is at 4A-30.

MR DANIKAS: That is correct, Madam Chair.

CHAIRPERSON: Yes.

MR DANIKAS: So as I explained yesterday, I found my

hardcopy of that document, and attached to it there is a transmission report which has the actual transmission of the actual fax copy, which I was sending every month to the relevant department, police department.

And when I went back into my electronic files, the reason why on that particular document the year is not reflected is because the way I stored it in my computer. So I had folders, 2006, 2007, 2008, reflecting the year. And if you click and you open 2008, you will find the months, January, 10 February, March, May. And then I will print that relative page and send it to my police office where they kept my registry. And that explains the fact why the year is not reflected on top of the document. Thank you, Madam Chair.

CHAIRPERSON: Yes, I remember it is my sister who asked you about this document saying it does not show the year.

MR DANIKAS: That is correct, Madam Chair.

CHAIRPERSON: Perhaps my sister would look at what you are saying now and develop that question if she wishes.

ADV RAMAGAGA: Ja, thank you, Chair. The question came 20 from me. And now from what he has told us about the transmission report, that has clarified it, that it was the year 2008. That is the only thing that I wanted to establish as to in which year was it. The report states that it is May, and the dates of the occurrences appear on the extreme left-hand side of the column.

CHAIRPERSON: Thank you, Mr Danikas, for elaborating on that question.

MR DANIKAS: Thank you, Madam Chair.

CHAIRPERSON: Counsel, do you want to make a follow-up on this point?

ADV NGCUKAITOBI SC: No, Madam Chair, thank you.

CHAIRPERSON: Advocate Mohlamonyane, do you wish to ask anything on this point?

ADV MOHLAMONYANE SC: No, Madam Chair. No, Madam
10 Chair.

CHAIRPERSON: Yes, thank you. Mr Danikas?

MR DANIKAS: Yes, Madam Chair?

CHAIRPERSON: We would like to take this opportunity as the Enquiry, specifically as the Panel, for you having made time to come and testify. Do you hear me?

MR DANIKAS: Yes, Madam Chair, thank you.

CHAIRPERSON: I would also like to thank you on behalf of the teams that are here, the evidence leaders and the Advocate Chauke team.

20 **MR DANIKAS:** Thank you.

CHAIRPERSON: In their respective roles that they are performing. More for us as a Panel, thank you very much. You are excused.

MR DANIKAS: Thank you, Madam Chair. Thank you, South Africa.

CHAIRPERSON: You can enjoy your lunch as we deal with housekeeping matters. We have a few matters to address, but we wish you to enjoy your lunch. We hear it is right in front of you.

MR DANIKAS: Thank you. Thank you, Madam Chair. If I may say that I appreciate the support the Panel gave me. I appreciate the fact that the Panel wanted to provide me with PTS support and pay for it, and I decided that I will decline that offer. I did not wish for a government expenditure to be
10 provided. I will cover my own PTS support, and that money rather got a good cause in South Africa. Thank you, Madam Chair.

CHAIRPERSON: Thank you very much once again. Best wishes to your mother. We wish her a speedy recovery.

MR DANIKAS: Thank you, Madam Chair.

CHAIRPERSON: Thank you, sir.

NO FURTHER QUESTIONS

CHAIRPERSON: Advocate Ngcukaitobi?

ADV NGCUKAITOBI SC: Madam Chair, we do not have a
20 witness ready now because our expectation was that this witness would go on until tomorrow. Our next witness's statement is sort of 50% ready, and that is going to be Mr Sphamandla Mhlongo, the current chairperson of the KwaMaphumulo Taxi Association.

His statement is being prepared, but it is not ready.

So I am not able to commit that he can testify either immediately or tomorrow for that matter. So I would suggest, subject to the Panel's concurrence, that we adjourn the proceedings until the end of the short adjournment, which is about a week, which I have no doubt everyone is looking forward to.

CHAIRPERSON: Yes, Counsel. My sister on the left reminds me, and I am indebted to her, that the parties had agreed about the timeframes for filing of pleadings, if I may refer to
10 those documents as pleadings, in the Advocate Batohi's application, have you drafted any agreement? Have you reached any consensus?

ADV NGCUKAITOBI SC: Madam Chair, there is progress, even if it is tentative, because I discussed this morning with Advocate Mtsweni that he will draft a statement of common cause facts in relation to the Mdluli and furnish us with that. And we can comment on whether there are facts on which we disagree, and then the witnesses to be called would be limited to those facts on which there is disagreement. In
20 relation to the Cato Manor ...[intervenes].

CHAIRPERSON: No, I am talking about something different. Sorry. My apology, I did not make it clearer.

ADV NGCUKAITOBI SC: I see.

CHAIRPERSON: Counsel.

ADV NGCUKAITOBI SC: Yes, yes, sorry.

CHAIRPERSON: It is in relation to the pending application by Advocate Batohi, to which you have now responded.

ADV NGCUKAITOBI SC: Yes.

CHAIRPERSON: Advocate Batohi has not filed a replying affidavit, if my recollection is correct. And we spoke yesterday, I think, about the timeframes as to when documents will be filed on record and when submissions will be filed.

ADV NGCUKAITOBI SC: No, Madam Chair, I think my
10 attorney would be better placed.

CHAIRPERSON: Yes, the attorneys were speaking, Counsel. I was actually addressing it to Mr Mkhabela.

ADV NGCUKAITOBI SC: I see, ja.

CHAIRPERSON: And you can bring the roving mic to Advocate Batohi's attorneys, from Molebatsi et al Attorneys, so that you can tell us whether you agree with Mr Mkhabela about those issues. Have you reached an agreement, Mr Mkhabela?

MR MKHABELA: Chair, we have been so much absorbed
20 with the evidence aspects, we have not had the opportunity to speak with our counterparts. The standing arrangement, though, is that they would deliver their replying affidavit by Monday the 16th.

The only issue is there is some tentativeness to it, and that tentativeness is they suggest that they might well do

it earlier, but they have not indicated whether or not earlier will eventuate, and if earlier when that will be, and from that would follow an agreement between the parties regarding the filing of the submissions. So if the Panel allows us, with this early adjournment, we should be able to finalise those details and report to the Panel before we leave the building. Thank you, Chair.

CHAIRPERSON: Madam?

MS MABENA: Thank you, Judge.

10 **CHAIRPERSON**: Just remind me your name.

MS MABENA: Lesego Mabena.

CHAIRPERSON: Ms Mabena.

MS MABENA: Yes. So Mr Mkhabela's recollection of events is correct. We have, in fact, prepared a letter proposing specific dates as directed by the Panel yesterday, and we will get that to Mr Mkhabela this afternoon.

CHAIRPERSON: And remember when we spoke in chambers, we were displaced by the fact that you are giving tentative dates. You should just indicate that you will file on
20 X date, not tentatively, so that then you can both consider the appropriate times to file submissions. You can even agree to file your submissions on the same day, like we have done with regard to the other interlocutory applications. But we need your agreement, otherwise we will place you on terms if you do not agree.

MS MABENA: That is an order, Judge. We will revert to Mr Mkhabela with those proposed dates and inform the Panel accordingly.

CHAIRPERSON: Mr Mkhabela, will it be possible to sit with your sister and draft that agreement and cause it to be filed on record today or tomorrow so that we know exactly when and what to expect?

MR MKHABELA: We will endeavour to do so before we leave the building, Chair. Thank you.

10 **CHAIRPERSON:** And to the extent possible, please use the recess break to file the written submissions.

MR MKHABELA: I was assured by our leader yesterday that if it has to be done in that time, it shall be done. Thank you, Chair.

CHAIRPERSON: We will await your agreement, which, if you file this afternoon, we will consider how to deal with it. We may endorse it, and we may not endorse it. So please file the document off record this afternoon so that we can guide you. As regards to what you have brought to our attention,

20 Advocate Ngcukaitobi, it does not appear to us that we have control over the situation regarding the availability of the next witness. We have only tomorrow, and it may not make any sense to postpone this proceedings to tomorrow when you have given an indication that you are still consulting with the next witness. But let me give the opportunity to Mr

Mohlamonyane for what it is worth to say your bit.

ADV MOHLAMONYANE SC: About witnesses?

CHAIRPERSON: About what counsel, what Advocate Ngcukaitobi has just said regarding the position, their position.

ADV MOHLAMONYANE SC: Ja.

CHAIRPERSON: Is there anything else that you would like to say, or anything else?

ADV MOHLAMONYANE SC: No, not exactly. If it is beyond
10 anyone's control, the matter cannot be postponed to tomorrow.

CHAIRPERSON: Yes.

ADV MOHLAMONYANE SC: They are still busy with their statement, the statement of the witness, and it is beyond our control, anyone's control really.

CHAIRPERSON: Might I also emphasise that this short
break will enable you as evidence leaders also to finalise your consultations and your witnesses, make the statements ready or available to us, and also to Advocate Chauke's team.
20 Use this recess. You know recess is not a holiday time. Even when we are in court, recess is never a holiday time. We simply shift tables and work elsewhere.

So to all of you, please use this period to read, consult, prepare, and exchange statements. File them off record timelessly so that we can read and not read on the day

of the hearing. We hope that by end of April, and I must mention it right now, we hope that by end of April all witnesses should have been brought before us so that beginning of May you should work on your submissions to enable us to prepare the report.

We will repeat it again when we reconvene so that you do not say you are taken by surprise. In the event, the Enquiry is going to be postponed or is postponed to Monday, 23rd of May 2026.

10 **ADV NGCUKAITOBI SC:** I think March, Madam Chair.

CHAIRPERSON: I must recall this order. In the event, the Enquiry is postponed to Monday, the 23rd of March 2026. Thank you for reminding me of the date. May is my birth date. So maybe I am rushing for that. Thank you very much to all of you. I wish you a restful break and we hope that when we reconvene, all of you would have rested. We adjourn.

ENQUIRY POSTPONED TO 23 MARCH 2026

ENQUIRY ADJOURNS

20

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