

Statement by Dudu Myeni on Pretoria High Court decision of 27 May 2020

I have noted the judgment of the High Court in Pretoria that has declared me a delinquent director following the case brought against me by OUTA and the SAA Pilots Association. I state at the outset that this judgment does not come as a surprise given all the political dynamics that are currently playing out in some of our courts. Despite the narrative and opinions that have been formed around this judgment, this judgment does not state that I was involved in any act of corruption, financial misconduct or impropriety. I stand by the testimony that I gave at the trial wherein I stated that all my actions and decisions as chairperson of the board of SAA were at all times carried out in the best interest of the airline and the transformation imperatives of the country.

My legal counsel has advised me to appeal this judgment and is confident in my prospects of success in the appeal on the grounds that:

1. The basis of the case brought against me was that I had acted on instructions from former President Zuma in blocking the Emirates MOU. The judgment does not make such a finding but instead states that it is immaterial to prove this allegation. The case I had come to answer to was about that specific point. The point was not proven and the judgment instead focuses on evidence that was outside the case brought before court.
2. The judgment still finds that I blocked the Emirates MOU when my evidence and the documents before court showed the board resolution of 10 July 2016 signed by myself wherein the board clearly stated that it is satisfied with the contents of the Emirates MOU and that it was for the Executive members to implement.
3. The judgment failed to acknowledge any of the glaring contradictions and false statements that emerged from several witnesses. Instead the judgment calls the witnesses reliable when the record clearly shows them to be telling untruths and tailoring their evidence.
4. The judgment totally misinterprets Section 49 and Section 54 of the Public Finance Management Act by incorrectly concluding that the Accounting Authority of SAA was the Chairperson when the correct position is that The Board is the Accounting Authority. The Chairperson is merely the signatory on behalf of the board. This was brought to the court's attention in closing arguments but the judgment is silent on why it assigns a different interpretation.
5. The judgment is silent on all the points raised in my defence. Not a single argument raised in my defense is accepted or rejected in the judgment. The court should have in the least given reasons why it did not accept or consider the points raised in my defence.

6. The judgment disregarded evidence of a letter written by the company secretary to Airbus which confirmed a board decision and instead persisted with the allegation that I had written a letter to Airbus when all the evidence showed this to have been a letter from the board.
7. The judgment repeatedly makes findings on issues that were not evidence in the trial and arrives at legal conclusions that have no basis in the evidence.
8. The judgment raises issue with the fact that I brought an application to join other board members and yet it repeatedly makes reference to joint decisions of the board as being problematic. I had asked that the court join other board members for us to account as a board but the court refused this, but is now calling into question the conduct of those very members that it refused to join to the case.
9. I had challenged the legal standing of Outa to bring a case under Section 162 of the Companies Act. The court dismissed this challenge at the time and said it would pronounce on the issue of Outa's legal standing in its final judgment. The judgment is silent on this issue thereby creating a precedent that parties who are not allowed in law to bring delinquency applications may now do so.
10. The judgment then makes a ruling that this case needs to be referred to the National Prosecuting Authority for investigation but does not state why. There was no evidence of any criminal conduct on my part and there is no mention of any criminal conduct by me in the judgment but the judgment inexplicably arrives at that ruling.

I am more confident than ever that I will be vindicated in the end. I view this judgment as but another of the hurdles I will have to overcome for my part in the struggle for radical economic transformation in South Africa. I am not the first or the last black person to be attacked in this way by agents of the colonial project. My resolve to keep fighting for an all inclusive economy is now stronger than ever and I believe that justice shall prevail in the end. I am humbled by the many messages of support from across the country and express sincere gratitude to all those who have taken my struggle against the system to heart.

Amandla!

Dudu Myeni

28 May 2020