

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NUMBER: 0027676/2022

In the application of:

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Applicant

And

JACOB GEDLEYIHLEKISA ZUMA

First Respondent

THE DIRECTOR OF PUBLIC PROSECUTIONS,

Second Respondent

KWA-ZULU NATAL

NATIONAL PROSECUTION AUTHORITY

Third Respondent

THE REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA;

GAUTENG LOCAL DIVISION, JOHANNESBURG

Fourth Respondent

NOTICE OF MOTION

PART A:

TAKE NOTICE THAT the applicant intends to make an application to this Honourable Court on **Tuesday, 10 January 2023**, for an order in the following terms:

1. The application is heard as one of urgency and the ordinary forms and service provided for in the Uniform Rules of Court are dispensed with in line with Rule 6(12).

2. Pending the final determination of Part B of this application:
 - 2.1. the respondents are interdicted from taking any further steps to give effect to the *nolle prosequi* certificate of 21 November 2022 (“**the certificate**”) and/or the summonses issued by the Registrar on 15 and 21 December 2022 (“**the summons**”), or to pursue the private prosecution under case number: 059772/2022 (“**the private prosecution**”), against the applicant in any way;

 - 2.2. the applicant is excused from appearing before this Court on 19 January 2023 or on any other date pursuant to the certificate and/or the summons.

3. The costs of this application are to be paid by the first respondent, alternatively his legal representatives, and any other respondent that opposes the application, on an attorney and own-client scale, such costs to include the costs of two counsel.

4. Further and/or alternative relief.

TAKE NOTICE FURTHER THAT the founding affidavit of **MATAMELA CYRIL RAMAPHOSA** together with the annexures thereto, will be used in support of this application.

TAKE NOTICE FURTHER THAT the applicant has appointed the State Attorney Johannesburg, 95 Albertina Sisulu Road, North State Building, cnr of Albertina Sisulu and Kruis Streets, Johannesburg c/o HMncube@justice.gov.za as the address at which he will accept notice and service of all process in the proceedings.

TAKE NOTICE FURTHER THAT should the respondents intend to oppose the relief sought in Part A of this application, they are required to:

1. deliver notice to the applicant's attorneys that they intend to oppose the application on or before 28 December 2022;
2. appoint in such notice an address referred in rule 6(5)(b) at which they will accept notice and service of all process in these proceedings; and
3. File an answering affidavit, if any, by 3 January 2023.

PART B:

TAKE NOTICE THAT the applicant intends to make application to this Honourable Court on a date to be arranged with the Registrar for an order in the following terms:

1. It is declared that the summons is unlawful, unconstitutional, invalid and of no force or effect, and is set aside.

2. To the extent only that the certificate is interpreted to relate to the applicant, it is declared unlawful, unconstitutional, invalid and of no force and effect, and is set aside.
3. It is declared that the private prosecution is unlawful, unconstitutional, invalid and of no force or effect, and is set aside.
4. The costs of this application are to be paid by the first respondent, alternatively his legal representatives, and any other respondent that opposes the application, on an attorney and own-client scale, such costs to include the costs of two counsel.
5. Further and/or alternative relief.

TAKE NOTICE FURTHER THAT the founding affidavit of **MATAMELA CYRIL RAMAPHOSA** together with the annexures thereto, will be used in support of this application.

TAKE NOTICE FURTHER THAT the applicant has appointed the State Attorney Johannesburg, 95 Albertina Sisulu Road, North State Building, cnr of Albertina Sisulu and Kruis Streets, Johannesburg c/o hmncube@justice.gov.za as the address at which it will accept notice and service of all process in the proceedings.

TAKE NOTICE FURTHER THAT:

1. in terms of Rule 53(1)(a) of the Uniform Rules of Court, the second and fourth respondents (i.e., the DPP and the Registrar) are called upon to show cause why the certificate and the summons should not be reviewed and set aside by this Court;

2. in terms of Rule 53(1)(b), the second and fourth respondents are called upon to deliver to the Registrar of this Court, within 15 days after receipt of this notice of motion, the records of proceedings pursuant to which the certificate and the summons were issued (including all documents, letters, memoranda, reports, recommendations, minutes and other materials which were before the second and fourth respondents when the certificate and the summons were issued), together with such reasons as the second and fourth respondents are by law required or desire to give or make, and to notify the applicant that they have done so, provided that if any of these documents have already been provided to the applicant it will be sufficient for them to be identified in a schedule in such a way that they are readily identifiable;

3. in terms of Rule 53(4) of the Uniform Rules of Court, the applicant may within 10 days of receipt of the record of proceedings from the Registrar, amend, add to or vary the terms of the notice of motion and/or supplement their founding affidavit, by delivery of a notice and accompanying affidavit.

TAKE FURTHER NOTICE THAT if any of the respondents intends opposing this application they are required to:

4. within 15 days after receipt of this notice of motion or any amendment of it, deliver notice to the applicant that they intend to oppose this application and appoint in such notice an address within 15 kilometres of the office of the Registrar of this Court at which they will accept notice and service of all process in these proceedings; and

5. within 30 days after the expiry of the time referred to in Rule 53(4) of the Uniform Rules of Court deliver any affidavits they may desire to answer to the allegations made by the applicant.

TAKE NOTICE FURTHER THAT if no notice of intention to oppose be given, this application will be set down on the unopposed basis and proceed on a date to be determined by the Registrar of this Court.

DATED at JOHANNESBURG on this the 26TH day of **DECEMBER 2022**.

S.G.D H.MNCUBE

STATE ATTORNEY JOHANNESBURG

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TO: **REGISTRAR OF THE HIGH COURT**
JOHANNESBURG

AND TO: **W N ATTORNEYS INCORPORATED**
Attorneys for the Respondent
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AND TO: **JACOB GEDLEYIHLEKISA ZUMA**

First Respondent
KwaNxamalala Residence
Nkandla

AND TO: **THE DIRECTOR OF PUBLIC PROSECUTIONS, KWA-ZULU
NATAL**

Second Respondent
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