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Zondo commission – What now for Zondo as Zuma walks out?

Former president Jacob Zuma walked out of the commission of inquiry into state capture on Thursday, with a parting shot from his lawyer Muzi Sikhakhane that a formal complaint will be lodged with the Judicial Service Commission (JSC) about its chairperson Deputy Chief Justice Raymond Zondo.

Zuma's conduct constitutes a defiance of the summons order that was issued for his appearance this week, said commission advocate Paul Pretorius.

This after Zondo dismissed an application brought forward by Zuma on Monday for him to recuse himself from the inquiry. Zondo's ruling was initially meant to happen on Wednesday morning, but was postponed to afternoon, only to be postponed further to Thursday, following Zuma's filing of an answering affidavit to a statement read out by Zondo at the start of proceedings on Monday. In it, Zondo outlines the association he has had with Zuma over the past 20 odd years, in both their personal and professional capacities.

Prior to the walkout, Sikhakhane had indicated that his team and his client would excuse themselves, but sought to explain to Zondo why that was so, to avoid it being deemed a walkout or act of defiance.

"The instruction is to review your decision, that you've just made, when you finally give us a copy," he said, addressing Zondo. Furthermore, the complaint will be lodged with the JSC on Zondo's position.

"You have become a judge in the disputes that involve yourself, in that you determine disputes that arise in matters that include you...in so far as the issue of you becoming a judge in your own matter – which on its own is a ground that we've mentioned – I'd like to say that we've also been instructed to lodge a complaint about you in that regard, to the JSC in respect of an issue about which you've made yourself a witness and a judge."

Pretorius, in response, said: "Notwithstanding the intention to review your decision, the proceedings must continue.

"If they are in fact excusing themselves from the proceedings, the applicant would be acting in defiance of the summons and unlawfully. It's up to you, chair, to decide whether or not the proceedings will continue.

"The summons stands. It is not open to my learned friend or the applicant to simply to 'excuse himself'. The proper application of the law demands that you make a decision about continuance of proceedings."

Zuma and his legal team, however, left the proceedings during a short adjournment. When proceedings resumed, after the adjournment was prolonged to close to an hour, Zondo made an address in response to that.

“We return to the hearing in circumstances where Mr Zuma has left, I’ve been told. Mr Zuma had been issued with a summons to be here from Monday to tomorrow, unless he was excused by me,” said Zondo.

“On Tuesday his lawyers asked me to excuse him for yesterday because he wanted to attend a funeral. I excused him from attending. He has left today without asking me to be excused. This is a serious matter, but in terms of the plans of the commission for this week – if I dismissed his application that I recuse myself as I have done – he was going to be asked to take the witness stand and be questioned about various matters relating to matters that we are investigating in terms of the commission.”

The commission would not sit for the rest of the week, and would reflect on a way forward, Zondo added. “It is a pity that he elected to leave without asking for permission.”

To date, Zuma has been implicated by 35 witnesses in state capture. The commission has requested him to give his version on the different matters since 2018, Pretorius argued on Monday. He said these requests were ignored, and different reasons given on different occasions for Zuma’s unavailability.

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