



**23 November 2020**

### **Zondo commission – Zondo lays criminal complaint against Zuma for walkout**

Deputy Chief Justice Raymond Zondo is laying a criminal complaint against former president Jacob Zuma for defying a summons compelling him to appear before him last week. Zondo will be asking the secretary of the commission of inquiry into state capture, which he chairs, to start the formal process.

“Given the seriousness of Mr Zuma’s conduct, and the impact that his conduct may have on the work of the commission, and the need to ensure that we give effect to the constitutional provisions that everyone is equal before the law, I have decided to request the secretary of the commission to lay a criminal complaint with the South African police against Mr Zuma,” said Zondo on Monday.

Zuma walked out of the venue of the commission’s proceedings on Thursday last week, on the fourth of five days set aside for his appearance, after Zondo dismissed his application asking him to recuse himself from the commission.

Shortly after reading out his ruling, Zondo announced a short adjournment, but Zuma did not return on resumption of proceedings. Zondo said on Monday that the summons directing Zuma to attend was still valid and binding at the time, and had not been set aside.

Zuma’s lawyer Muzi Sikhakhane had, however, declared that his team and his client would leave, just before the adjournment was announced. This was on the basis that Zuma would take the dismissal of his application on review, while also invoking a parallel process to lay a complaint against Zondo before the Judicial Service Commission.

“The summons made it clear that the purpose of summoning Mr Zuma was for him to give evidence on various matters being investigated by the commission, and that he be questioned on those matters.”

Zuma’s argument in the application was that Zondo could be biased in how he approaches his evidence as he appeared to have made conclusions against him, based on the evidence of previous witnesses who implicated him in the past. Furthermore, because of their close association, which Zuma claimed spanned two decades, Zondo’s impartiality in his determination of Zuma’s evidence could also come into question. Zondo refuted the last point, saying that all interactions he has had with Zuma since becoming a judge in the 1990s have been on an official basis, and not social, which does not make them close friends or associates.

“The decision by Mr Zuma to leave the commission without obtaining permission and in the face of a valid and binding summons, is a serious matter,” said Zondo on Monday.

“It impacts on the integrity of the commission, the rule of law and public accountability. And in this regard it is important that we all remember that the matters which this commission is investigating, and on which it seeks to question Mr Zuma, are matters that happened largely when Mr Zuma was president of the republic and he had an obligation to account for what was happening during his presidency.”

The constitutional principle of all being equal before the law is an important one that must not be taken for granted, said Zondo, adding that on a practical level, Zuma could not have been confused about the need to request his permission on Thursday. “Because on Tuesday, through his counsel, he did request my permission in order to not be in attendance on Wednesday.

“On Thursday, before he left, the head of the commission’s legal team had made it clear that as long as the summons stood it was binding and it was not up to him to excuse himself. Nevertheless Mr Zuma did excuse himself.”

The former president’s conduct may send a message to other witnesses who might not be comfortable in answering questions put to them by the commission that it is the right thing to do for a witness who has been summoned to decide to excuse himself.

“It is quite important for the proper function of this commission that Mr Zuma’s conduct be dealt with in a manner in which our law provides it should be dealt with. This commission is very clear about what should happen arising out of Thursday, and it remains determined to carry out its functions in accordance with the law and the Constitution.”

New dates would be determined for Zuma to appear, said Zondo, but this time the commission would apply for an order with the Constitutional Court that will compel Zuma to stay on until the validity of the summons expires.

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