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Zondo commission – Zondo makes case before Concourt for Zuma imprisonment

The Constitutional Court has reserved judgment on the case between the state capture commission and former president Jacob Zuma. The commission has asked the court to find Zuma guilty of contempt for his refusal to appear before it in January and February this year.

Advocate Tembeka Ngcukaitobi appeared on behalf of the commission, while Zuma chose not to oppose the application. Ngcukaitobi faced tough questions from the justices of the court, who wanted to know how the commission came to the absolute conclusion that Zuma will not be appearing.

He told the court that Zuma's actions constituted an "exploitative attitude" that was unbecoming of a former president. "What we are asking for is that people should not wage political campaigns on falsehoods against members of the judiciary with no consequences. And here, a former president should not do that."

The commission approached the court soon after it became clear in the middle of scheduled dates in February that Zuma would not appear, despite an order of the same court compelling him to do so. He had also been issued another summons that compelled him to appear before the commission after he walked out of proceedings in November last year.

The commission also argued that because the order of 28 January compelling Zuma to appear was handed down by the Constitutional Court, it was only logical that the latest application too be made to the apex court.

"What this court deserves, at least, is an explanation. The failure to provide that explanation is part and parcel of the malicious behaviour of Mr Zuma," said Ngcukaitobi.

Asked why the court should hand down a punishment of a two-year imprisonment as the commission has requested, Ngcukaitobi said the court was dealing with an individual who was invoking "cynical manoeuvring" to simply avoid accountability for his part as leader of the state in the period under the commission's spotlight.

"When we came before the Constitutional Court in 2020, after a summons had been issued against Mr Zuma, the target of his belligerence was Justice [Raymond] Zondo in his capacity as chair of the commission." The target shifted, however, when the Constitutional Court ordered him to appear, and Zuma publicly attacked the court by likening it to apartheid-era institutions.

Allowing Zuma to continue attacking the court without consequences will have far-reaching damage to our society, said Ngcukaitobi.

In unrelated evidence that was meant to be heard in February, former Prasa contractor Auswell Mashaba defied a summons issued for his appearance before the commission. His legal

representative sent a letter to the commission on the day that he was meant to appear – a week after Zuma’s no-show – saying that his client did not deem the summons a valid document.

Zondo noted at the time that Zuma’s actions may have influenced Mashaba’s position.

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