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Zondo Commission – Zondo to ask for Zuma to be thrown behind bars

Former president Jacob Zuma could find himself serving jail time if found to have been in contempt of the Constitutional Court by not appearing before the state capture commission on Monday. Commission chairperson Deputy Chief Justice Raymond Zondo said on Monday its secretary would once again approach the Constitutional Court to get a contempt order issued against Zuma, and of the two options of a prison term and a fine, would ask for the former to be imposed.

“The commission will approach the Constitutional Court and ask it to impose a term of imprisonment on Mr Zuma if it finds that he is guilty of contempt of court,” he said.

Zuma’s lawyers had sent a letter to the commission. Evidence leader Advocate Paul Pretorius read out a part of it which claimed the summons in respect of Zuma’s expected appearance was irregular. This, in his view, was because he has applied to the North Gauteng High Court to get Zondo to recuse himself, an application that is still pending.

“If Mr Zuma and his lawyers were of the view that his summons was irregular, it obliged him, if he wanted not to be obliged to appear, to approach a court and ask that it be set aside on that basis,” said Zondo. “I don’t know the law to be that he’s entitled to just ignore a summons just because he thinks it’s irregular.”

The recusal application was brought before Zondo on Zuma’s last appearance in November last year. When it was dismissed three days later by Zondo, Zuma’s lawyer Muzi Sikhakhane, addressing Zondo, said that his client would appeal the decision. Zondo then approached the Constitutional Court to have it compel Zuma to return for two week-long appearances in mid-January and mid-February. Although the ruling only came after the January dates, on 27 January, it did compel Zuma to honour future summons and answer questions put to him in proceedings. Days later, through a media statement, Zuma declared that he would not abide by the ruling, and would welcome any punishment that decision brought about.

In his opening remarks on Monday’s proceedings, Zondo said: “It’s a pity that Mr Zuma has decided not to appear before the commission today, in defiance of the Constitution and in defiance of the order of the Constitutional Court, our highest court in the land.

“It would be a pity if anybody did it, but that this was done by a former president of the republic, someone who twice stood before the nation and took an oath that he would uphold the Constitution of the republic and protect it, is a great pity.”

A contradiction in messaging appeared between the media statement and the lawyers’ letter, said Zondo, as the latter said Zuma’s non-appearance must not be construed to mean a defiance of a legal process.

“My recollection of his media statement of 1 February is that in his own words he said that he was going to defy the summons of the commission, and he was going to defy the order of the Constitutional Court. Those were his words, and the media statement was not issued by his foundation. It appears to be issued by him,” he said.

Pretorius concurred: “The commission has now been deprived of its opportunity to question the former president in regard to his knowledge of, and his conduct relevant to the commission’s terms of reference.” He said the commission had done everything in its power to get Zuma’s version before it.

Pretorius further canvassed the areas of evidence on which his team sought to question Zuma. These, he said, range from alleged interference in the running of state-owned entities, allowing the Gupta family into the process of executive and cabinet appointments and interference in departmental policies, among others.

“This commission is not an aggressive, single-minded body that seeks to make premature findings, as many have sought to paint it in defence of their own positions. It has asked all concerned to contribute to its deliberations, and has invited or commanded a range of people from all sectors of the community to come before it and assist,” Pretorius argued before Zondo.

“The one outstanding gap in the evidence before you is that of the person who is the captain of the ship, and it’s a great pity that you may be compelled to make findings in the absence of the person at the wheel of the ship, but so be it. It’s not through lack of effort.”

“We are very clear about what needs to be done. There is no confusion about what should be done. Our law is not deficient in this respect at all,” was Zondo’s response.

News reports over the weekend referred to plans by members of the Mkhonto weSizwe Military Veterans Association to stand guard outside Zuma’s home in Nkandla in KwaZulu-Natal to protect him. The ANC’s national executive committee on the other hand issued a public plea to Zuma to comply with the summons by the commission.

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