



2 February 2021

Zondo commission – Zuma not above the law, must appear, says DCJ

In the latest round of public exchanges between former president Jacob Zuma and the chairperson of the commission of inquiry into state capture, Deputy Chief Justice Raymond Zondo, the latter has condemned public remarks from Zuma saying that he would once again defy a summons to appear before him two weeks from now.

The commission had scheduled two separate week-long appearances for Zuma for this year, one in January and the other from 15 to 19 February. The former president failed to appear in January, citing the then pending Constitutional Court decision on the matter as grounds. The court has since handed down a judgment compelling him to appear, and to answer all questions put to him. Zuma, however, released a public statement on Monday this week – five days after the ruling – saying that he will not appear before Zondo, and would accept whatever penalty the commission subjects him to.

“If this stance is considered to be a violation of their law, then let their law take its course. I do not fear being arrested. I do not fear being convicted nor do I fear being incarcerated,” said Zuma in his statement.

But the commission says he cannot defy one constitutional order, and uphold another, particularly because he held the important position of president of the country. “Mr Zuma’s decision that he will defy the order of the country’s highest court and the summons of the commission is completely unacceptable in a constitutional democracy such as ours. This is particularly so when the person making such a decision is a former president of the country who should be exemplary in upholding the rule of law and the Constitution,” reads the statement.

“It is to be noted that, while Mr Zuma refuses to comply with the Constitution and to obey the order of the Constitutional Court on the one hand, he continues to enjoy the benefits that the Constitution grants to all former presidents in terms of his pension and other benefits paid for by taxpayers. It seems that Mr Zuma considers himself to be above the law and the Constitution.”

In his own statement, Zuma says his view of a biased judiciary is emboldened by a flurry of messages he has received from supporters since the judgment was delivered. “I felt moved to publicly express solidarity with the sentiments and concerns raised with me about a clearly politicised segment of the judiciary that now heralds an imminent constitutional crisis in this country,” he wrote.

The commission noted its concern that Zuma’s defiance of the court ruling and the summons of the commission “displays a complete disregard for the rights and interests that South Africans have in obtaining comprehensive responses from him to a lot of evidence regarding state capture, corruption and fraud that concern him and others connected with him that relate to his terms of office as president of the country which have been led in the commission over the past three years.”

Zondo is to lay another criminal complaint against Zuma for not appearing in January, the second one so far. The first was laid in respect of Zuma's walkout in November last year.

"Should Mr. Zuma carry out his decision not to appear before the Commission on 15 February 2021 and, therefore, act in breach of the summons and in contempt of the order of the Constitutional Court, the Commission will announce on that day what further action it will take in regard to such conduct. "

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