



21 July 2020

Zondo commission – glitches put halt to Bosasa evidence

The commission of inquiry into state capture had a false start on Tuesday to what was meant to be the hearing of further evidence related to Bosasa. It was expected that former national commissioner of prisons, Linda Mti, would take the stand, but he was a no show.

According to his lawyer, Schalk van der Merwe, Mti received notice of his expected appearance late – six days ago – instead of the 14-day standard rule of the commission. He is expected to respond to evidence from former Bosasa COO Angelo Agrizzi, who implicated him in an elaborate corruption scheme between the Department of Correctional Services (DCS) and Bosasa. According to Agrizzi, Mti facilitated the capture of the DCS by Bosasa, which held contracts worth over R1-billion in the department for years. Other former employees of the company told the commission that Mti's house was fitted with security equipment courtesy of Bosasa.

An agreement was reached in chambers between the legal teams of Mti and the commission, for the latter to collate all evidence of people who implicate him, and direct him to where on the commission's website he can find this. The commission's Advocate Viwe Notshe told chairperson Deputy Chief Justice Raymond Zondo that the deadline for this was Friday. After this, Mti will prepare an affidavit responding to all allegations against him. Because he is also an accused in a criminal trial in the Special Commercial Crimes Court in Pretoria, Mti's affidavit will omit his strategy for defence in that process.

Another implicated person who could not proceed with his evidence is Pretoria magistrate Desmond Nair, on a different technicality. He was served notice by the commission on 10 July. Speaking on his behalf, his legal representative Advocate Danie Dorfling SC said Nair had availed himself to undergo questioning, but was only informed in the morning that there are outstanding affidavits from two more witnesses that implicate him in relation to the Bosasa evidence. For this reason, Nair has to consider the contents of these first before submitting a complete response and coming back to appear.

Notshe noted that one of the witnesses meant to submit an affidavit is in self quarantine in the wake of the Covid-19 pandemic, and is thus unable to indicate how soon this can be done, but all efforts to resolve the issue will be made.

A further prejudice to Nair, noted Dorfling, was that he did not receive a notice prior to the appearance of former Bosasa employee Richard le Roux in January last year. Le Roux named Nair as one of several beneficiaries of security equipment installations at their private homes, courtesy of Bosasa. The bill for this was around R200 000, according to Agrizzi.

“We are confronted as we go along, with new and unconfirmed evidence,” said Dorfling, expressing that this places his client in an uncomfortable position.

Notshe has also undertaken, Dorfling added, to make the additional affidavits available to Nair by 31 July, which will be followed by the submission of an affidavit by 14 August, in line with the rules.

Agrizzi’s explosive evidence last year opened a large can of worms as it implicated politicians and senior public officials alike in a much publicised scheme of grand corruption that benefited Bosasa, and was masterminded by the company’s late director, Gavin Watson. Former environmental affairs minister Nomvula Mokonyane appeared on Monday to defend herself against the allegations made against her of monthly bribes from Bosasa in return for her influence on political decisions that favoured the company. Mineral resources minister Gwede Mantashe was also named amongst those expected to appear in relation to Bosasa evidence, but has taken ill and is reportedly hospitalised.

Seeking clarity on how the hearings will proceed on Wednesday, Zondo asked about the availability of Patrick Gillingham, the former CFO of DCS and fellow accused in the fraud trial, along with Mti. Notshe noted that all necessary communication had been made with Gillingham, who does not have legal representation, but no response had been received from him.

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