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Zondo Commission – NPA officials, including Jiba, manoeuvred to get rid of Nxasana

While on the face of it he was warmly welcomed to the position of national director of public prosecutions (NDPP) in October 2013, Mxolisi Nxasana has told the commission of inquiry into state capture that his predecessor, Advocate Nomgqobo Jiba, was waging an active campaign to have him removed.

Jiba had acted in the post since 2011, after the removal of Menzi Simelane, whose appointment was ruled invalid by the Constitutional Court in the same year.

Nxasana was placed in the position on a permanent basis by former president Jacob Zuma in August 2013, following the Simelane ruling, which also attached a deadline for a permanent placement as there had been several acting NDPPs since the inception of the office in 2001.

Then justice minister Jeff Radebe led a welcome ceremony in October at the National Prosecuting Authority (NPA) head office in Pretoria in honour of Nxasana which was attended by staff. During his address, Nxasana pointed out to Radebe that no NDPP had completed the mandatory 10-year term of office in the history of the NPA, and he wanted to assure all present that he would.

What Nxasana did not know, however, was that a campaign to discredit him in Zuma's eyes had been underway for weeks, with some accompanying compromise to the NPA's systems. One of the first signs of Jiba's unwelcoming attitude showed in her disregard for an instruction from Nxasana to prepare a handover document of the status of cases that had been handled within her office.

The first true sign of trouble, however, came when Nxasana received an e-mail from NPA risk specialist Terence Joubert, who was based in Durban. He pointed to allegations of the campaign for his removal. Joubert had been scheduled to fetch Jiba from King Shaka International Airport in Durban during a visit to the city in September. A sudden change in plans at the last minute – when he was called by her secretary and told that a Colonel Mhlongo would instead be fetching her – made Joubert curious.

He viewed it as a serious protocol breach to have the acting head of the NPA travel in this manner. He decided to probe further, and discovered from Col Mhlongo that Jiba wanted Nxasana gone. Mhlongo told Joubert in a recorded conversation, that he had indeed been mandated by Jiba to dig up dirt on Nxasana, including false allegations that he had embezzled the Road Accident Fund, for which his wife worked. Nxasana told the inquiry that Mhlongo had not been aware that his conversation with Joubert was being recorded.

"He [Joubert] was basically telling me that there was a campaign by Advocate Jiba to dig dirt...the whole purpose was to embarrass me so that the president will then remove me as the NDPP and she would then stand a chance of being considered to either continue to act or to be appointed permanently."

Joubert claimed in his e-mail that then NPA head in KwaZulu-Natal, Moipone Noko, had received vehicles from the office of the provincial police commissioner Mmamonye Ngobeni to give to police officials who would

undertake the probe into Nxasana's past. Among the issues that came up is the now public matter of a murder case against Nxasana in 1985, for which he was acquitted.

Joubert also mentioned in a later conversation with Nxasana that the same modus operandi had allegedly been used to discredit Stanley Gumede, a regional magistrate also working in Durban. Gumede's name had also been thrown into the hat of potential candidates for the NDPP position, and when Jiba's campaign started, he abandoned the process when a prosecutor in the region was coaxed into claiming mistreatment under his leadership, a claim that made appearances in the media.

A second NPA official, Queen Mhlongo, who worked for its asset forfeiture unit, told Nxasana that the same Col Mhlongo had been bragging about knowing Nxasana personally, but that he admitted to her too that he was working with Jiba to oust Nxasana. His motivation for assisting Jiba, he told Queen, was that had been promised a promotion by former police crime intelligence head Richard Mdluli, if he did as asked. Mdluli, on suspension at the time, had been in a legal battle for his position and was facing a corruption trial.

Col Mhlongo, according to Queen, knew of the planting of two police officials in Nxasana's home town of Umlazi, whose task was to ask around his childhood home area and dig into his past with the hope of finding embarrassing intelligence that would discredit Nxasana in Zuma's eyes.

Nxasana would learn after taking office that Radebe had allegedly promised Jiba the post of NDPP, and her reaction to Nxasana's appointment was because of this.

Proceedings for the day had to be redirected after Jiba's lawyer, Advocate Vuyani Ngalwana, appeared before commission chairperson Deputy Chief Justice Raymond Zondo to object to the continuation of evidence being led that implicates her, given that she had not been notified.

Earlier, when evidence leader Paul Pretorius began with proceedings, he had notified Zondo that all such notices would be sent to implicated parties after Nxasana completes his oral evidence, owing to time constraints having prevented his team from issuing them.

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