



9 October 2020

Zondo commission - Zondo grants summons forcing Zuma to appear

Deputy Chief Justice Raymond Zondo has granted permission for the secretary of the commission of inquiry into state capture – which he chairs – to issue a summons for former president Jacob Zuma to appear from 16 to 20 November 2020.

The commission's legal team made an application before Zondo on Friday, citing his uncooperativeness towards the commission, in which 34 witnesses have implicated him to date.

"Having read the affidavits placed before me, and having listened to submissions made by counsel representing the commission's legal team, I am satisfied that this is a matter in which I should grant the application," said Zondo, reading out his order.

"I'm satisfied that a proper case has been made out for an order authorising that the commission's secretary should sign and issue a summons against Mr Jacob Gedleyihlekisa Zuma, former president of the Republic of South Africa, to appear before the commission at 10 o'clock on 16 to 20 November 2020 in this venue on each one of those days."

Zuma's legal team, which recently issued a letter to Zondo to recuse himself from the commission, did not show up for Friday's proceedings. In the letter, Zuma's lawyers stated that this is the only condition under which their client will make an appearance.

"President Zuma's conclusion that the chairperson is no longer capable of exercising an independent and impartial mind is fortified by what he views as unwarranted public statements by the chairperson as the said media briefing," the letter reads.

Zuma last appeared before the commission in July last year to answer several "clarity-seeking questions" arising from the evidence of several witnesses who had implicated him in varying contexts, largely stemming from his relationship with the Guptas. In recent evidence on the events in 2015 at Eskom that led to the suspension of four of its executives, said Zondo, Zuma was mentioned by two witnesses – former Eskom chairperson Zola Tsotsi and consultant Nick Linnell – as having been present in a meeting that decided the suspensions. He was asked to provide a version in response to this evidence, and has not done so.

Furthermore, several other attempts by the commission to reach out to Zuma have not been successful, despite an undertaking in some instances, from his legal team, that he will cooperate. Noting the last application by Zuma's lawyers to halt a summons process in January, Zondo said all indications then were that the commission would be furnished with communication from his legal representatives over his availability, and that his (Zondo) directive for them to provide a progress update were in line with their wishes. "I've had a chance to look at the transcript of that date, and it appears that counsel for Mr Zuma did not have a problem," said Zondo.

He further noted numerous attempts to get Zuma to commit to a date on which he would appear, which proved futile. “When you show courtesy and say ‘come and appear before the commission’ without issuing a summons, you’re criticised, and when you say ‘okay, let’s issue a summons’, then you’re criticised.”

Pretorius defended the summons, saying it was not unique to Zuma. Over 2 500 summonses for either affidavits or other documents have been issued to date, and 99 have been for witnesses to appear. “It’s a necessary mechanism for this commission to do its work.”

Zondo pursued this point: “There can be no doubt that if I form a view that a particular person may have knowledge or does have knowledge of matters that are relevant to what I’m investigating, I must take steps to get that person to come and testify. If I don’t do that, I’d be failing in my duty.”

Some of the terms of reference of the commission, said Zondo, refer specifically to Zuma. These include the allegations that some cabinet posts were known beforehand by members of the Gupta family, and offered to ANC members such as former deputy finance minister Mcebisi Jonas, former MP Vytjie Mentor and Transport Minister Fikile Mbalula.

If Zuma wishes to appear via video link, he may apply to the secretary of the commission for this to be considered, as has been the case with some witnesses. The commission’s secretary is expected to draft the summons immediately.

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