

Media Statement



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TO: ALL MEDIA

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RE: NDPP OPPOSES KING'S CON COURT APPLICATION FOR LEAVE TO APPEAL

Mr King has applied in the Constitutional Court for leave to appeal against the judgment of the Supreme Court of Appeal (SCA) on 8 March 2010, upholding the appeal by the NDPP against a judgment handed down in the High Court on 11 December 2008.

The NPA is opposing the application.

The matter sought to be appealed against is the judgment in a civil application (review) arising out of criminal proceedings instituted by the National Prosecuting Authority (NPA) against Mr King. In the criminal case, Mr King has been indicted on 322 counts including fraud, tax evasion and evasion of exchange control regulations over a period between 1990 and 2004, money-laundering, and racketeering. The crimes of which he is accused involve amounts in excess of R 1 billion.

The application concerns Mr King's claim to an entitlement to be furnished with particulars of documents contained in the privileged portions of the prosecution docket.

Mr King wants a detailed list of all these work papers with a full description of every document and a statement of the basis on which the state denies

him access to it. He says that he is entitled to this on the basis of his right to a fair trial and the right to access to information.

Compliance with the relief sought in the application under appeal would place a very heavy burden on the finances and human resources of an already overburdened prosecuting authority.

Already during October 2007 it was estimated that if required to comply with the relief sought the state would have to spend more than 1 310 hours (188 days or 9.4 months) in going through emails and documents, at a cost of between R720 500 to R1 965 000.

Moreover, any order granting Mr King the relief he sought would create a precedent on which every accused would be entitled to rely. It would accordingly have significant implications for the state. As an indication of these consequences it was pointed out, applying a rough estimate to the 1 844 cases enrolled for trial by the various Specialised Commercial Crime Units during the 2006/7 financial year, that over 35 000 person days would be required each year in order to provide the information required in just those cases, at a cost of approximately R132 860 000. This estimate of course did not take into account the cumulative effect of compliance in the other approximately 800 000 ordinary criminal prosecutions instituted per year. In short, the order which was sought would have enormous implications for the criminal justice system.

Adv Karin Vorster responsible for litigation in the National Prosecuting Authority (NPA), says, "Mr King has not been able to identify any jurisdiction anywhere in the world where such relief has been asked for, let alone granted".

As was found by the SCA, Mr King has palpably failed to justify why his right to a fair trial requires that he be granted this relief.

"It has always been the NPA's contention, and it remains its contention, that there was never any merit in Mr King's application, and that the

application constituted a transparent attempt to delay criminal proceedings and to prevent Mr King from ever having to face the charges brought against him on the merits”, says Adv Menzi Simelane, the National Director of Public Prosecutions (NDPP).

Both the judgments of Harms DP and Nugent JA, (in the SCA) which were concurred in by the other members of the Court, clearly and unambiguously state that Mr King has not made out a case on either the facts or the law entitling him to the relief sought.

ENDS

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