

Media Statement



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TO: ALL MEDIA

DATE: 12 APRIL 2012

RE: NPA WILL NOT APPEAL SCA JUDGMENT

The NPA has studied the SCA judgment and consulted with its legal team regarding the legal issues raised in the judgment handed down by the SCA in Bloemfontein on 20 March 2012.

After considering the legal issues, the NPA has decided that it will not appeal against the judgement to the Constitutional Court and that it will follow the process set out in the judgement.

The SCA had ruled that the Acting NDPP, as first respondent in the appeal proceedings by the Democratic Alliance (DA), should file a reduced record of the proceedings that informed the decision of the then Acting NDPP Adv Mokotedi Mpshe to discontinue prosecution.

This decision was informed by the following factors:

- *The judgment dealt with preliminary issues that had no direct impact on Adv Mpshe's decision and did not deal with the merits of the decision.*
- *The judgment only decided on the issue of DA's locus standi (legal standing) to challenge that decision by way of review.*
- *Pursuing an appeal will result in piecemeal litigation and unnecessary delays as the merits of the review will still have to be determined in the event of the Constitutional Court dismissing the appeal.*
- *Consequently it would not be in the interests of justice to request the Constitutional Court to deal with an appeal against SCA judgment at this stage.*

We wish to emphasise that the decision taken by Adv Mpshe still stands as the court has not yet ruled on its merits. The NPA believes that it was the correct decision and will continue to defend it in court. Once there is a final court ruling on the merits, the NPA will respect the outcome as it always does.

The NPA is currently in the process of preparing the reduced record for filing as required by the SCA judgment.

Issued by:

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For the sake of clarity, the anticipated court process in the North Gauteng High Court is set out below:

1. The NPA will prepare its proposed reduced record of its decision.
2. The NPA will supply the relevant parts of the proposed reduced record to the legal team of Mr Zuma to indicate whether they have an objection to any of the material being disclosed on the grounds that it is privileged. This has been agreed to between the parties and is required by the SCA judgement as some of the material is subject to legal privilege.
3. After that, the NPA will file the record at court.
4. After studying the record, the DA will have an opportunity to supplement the original founding affidavit it filed in this application.
5. The NPA will then file its answering affidavits responding to the issues raised by the DA.
6. The DA will then file replying affidavits responding to the issues raised by the NPA.
7. Thereafter, the matter will be set down for a hearing.