



# Jiba, Mrwebi SCA judgment – no need for panic just yet

If Ramaphosa administration wants to walk its anti-corruption talk, it will ditch Zuma-era appeal standing in way of court-ordered disciplinary process



NPA LINE-UP: Suspended NDPP Nomgcobo Jiba, the current NPA boss Shaun Abrahams and specialised commercial crimes head Lawrence Mrwebi

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The ruling this week by the Supreme Court of Appeals that overturned a High Court decision striking two Zuma-loyalists and NPA honchos off the roll of advocates may have been entirely predictable – but it is not a train smash.

Careful research by Daily Maverick investigative reporter Marianne Thamm shows that two of the three judges who ruled in favour of reinstating the Deputy National Director of Public Prosecutions Nomgcobo Jiba, and NPA specialised commercial crimes head, Lawrence Mrwebi, to the roll of advocates have more than just a passing connection to former President Jacob Zuma.

But there are a few simple facts to note with regard to Tuesday's SCA ruling.

So far seven judges have considered the matter of the fitness of the two senior prosecutors for the onerous role of advocate of the High Court.

Four regard the tiresome twosome as dishonest and incompetent while three, the majority in the SCA, feel dishonesty has not been proved but that both might be lacking in competence to do the jobs into which they were propelled as deployed cadres of the Zuma patronage machine, as it then was.

(As a bonus, Zuma pardoned Jiba's spouse, Booker Nhantsi, who was successfully prosecuted by Gerrie Nel for stealing trust funds from his clients). An inquiry into their competence is accordingly the next order of business, not a return to work.

If the Ramaphosa administration is prepared to walk the walk of its anti-corruption talk, it will abandon the Zuma-era appeal that now stands in the way of getting on with the necessary and court-ordered disciplinary proceedings.

The spectre of inappropriate and illegal cadre deployment is at the heart of the entire debacle. Former president Jacob Zuma always made appointments with an eye to pre-

serving the interests of his friends, family and above all himself.

The upper echelons of the criminal justice administration have suffered accordingly. Zuma's first choice of national commissioner of police, Bheki Cele was dismissed following an investigation of his incompetence and dishonesty.

Of his second choice, Riah Phiyega of Marikana mendacity infamy, the less said the better. His first choice of national director of public prosecutions, Menzi Simelane, was held to be irrational because he was caught lying while under oath and was set aside by the courts.

When Zuma's second choice, Mxolisi Nxasana, grew a pair and indicated his willingness to prosecute Zuma and anyone else without fear or favour (which is what the constitution requires of him) he was dis-



CLEAN RECORD: President Cyril Ramaphosa reportedly wants Glynnis Breytenbach as NPA boss

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missed in a move that was both invalid and corrupt, costing the taxpayer the full undiscounted earnings of Nxasana for the balance of his 10-year contract after only 22 months in office.

His replacement, Shaun Abrahams, aptly nicknamed "the sheep", clings tenaciously but precariously to office.

His main claim to fame?

Pressing spurious charges against then Finance Minister Pravin Gordhan which he was obliged to ignominiously withdraw once they had served their ANC factional infighting purpose.

It may not be necessary to appeal July 10's ruling, though. Freedom Under Law already has a court order, which has been held in abeyance pending the SCA's findings now handed down.

The order requires the suspension of Jiba and the disciplining of both Jiba and Mrwebi. It must now kick in, which means that she at the very least cannot return to her post at the NPA, triumphalist announcements from that quarter notwithstanding.

When Ramaphosa was still in vogue there was talk of cleaning up the leadership of the NPA.

Talk is cheap, action takes effort.

Jacques Pauw has reported that President Cyril Ramaphosa wants to appoint the DA shadow minister of justice, Glynnis Breytenbach, as his first choice national director of public prosecutions, a post currently, but tenuously, occupied by "the sheep".

No one has denied or debunked the report.

As Breytenbach and Jiba fight like cat and dog on any topic under the sun, in particular the fate of apartheid-era policeman Richard Mdluli, former police crime intelligence boss, avowed Zuma henchman and a man unlucky in love, there is clearly insufficient room for both of them at the headquarters of the NPA.

Indeed, it is doubtful that Breytenbach would even consider the post if Jiba is one of her deputies.

Ramaphosa's choice of Breytenbach would be an inspired one given her proven track record in the criminal justice administration.

It is accordingly indicated that the disciplinary steps against Jiba be moved to the front of the stove.

As even the three judges unwilling to strike her off the roll of advocates have raised questions about her competence, it would appear that a finding of lack of competence for her post will bring a swift end to Jiba's high-flying career as a top prosecutor, thereby removing an obstacle to Breytenbach's appointment.

The only other major obstacle is the termination of the services of Abrahams. This outcome has already been ordered by the High Court.

Only an appeal has stalled its execution. That appeal was argued four-and-a-half months ago. The nine justices seized with the matter are doubtless acutely aware that justice delayed is justice denied. The complexity and gravity of the matter fully justifies a delay beyond the prescribed norm of three months.

There is no need for panic, yet.

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