

Top South African police officials targeted in ANC faction fight

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On March 13, Robert McBride, head of the Independent Police Investigative Directorate (IPID), sought an urgent interdict to prevent his suspension by Police Minister Nathi Nhleko in an ongoing faction fight in the ruling African National Congress (ANC). The minister had two days before notified McBride of his intention to place him on "cautionary suspension."

The minister's counsel, William Mokhari SC, argued in the High Court that McBride was litigating over something that had not even happened yet. McBride's counsel, Steven Budlender SC, said that the process to suspend his client was already in progress and unlawful. The fact that the minister required McBride to go "cap in hand" to him to justify why he should not be suspended was harmful, he said. Even if the minister ended up not suspending him, Budlender held, it was harmful that McBride should be reminded that he is "beholden" to the minister for his job.

McBride did not get the verdict he wanted. "The facts do not support the relief sought, nor the applicable legal considerations. It is accordingly struck off the roll," Judge Hans Fabricius ruled in a judgment in the Pretoria High Court on Wednesday.

McBride's interdict application came on the heels of the suspension of Lt. Gen. Anwa Dramat, the national head of the Hawks, an elite crime-fighting unit, and that of Hawks' Gauteng head, Shadrack Sibiyi. Both suspensions--on the grounds that the two were implicated in the illegal rendition of four Zimbabwean nationals in 2010--were set aside as unlawful by the courts.

The minister now wants to punish McBride as the bureaucrat with ultimate responsibility for a report that cleared Dramat and Sibiyi of wrongdoing. This followed an earlier IPID report recommending that the National Prosecuting Authority (NPA) pursue legal

action against the two.

In an interview with TV station eNCA, IPID spokesman Moses Dlamini said only the latter report has legal standing. "The other reports that have been leaked to the media are, in fact, progress reports that were issued to prosecutors who were advising on the investigation," he said.

On the same day as McBride's court application, the police ministry appeared to quash rumours of Dramat's resignation. Musa Zondi, the minister's spokesman, said, "In a letter in December, [Dramat] indicated that he would want a meeting [with Nhleko] to discuss his possible resignation." He added that Dramat's lawyers and the minister "are still discussing the matter."

Dramat was suspended on December 23 last year. On January 23, Judge Bill Prinsloo ordered in the Pretoria High Court that Dramat be allowed to resume work. The judge reaffirmed this order on February 6, irrespective, he stressed, of any other appeal that might be brought. He ruled Nhleko's appointment of Maj. Gen. Berning Ntlemeza as acting national Hawks head unlawful and invalid.

Opposition Democratic Alliance (DA) MP and Shadow Police Minister Diane Kohler Barnard said the DA believed Dramat's suspension was linked to the ANC's efforts to clear President Jacob Zuma of any culpability for unlawful government spending on construction at his private compound at Nkandla, in KwaZulu-Natal. "The suspension of Gen. Dramat came the day after he focused on the Nkandla files," she said. "[National Police Commissioner Riah Phiyega] has demanded that Gen Dramat hand over the files..."

The *Mail & Guardian* reported: "Kohler Barnard said she had heard allegations that Phiyega had asked for files on a number of other high-profile investigations, including one into alleged fraud involving Northern

Cape ANC Chairperson John Block, and another into alleged corruption between members of the provincial cabinet and businessperson Toshen Panday in KwaZulu-Natal.”

Also on March 13, Director of Public Prosecutions Mxolisi Nxasana announced the reinstatement of charges against the former head of the police crime intelligence unit, Richard Mdluli, and his junior, Col. Heine Barnard. The two have reportedly been informed that they are to appear in the Pretoria Commercial Crimes Court on April 1 to face initial charges of fraud, corruption and money laundering.

The charges, withdrawn in December 2011 with no reason given at the time, relate to Mdluli and Barnard's alleged misuse of a crime intelligence fund. According to reports about the charge sheet on Netwerk24, the fraud totaled R1.28 million (\$102,570).

Last June, Nxasana said in a letter to rights group Freedom Under Law, “The state will not proceed with the murder and attempted murder charges [against Mdluli] at this stage due to a lack of evidence.”

In an inquest finalised in November 2012 at the Boksburg Magistrates' Court, Mdluli was implicated in the murder of Oupa Ramogibe. According to *City Press*, “Ramogibe's family testified at the inquest about the love triangle Oupa had apparently become part of because of his involvement with a woman named Tshidi Buthelezi, who was at one stage Mdluli's lover.

“Buthelezi and Ramogibe subsequently ran away to be married, terrified of Mdluli.”

In response, he launched a vindictive campaign against people linked to the couple: “[W]ith the help of other police officers, [Mdluli] had allegedly threatened, kidnapped and assaulted [their] friends and family in an attempt to find out where Buthelezi was.”

Ramogibe was shot dead on February 17, 1999. Mdluli handed himself over to the Boksburg Magistrates' Court on March 31 of that year. He and three others were charged with intimidation, three counts of kidnapping, three counts of assault with intent to do grievous bodily harm, attempted murder and conspiracy to commit murder, while Mdluli faced an additional charge of obstructing the ends of justice.

While McBride and Dramat are currently out of favour with the clique surrounding Zuma, Mdluli was briefly reinstated as crime intelligence boss when both sets of charges against him were dropped. Following an

outcry, he was moved in May 2010 by then-Police Minister Nathi Mthethwa to the office of the deputy national police commissioner for operations, Fannie Masemola. Mdluli fought his subsequent suspension from that job, but the suspension was upheld when the inquest revealed new information about the Ramogibe killing.

ANC Secretary-General Gwede Mantashe indicated he did not understand what the fuss over Mdluli, who hired at least seven relatives in crime intelligence, was about. “Why should the case of a civil servant who is in trouble with his department become a national matter?” he demanded. Mantashe added, “Civil servants will run into court from time to time. It's not a train smash.”



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