

PATHETIC, REHASHED, TRUMPED UP CHARGES

Date: Friday, 22 October 2021

I find the sequence of events that now lead to these stake re-dished up charges being served on me today quiet outrageous. There are no coincidences in life, and certainly not in politics.

After the ANC failed to charge me within the required 30 days, after I was temporarily suspended, and my temporary suspension therefore lapsed, I am now suddenly today (at 06:57 in the morning nogal 🤔) again charged for comments that I am alleged to have made at the Nkandla Residence of President Jacob Zuma, quiet some time ago, over the weekend of the 2nd to the 4th of July.

Suddenly this follows after my attorney, Eric Mabuza, yesterday wrote a letter to the ANC starting the process of filing for the ANC to be declared insolvent, and to be sequestered. This is vindictiveness, and tit-for-tat, of the worst kind!

So now I am against the "rule of law"?...the ANC was also against the "rule of law". Law cannot rule if it is perceived and experienced to be unjust!

This is a pathetic political spectacle, these are just airborne bubble charges, meant for damage control. I will most certainly not be phased by hot air. The true revolutionary character of the ANC must be defended.

The ANC still talks about the national democratic REVOLUTION. Can a REVOLUTION take place within the rule of a compromised judiciary, and the unjust application of the law?

After my temporary suspension lapsed, because no charges were able to be brought against me, a member of the legal team that respresent me was approached by a senior NEC member of the ANC, asking that I should "drop" the criminal charges comrade McDonald Mathabe and I have laid against the National Office Bearers and the ANC, as 'reciprocation' for my membership having been reinstated.

I responded that I find that outrageous! I will not be bought off, and bribed. I laid those criminal charges because I truly believe serious crimes of fraud and theft have been committed by senior leaders and managers of the ANC. This is mafia-like behavior, trying to buy me off. Behavior that is alien and most unbecoming for the ANC that I know and love.

Now again, with these rehashed charges, there is an effort to intimidate and silence me. They will most certainly not succeed. I will go to the National Disciplinary hearing, no matter how much it is resembling an inquisition, and I will defend myself to the hilt. I will not give an inch. I will stand my ground!

AYESABA AMAGWALA! 🤔

A LUTA CONTINUA! 🤔

CARL NIEHAUS

For further information Carl Niehaus can be contacted on: 081 881 9408

**AFRICAN NATIONAL CONGRESS
NATIONAL DISCIPLINARY COMMITTEE**

Case No: 02/2021

In the matter of:

AFRICAN NATIONAL CONGRESS

Complainant

and

CARL NIEHAUS

Charged Member

CHARGE SHEET

CARL NIEHAUS

a member of the African National Congress (ANC)

You are informed:-

THAT when you voluntarily joined and was accepted as a member of the ANC, a voluntary political organization, you made a solemn declaration, *inter alia*, to abide by the aims and objectives of the ANC, other duly adopted policy positions, respect the Organisation and structures, work as a loyal member of the Organisation, defend the unity and integrity of the Organisation and combat any tendency towards disruption and factionalism as set out in Rule 4.16 of the ANC Constitution;

THAT in terms of Rule 5 of the ANC Constitution you had the duty, *inter alia*, to take all necessary steps to understand and carry out the aims, policies and programmes of the ANC, combat propaganda detrimental to the interest of the ANC and defend the policies aims and programme of the ANC;

THAT Rule 25.2 of the Constitution of the African National Congress (ANC) places an obligation on all members, including you, to familiarize yourself

with the contents of the Constitution, Standing Orders, Rules, Regulations, Resolutions and policies adopted or made in terms of this Constitution;

THAT Rule 25.3 of the Constitution of the ANC states that any member, office bearer or public representative who fails, refuses and/or neglects to abide by the provisions of the Constitution of the ANC, its Standing Orders, Rules, Regulations, Resolutions and policies adopted or made in terms of the Constitution shall be liable to be disciplined in terms of this Constitution;

THAT Rule 25.4 of the ANC Constitution states that the ANC shall have jurisdiction to discipline any member, office bearer or public representative for committing any act of misconduct as contained in Rule 25.17 of this Constitution as a member of the ANC;

THAT the ANC, whilst encouraging the freedom of political debate within the organisation, arrogates to itself in Rule 25 of its Constitution the right to manage organizational discipline by regulating the relationship between itself and its members and to institute disciplinary action against any member who exceeds the bounds of legitimate political debate in contravention of the policies and resolutions of the organisation and in contravention of the code of conduct set out in Rule 25.17 of its Constitution.

The NEC, acting in terms of Rule 25.9 of the ANC Constitution, is satisfied that the institution of disciplinary proceedings against you is warranted in respect of your misconduct in breach of the code of conduct referred to in Rule 25.17 and hereby exercises its right to institute disciplinary proceedings against you and refer the matter to the National Disciplinary Committee (NDC) of the ANC for adjudication.

The Deputy Secretary General, acting in terms of Rule 25.9 of the ANC Constitution, in her capacity as an office bearer of the Officials, NEC and NWC, is satisfied that the institution of disciplinary proceedings against you is warranted in respect of your misconduct in breach of the code of conduct referred to in Rule 25.17, more specifically for your utterances made on 29 June and 7, 8 and 9 July 2021, detailed below, and hereby exercises her

right to institute disciplinary proceedings against you and refer the matter to the National Disciplinary Committee (NDC) of the ANC for adjudication.

Consequently, you are charged with having committed the following transgressions:

COUNT 1

That you are guilty of contravening Rules 25.17.5 read with 25.17.3 of the ANC Constitution

IN THAT:

On or about 2nd July 2021 and at or near the home of former President, comrade Jacob Zuma, at Nkandla, KwaZulu Natal, you organised, alternatively participated in a briefing to the media, which was broadcast live on national television, and said or uttered words to the effect, *inter alia*:-

This is the most tragic week in the history of South Africa when President Zuma is humiliated once again. The ruling of the Constitutional Court is a travesty of justice. For 22 years President Zuma was pursued by the enemies of the people. President Zuma's legal problems was caused by political factionalism and by shenanigans between state authorities especially the National Prosecuting Authority and some politicians within the ANC.

The "arms deal" case was manipulated by the National Prosecuting Authority in conjunction with politicians who want to destroy President Zuma's political career.

The flimsy report of the State Capture report by the Public Protector was used to force President Zuma to eventually announce the State Capture Commission. President Zuma did not want to do so of his own volition. The then Public Protector, advocate Thuli Madonsela, said on national television that the Zondo Commission was set up to target President Zuma.



COUNT 2

That you are guilty of contravening Rule 25.17.5 read with Rule 25.17.3 of the ANC Constitution

IN THAT

On 4 July 2021 and at or near the home of former President Zuma at Nkandla KwaZulu Natal, you uttered the following words on national television:-

“No one can let Msholozzi go to jail, Never.”

This utterance was made after the Constitutional Court found comrade Zuma guilty of contempt of court on 29 June 2021 and sentenced him to an unsuspended term of imprisonment of 15 months.

Furthermore, your utterance was made with knowledge and in defiance of the NEC position i.e. that the ANC as a political organization must maintain and respect the separation between party and state and consequently could not interfere with the judicial arm of the state and the rule of law.

Your utterance, which was devoid of truth and patently false, has brought the ANC into disrepute in contravention of Rule 25.17.5 of the ANC Constitution.

COUNT 3

That you are guilty of contravening Rule 25.17.5 of the ANC Constitution

IN THAT

On 29 June 2021 and in an interview with the SABC which was broadcast live on television you made the following statement or uttered words to the effect that:-

“The whole Zondo Commission was set up to target President Zuma. Our courts have clearly been captured. We are living under a dictatorship of the judiciary and the courts have become a tool for factional political battles to target certain politicians while others are let off the hook.”

“The imposition of this Level 4 COVID 19 regulations just two days ago had a direct intention to try and curb the outrage and the protest that was going to happen because of this judgement (a reference to the Constitutional Court judgment sentencing the former President to 15 months imprisonment). We are very concerned that we are being brought into a situation where there is an intent to muzzle legitimate protest by making use of COVID 19 regulations.”

The said utterances were made recklessly without reference to the truth and the position of the ANC, are patently false and have brought the ANC into disrepute in contravention of Rule 25.17.5 of the ANC Constitution.

The position of the ANC on the Commission on State Capture was laid down in the NEC Bulletin of May 2021, and reads as follows,

“The ANC reaffirms its support for the work of the Commission and its role in determining the nature and extent of state capture, and of holding those responsible to account.

While the ANC has come under great scrutiny at the Commission, the NEC believes that this is a necessary part of the national effort to end state capture in all its forms and ensure that it can never happen again.”

The position of the ANC on the judiciary is found in the 54th National Conference Resolutions, specifically the Resolution that is entitled, “ANC Credibility and Integrity: Dealing with Corruption” and reads as follows,

“The ANC should respect the Constitution of the country and the rule of law and ensure that we get the best possible legal advice in government to ensure our compliance wherever possible, rather than waiting to defend those who stray.”

The NEC also, on Monday 29th March 2021, issued the following statement after its meeting, namely that,

"While no arm of the state is above criticism, the ANC distances itself from attacks on the judiciary that seek to undermine its legitimacy and the decisions that it takes."

Alternative to COUNT 3

That, with your false news or misinformation, you are guilty of contravening Rule 25.17.17 in that by your aforesaid conduct you are guilty of prejudicing the integrity and repute of the ANC by creating divisions within its ranks and membership.

COUNT 4

That you are guilty of contravening Rule 25.17.5 of the ANC Constitution

IN THAT

On or about 7 July 2021 at or near the home of former President Zuma at Nkandla, Kwa Zulu Natal, you uttered words to the effect that you and others will form a human chain and prevent the arrest of the former President and subsequent committal to a correction service facility.

These words were uttered after you had acknowledged that you were temporarily suspended by the ANC a few hours earlier.

Your conduct is in conflict with ANC resolutions where the NEC publicly expressed its unequivocal support for the rule of law, the judiciary and the judgment of the Constitutional Court issued on 29 June 2021 and consequently brought the ANC into disrepute in contravention of Rule 25.17.5 of the ANC Constitution.

COUNT 5

That you are guilty of contravening Rules 25.17.5 read with 25.17. 3 of the ANC Constitution

IN THAT

On or about 8 July 2021 and outside the Estcourt Correctional Facility where former President Zuma was committed to serve his sentence and whilst you were temporarily suspended by the ANC, you said or uttered words to the effect in an interview with a journalist of the SA Broadcasting Corporation, which was broadcast live, that you were speaking personally and that -

An injustice was perpetrated on President Zuma. The law was being weaponized as an instrument of factional politics.

It is alleged that the import of your utterance is that the South African judiciary is not independent and that the judicial arm performs its responsibilities in accordance with the dictates of ANC politicians.

Your conduct is in conflict with ANC resolutions in which the NEC publicly expressed its unequivocal support for the rule of law, the judiciary and the judgment of the Constitutional Court issued on 29 June 2021 and consequently brought the ANC into disrepute in contravention of Rule 25.17.5 of the ANC Constitution.

Your conduct also constitutes a failure, refusal or neglect to comply with an ANC resolution in contravention of Rule 25.17.3 of the ANC Constitution.

COUNT 6

That you are guilty of contravening Rule 25.17.5 of the ANC Constitution

IN THAT

On or about 9 July 2021 and after you were suspended by the ANC, you issued a statement or uttered words to the effect:-

“Good morning fellow comrades and all South Africans who are outraged by the continuing, unjust and vindictive imprisonment of Jacob Zuma. It is a disgrace for the ANC to imprison Jacob Zuma and we should not allow ourselves to be silenced.”

A video of the said utterances is attached to the website of Cape Talk 567AM.

It is alleged that the innuendo of your utterance is to exhort all South Africans to be outraged and to regard the conduct of the ANC to be disgraceful when the NEC adopted a position that the judgment of the Constitutional Court handed down on 29 June 2021 must be respected.

Your conduct is in conflict with ANC resolutions in which the NEC publicly expressed its unequivocal support for the rule of law, the judiciary and the judgment of the Constitutional Court issued on 29 June 2021 and consequently brought the ANC into disrepute in contravention of Rule 25.17.5 of the ANC Constitution.

Your conduct also constitutes a failure, refusal or neglect to comply with an ANC resolution in contravention of Rule 25.17.3 of the ANC Constitution.

In terms of Rule 25 of the ANC Constitution you are required to attend a disciplinary hearing to be conducted by the NDC as follows:-

Date: 21 and 22 November, 2021

Venue: Zoom Virtual Platform

Time: 10H00

You have the right to be represented by a member of the ANC in good standing and who has been a member in good standing for a minimum period of 3 months before the date of commencement of the disciplinary hearing;

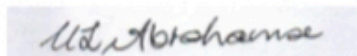
You may call witnesses to make your defence and in mitigation of sanction and to produce supporting documents and to cross examine witnesses called by the ANC for the prosecution of the charges.

The disciplinary proceedings will be a one-stage inquiry and you will also be required to lead evidence in mitigation of sanction if you so desire.

Your attention is drawn to Rule 25 of the ANC Constitution, in particular Rules 25.17.3 and 25.17.5 in terms of which you have been charged, appendix 3 of the ANC Constitution and provisions of Rule 25 relating to representation and pre-hearing conferences.

Should you not appear at the venue on the date and time determined for the hearing (or not avail yourself if the hearing will be conducted virtually), or remain in attendance when required to do so by the Chairperson of the National Disciplinary Committee, the Chairperson, if satisfied that you were timeously notified of such venue, date and time or details of virtual hearing, may order that the proceedings continue in your absence.

Signed at ROODEPOORT this 21st(Twenty-First) Day of October, 2021.



URIEL ABRAHAMSE
CHIEF NATIONAL PRESENTER
AFRICAN NATIONAL CONGRESS