

Jiba, Mrwebi still to clear their names

This is despite the Constitutional Court quashing a bid to debar the former NPA officials

Sarah Smit

Axed National Prosecuting Authority (NPA) officials Nomgcobo Jiba and Lawrence Mrwebi may have been successful in fighting an effort to have their names struck off the roll of advocates, but they still have a battle ahead of them if they want to rehabilitate their professional reputations.

The Constitutional Court on Thursday dismissed an application by the General Council of the Bar of South Africa for leave to appeal a 2018 Supreme Court of Appeal decision to overturn an order which effectively banned Jiba and Mrwebi from practising as advocates.

In a unanimous decision, the court found that the bar council failed to establish that the matter of determining Jiba and Mrwebi's fitness as advocates falls within its jurisdiction.

Thus the appeal "cannot be entertained" by the court. This means their names stay on the roll, and they can stay as advocates.

The judgment comes as the two wait to hear if Parliament will seal their fate and ratify President Cyril Ramaphosa's decision to fire them. The axe fell on them in April, based on the recommendations of the inquiry into their fitness to hold office, chaired by retired Constitutional Court judge Yvonne Mokgoro.

The Mokgoro inquiry found that Jiba and Mrwebi's decisions — taken in their capacities as acting national director of public prosecutions and special director of public prosecutions, respectively — brought the NPA into disrepute.

In an effort that could have seen Jiba and Mrwebi exit the NPA much earlier, the bar council approached the high court in 2015 to strike them from the roll of advocates. Lawyers are struck from the roll of advo-

catates when they cease to be "fit and proper" for the job.

The bar council's case dealt with several decisions by Jiba and Mrwebi: the decision to drop charges against former crime intelligence head Richard Mdluli; the "spy tapes" matter relating to dropping corruption charges against former president Jacob Zuma; and the decision to authorise racketeering charges against former KwaZulu-Natal Hawks head Johan Booysen in relation to the so-called "Cato Manor death squad" case.

The bar council was successful, and the pair were placed on special leave, pending the outcome of their Supreme Court of Appeal application to overturn the high court's decision.

"What was supposed to be the end is actually the beginning of another possibly three-year journey"



'Not fit for office': Nomgcobo Jiba (above) and Lawrence Mrwebi were fired by the president following an inquiry outcome. Photo: Oupa Nkosi

On Jiba and Mrwebi's failure to prosecute Mdluli, high court Judge Francis Legodi delivered a stinging rebuke: "It is this kind of behaviour that diminishes the image of our country and its institutions which are meant to be impartial, independent and transparent in the exercise of their legislative public powers."

But, in a split judgment, the Supreme Court of Appeal overturned the lower court's ruling.

Addressing the media after Thursday's judgment, Jiba's counsel, Zola Majavu, said his client's joy at the outcomes is paired with sadness at the prospect of having to face yet another legal battle to try to rehabilitate her professional reputation. "We are pleased with the Constitutional Court's outcome, but my client is equally sad. Because what was supposed to be the end is actually the beginning of another possibly three-

year journey." Majavu surmised that "realistically" Parliament will agree with Ramaphosa's decision to fire Jiba. Once that happens, he said Jiba's legal team would face the possibility of taking the Mokgoro report on review. "It is something that we couldn't have done before the court had pronounced. Now that the court has pronounced, we will then polish up the version of the review application that we had already started preparing a few weeks ago."

Majavu also suggested that the battle that lies ahead for Jiba is made more daunting by the tide of public opinion against her. "We know that she doesn't have the media shouting praises in her corner. And she has kept a dignified silence all along."

He added: "If you judge from where we started in 2015 to where we are now, you can realistically accept it is not going to be over any time soon."

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