

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION
PIETERMARITZBURG

Case No: 8060/22 P

In the matter between:

ZINHLE FORTUNATE MKHIZE

KHANYISILE MVELASE

BUSISIWE NOSIPHO BIYELA

SIBONGILE MAHLABA

NONKULULEKO VANESSA HLATSHWAYO

NONKULULEKO GOODNESS MCHUNU

SLINDILE MKHIZE

SIBONGILE SITHOLE

MAKHOSAZANE PENELOPE MABIZELA

NTOMBIFUTHI SINENTEMBA KHUMALO

LUNGILE HLONGWANE



First Applicant

Second Applicant

Third Applicant

Fourth Applicant

Fifth Applicant

Sixth Applicant

Seventh Applicant

Eighth Applicant

Ninth Applicant

Tenth Applicant

Eleventh Applicant

and

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES First Respondent

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS Second Respondent

THE PROVINCIAL DIRECTOR OF PUBLIC PROSECUTIONS: KWAZULU-NATAL Third Respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA Fourth Respondent

MAGISTRATE GOOSEN N.O. Fifth Respondent

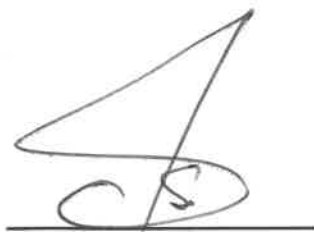
RULE 16A

PLEASE TAKE NOTICE THAT the applicants hereby apply to this Court for an order in the following terms –

- 1 It is declared that section 112(2) of the Criminal Procedure Act 51 of 1977 is unconstitutional and invalid.
- 2 The applicants' convictions and sentences, handed down under case number SH187/2018, in the Estcourt Regional Court, are reviewed and set aside.

TAKE NOTICE FURTHER THAT in pursuing this relief, the applicants intend to raise the following constitutional issues -

- 3 Whether the absence from section 112(2) of any explicit requirement that the Court must be satisfied that an accused's statement is made (a) freely and voluntarily (b) in the accused's sound and sober senses (c) in the absence of undue influence renders that section constitutionally invalid.
- 4 Whether section 112 (2) can be interpreted to impose the requirements that accused's statement is made (a) freely and voluntarily (b) in the accused's sound and sober senses and (c) in the absence of undue influence.
- 5 Whether the circumstances under which the applicants pleaded guilty led to an invalid waiver their fair trial rights.



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