



THE ELECTORAL COURT OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE ELECTORAL COURT

From: The Electoral Court

Date: 6 November 2024

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Electoral Court

De Beer v Electoral Commission of South Africa and Others (0028/24EC) [2024] ZAEC 29 (6 November 2024)

Today the Electoral Court (EC) held that the complaint by Mr de Beer (the applicant) had no merit, and therefore warranted no further investigation.

The applicant lodged a complaint against the commissioners (second to sixth respondents) of the first respondent, the Electoral Commission of South Africa (the Commission). He requested an investigation in terms of s 20(7) of the Electoral Commission Act 51 of 1996, read with rule 8 of the Rules Regulating the Conduct of the Proceedings of the Electoral Court. The applicant's complaints related to applications for intervention and rescission, respectively, which were lodged with and subsequently dismissed by the Constitutional Court, in the matter of *Electoral Commission of South Africa v Umkhonto Wesizwe Political Party and Others (the MK matter)*. *The MK matter* dealt with Mr Zuma's eligibility to be a candidate for the National Assembly and was heard on 10 May 2024. The applicant's intervention application was dismissed on 7 May 2024 and the application to rescind the order dismissing his intervention application, was dismissed on 16 May 2024.

The applicant contended that there was an 'ongoing international process' before the African Commission of Human and Peoples' Rights (the African Commission), and that the commissioners were aware of this process. The applicant complained that the commissioners failed to consider the process and failed to disclose its existence to the Constitutional Court, which he submitted was necessary for the Constitutional Court to reach a 'balanced, independent and impartial decision'. The applicant contended further that this intentional concealment of relevant facts by the commissioners was intended to harm Mr Zuma and the Umkhonto Wesizwe Political Party, to deny voters' rights to make an informed choice, and thereby to interfere with the outcome of the elections, resulting in a process that was neither free nor fair.

The EC held that despite requesting clarity from the applicant as to the nature of the complaint, the scope of the complaint remained difficult to distil. The EC found that the only issue relevant to the Commission was whether the commissioners knew and ought to have placed before it the argument before the African Commission, and whether that failure to do so was the result of a lack of integrity. The EC held further that it appeared that the applicant's complaint was grounded on the fact that his African Commission process has not been publicised by the Commission, the media and the courts. As a result, the EC found that particular complaint to have no merit and therefore did not warrant further investigation. It appeared that the applicant's wish for the Commission to give a press statement was founded on the fact that the media has ignored him. The EC held finally that there was no obligation on the Commission or on the individual commissioners to have raised the issue.

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