

# Judge, police rules in favour of *Sunday Times*, Wa Afrika

Judge Nomsa Khumalo of the Pretoria High Court ruled that the NPA had failed to argue that there were grounds for an urgent interdict against the [Sunday Times](#) for wanting to publish "How Zuma got off the hook". Minister of Police Nathi Mthethwa has also conceded that the arrest of *Sunday Times* journalist, [Mzilikazi wa Afrika](#), was wrongful and agreed to pay him R100,000 in damages and to pay the newspaper's legal costs.

## Leaked documentation

"How Zuma got off the hook", a story by an award-winning investigations unit (Stephan Hofstatter, Mzilikazi wa Afrika and Rob Rose) is based on over 300 pages of leaked documentation, which show that top prosecutors were convinced they had a winning case against Jacob Zuma. Despite this, the then acting head of public prosecutions, Mokotedi Mpshe overruled them and dropped the charges in 2009. The judge ruled that the article may be published and awarded costs to the newspaper.

**Sunday Times** The story includes details of secret representations made by Zuma's lawyers to the NPA and a series of internal memorandums in which top prosecutors argue strongly against dropping the charges despite claims that the prosecution was tainted by political interference. Their argument was essentially that political interference should not trump the merits of the case which they believed to be strong enough for a successful prosecution.

The NPA has said it intends bringing a fresh court action against the *Sunday Times* on the grounds that the documents were illegally obtained. This too will reportedly fail because the documents were leaked to the *Sunday Times* and are demonstrably in the public interest.

Instead of trying to keep vital information away from the public, it is said that the NPA would do well to heed the constitution's call for an "open" society and its protection of freedom of expression. Its dogged attempts to protect certain political leaders from public scrutiny are raising serious doubts about its ability to serve the public with the independence and integrity required of a prosecuting authority.

Says *Sunday Times* editor, Ray Hartley: "What is chilling is that if the Protection of Information Bill is passed in its current form, this sort of reporting will become illegal."

## Wrongful arrest

Wa Afrika was arrested just days after the *Sunday Times* published a story exposing then police commissioner, Bheki Cele's, involvement in a dodgy lease deal for new police headquarters in Pretoria.

Cele has subsequently been fired following several investigations which upheld the truthfulness of the story.

Wa Afrika was denied access to legal council for 48 hours. He was transported by police van to Nelspruit without the knowledge of his lawyer and interrogated in the early hours of the morning.

No case was ever brought against Wa Afrika in court and the *Sunday Times* believes that he was the victim of an outrageous act of intimidation by the police.

"This was a full-frontal assault on the freedom to report on corruption and it is comforting that the minister has acknowledged the arrest was wrongful. However, no amount of money can make up for the pain and suffering experienced by Mzilikazi," said Hartley.

## For more:

- Bizcommunity: [Wa Afrika to sue police](#), 8 September 2010
- Times Live: [Cops admit Mzilikazi wa Afrika arrest was wrongful](#), 18 November 2012
- AllAfrica.com: [Wa Afrika - Saps Members Must Face Disciplinary Action](#), 18 November 2012

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