

# Health honcho does duck

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The suspended head of Gauteng Health, who said he would fall on his sword for his role in the Esidimeni tragedy, is now trying his best to avoid testifying at arbitration hearings into the deaths of at least 118 mentally ill patients.



Health ombud, Malegapuru Makgoba. Photo: [ethekwinilivinglegends.com](http://ethekwinilivinglegends.com)

Barney Selebano, who had to be subpoenaed to testify, is trying to wriggle out of it through a High Court bid, saying he might incriminate himself if he testified.

In court papers, Selebano, head of the health department when the deadly move from Life Esidimeni homes to non-governmental organisations happened, says he only played a "limited role".

But he fears he might incriminate himself if he testified before former deputy chief justice Dikgang Moseneke, who is chairing the hearings in which harrowing details of the patients' deaths have been heard.

Selebano says he is the subject of a criminal investigation and the constitution allows him the right to a fair trial and not to be compelled to give "self-incriminating evidence".

A subpoena will force him to answer questions on a witness stand. He says there is no "immunity granted from criminal prosecution for witnesses" called to testify.

Health ombudsman Malegapuru Makgoba's report into the tragedy accused Selebano of being one of three officials whose "fingerprints were peppered throughout the process". In his interview with the ombudsman about the tragedy, Selebano repeatedly said he would "take the sword".

But now Selebano believes he will become the victim of a blame game if he testifies.

"It is plain that the predominant, if not sole purpose of summoning me to the hearing is to question me on my role ... and in doing so to attach blame."

Also, he argues that the hearings before Moseneke are technically not arbitration hearings, but rather a commission of inquiry; thus there is no lawful basis to subpoena him.

Selebano says he faced possible criminal investigation by the Special Investigating Unit and has a police interview lined up on November 21. He feels evidence given could be used against him and violate his right to a fair trial.

A family member of one of the patients who died said he was very upset at the turn of events.

"That's such an insult to the process. It shows someone who is obstinate. People have been wronged here. Evil has been done. And here is someone fighting the course of justice. Let me say something to him - justice will always prevail."

Selebano is one of three senior health officials who have ducked and dived the hearings. Makgoba Manamela, who led the project to move the patients, also objected to the first subpoena and is now set to testify on November 20. Both Selebano and Manamela have been suspended on full pay, earning R1.5m between the two of them since February, according to the DA's provincial health spokesman, Jack Bloom.

The health MEC at the time, Qedani Mahlangu, is in London. State advocate Tebogo Hutamo said the state could not serve a subpoena on Mahlangu because it did not know her residential address in England.

Mahlangu's lawyer, Angelo Christophorou, said: "Our client is not evading responsibility and has at all material times tendered to attend the arbitration."

Moseneke is determined to hear from all three of them.

"Hearings won't end " unless I die," he said recently.

**Source:** *The Times*

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