

15 April 2025

Acting Deputy National Director of Public Prosecutions

Head: National Prosecutions Service

VGM Building

SILVERTON

E-MAIL: smzinyathi@npa.gov.za

Dear Adv Mzinyathi,

REPRESENTATIONS: LONWABO BAM

ACCUSED: BABALO MADIKEZELA AND OSCAR MABUYANE

PARKWEG ROAD CAS 546/03/2021

1. Your 10/2/12/3 – 861/2024 dated 11 March 2025 refers.
2. Mr. Lonwabo Bam, the complainant in the abovementioned matter approached our office for assistance and we now act on his behalf.
3. We acknowledge that our client Mr. Lonwabo Bam had before consultations with us, already directed a comprehensive representation to the National Director of Public Prosecutions seeking a review of the decision of the DPP Eastern Cape not to prosecute Mr Oscar Mabuyane and Mr Babalo Madikezela on the charge of corruption.
4. Mr Bam has instructed Advocates Nel and Vorster of this office to consider private prosecution if the representations are unsuccessful.

June 2024

Address: 58 Union Avenue, Kloofsig, Centurion • **Tel.:** 086 10 200 30
Member Affairs – Email: ledesake@afriforum.co.za • **Directors:** Ms A. Bailey, Mr P.J.W. Buys, Dr H.K. Coetzee, Mr P.L. Dekker, Mr F.J.D. de Klerk, Mr G.R. de Vries, Dr D.J. Hermann, Mr W.G. Human, Mr C.M. Kriel and Dr R. Pretorius. • **Company Secretary:** Mr W.A. Vogel.
Registration number: 2005/042861/08 • **NGO number:** 054 - 590

5. We held consultations with our client, who provided us with the representations referred to *supra* and previous correspondence received from the NPA dated 13 November 2024 and 11 March 2025.

6. In the letter dated 13 November 2024 Adv. De Kock responds as follows:

“I hereby acknowledge receipt of your communication in the above regard,...Kindly be advised that in line with our governing legislation, your representations have been forwarded to the Director of Public Prosecutions Grahamstown (DPP) for further attention and disposal.”

7. In the letter dated 11 March 2025, your good self, informed our client that his representation is being addressed and that a report and the case docket have been requested from the Director of Public Prosecutions Gqeberha in order to satisfy yourself that the DPP has duly considered his representations before any intervention.

8. We were flabbergasted that two letters with an interval of four months between them indicate nothing other than a duplication of the same answer.

9. We submit that these responses do little to appease our client's concerted efforts of having to resort to representations on a matter reported four years ago where senior and executive government officials from the Eastern Cape are accused of serious Corruption.

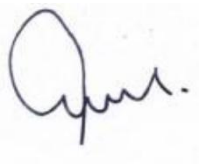
10. Kindly take heed that this is not yet an application for a *nolle prosequi* certificate in terms of the provisions of section 7 of the Criminal Procedure Act 51 of 1977. We do however amplify that we steadfastly hold the opinion there is a compelling case for a prosecution.

11. The evidence in the case docket provides overwhelming evidence in support of our client's complaint of corruption.
12. We do not share the prosecutor's view that the evidence does not justify any criminal prosecution at all, as the evidence does not make for a winnable case and in light of the very logical explanations provided by "Oscar" regarding the allegations preferred against him, the matter should be closed. "Oscar: will have an extremely convincing argument for malicious prosecution if the State were to persist in pursuing the criminal charges against him, similarly so with the allegations against Madikizela and the other suspects.
13. Reminded of George Orwell's quote in *Animal Farm*, "*All animals are equal but some are more equal than others*", we formally re-iterate our client's stance that senior executive government officials are secluded from prosecution just because of their political affiliations.
14. We sincerely hope not, but we cannot avoid concluding that the NPA's failure to take a decision is based more on the "management" of the political implications and consequences of such a decision than a duty to prosecute without fear favour and prejudice.
15. It is quite ironic that the NPA would criticise accused persons for using the Stalingrad defence as a tactic but would itself do anything possible to avoid taking decisions to prosecute where political influences are at play. In doing so, the NPA has regrettably failed to shake off the historical and ever-prevalent criticism that the NPA cannot shake itself free of its shortcomings, and any expectation by law-abiding citizens of relying on the NPA leaves no prospect of turning the tide against corruption and crime.

16. We trust that this matter will receive the attention it deserves and that our client's trepidations that politicians who are justifiably implicated in serious allegations of criminal conduct will not be sheltered from prosecution by prosecutors who fail to act in good faith and without fear, favour or prejudice as lawyers of the people.

17. We anticipate a decision in response to our client's representations.

Yours sincerely,



GERRIE C NEL

HEAD: PRIVATE PROSECUTION UNIT

E-MAIL: onsvervolg@afriforum.co.za