

Director of Public Prosecutions
JOHANNESBURG

13 August 2026

E-MAIL: [REDACTED]

Dear Adv Chauke,

RE: DECISION NOT TO PROSECUTE: FIKILE MBALULA

BOKSBURG NORTH CAS: 187/06/2025

**CHARGES: CRIMINAL DEFAMATION / CRIMEN INIURIA / CONTRAVENTION OF CYBER
CRIMES ACT**

COMPLAINANT: JACO PIETERSE

1. Advocates G Nel and P Vorster's were briefed to act pro bono on behalf of the complainant, Mr. Jaco Pieterse.
2. We welcome your return as Director of Public Prosecutions and accept that the previous professional relationship between our offices will continue. It is relevant to compliment your office with the decision to prosecute Mr Malema on a charge of *crimen iniuria* on similar facts. It is indeed refreshing to approach a DPP who has shown fearless dedication to his task.
3. We were informed in March 2026 that the matter against Mr Mbalula had already been referred to a prosecutor who declined to prosecute on 4 December 2025.
4. We submit that the decision not to prosecute is irrational and either a clear instance of selective prosecution or a lack of insight on prosecution by the Control Prosecutor at Boksburg North Magistrates office. We elaborate hereunder.

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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 C.M. Kriel and Dr R. Pretorius. • **Company Secretary:** Mr W.A. Vogel.
Registration number: 2005/042861/08 • **NGO number:** 054 - 590

5. In terms of the Promotion to Access and Information Act 2 of 2000, we applied for and obtained a copy of the case docket.
6. It was subsequently established that the only evidence contained in the docket is the A1 statement furnished by our client.
7. The prosecutor recorded his/her reasons not to prosecute in the Investigating Diary of the particular case docket (copy attached) and is summarised as follows:
 - 7.1. The name of the complainant is not specifically mentioned or identified by name as the perpetrator.
 - 7.2. The submission by our client that Mr Mbalula was referring to him is considered insufficient.
 - 7.3. Crimen iniuria is a “materially defined crime” and, objectively considered, it cannot be concluded from Mr Mbalula’s spoken words that the unnamed complainant can rely on an impairment of his dignity. His subjective belief is noted but considered insufficient to sustain a successful prosecution.
 - 7.4. The complainant was not intimidated or prevented from doing something and therefore intimidation cannot be proved.
 - 7.5. Due to the general nature of the comments, no specific offence in terms of the Cyber Crimes Act 19 of 2020 could be identified.
8. We submit that not only is the decision irrational but the reasons not to prosecute is an excuse without any attempt to consider circumstantial evidence and the suspect’s publicly available comments about his utterances.

9. Mr Pieterse has opened three criminal cases against three different politicians who in his submission, abused their public profiles to publicly violate his dignity and privacy.
10. It is an undisputed fact that Mr Pieterse was never, and could never have been, a suspect in the alleged rape of the 7-year-old “victim”. The NPA publicly confirmed that no evidence of rape could be found. Put plainly, according to the investigation conducted, the child was never raped.
11. SAPS likewise stated publicly that Mr Pieterse was never a suspect. The Minister of Police, Mr Senzo Mchunu, went so far as to apologise publicly for having erroneously referred to Mr Pieterse as a suspect.
12. Notwithstanding this, Mr Mbalula publicly referred to *“the brutal violation of a seven-year-old child at Bergview College in Matatiele”*, and described the person concerned *“as sick and not a human being”*. He not only convicted Mr Pieterse of rape but identified him with reference to his assistance from Afriforum, *“who shield suspects rather than standing for justice”*.
13. Pieterse was the only principal of Bergview College, the only principal from Matatiele, and the only principal supported by AfriForum against unlawful attacks by politicians and social media detectives alike. Pieterse was the only person who was the subject of the national debate surrounding an incident at that school.
14. We submit that there existed objectively speaking no confusion who Mr Mbalula referred to. The suspect’s utterances were followed up by social media postings confirming that objectively he referred to Mr Pieterse. This is further evidenced by the headline and report published on the Sunday Times website: “Mbalula claims AfriForum 'shielding' principal in alleged rape of pupil”. (<https://www.timeslive.co.za/politics/2025-04-01-mbalula->

[claims-afriforum-shielding-principal-in-alleged-rape-of-pupil/](#)). There can be no ambiguity about who Mr Mbalula was referring to.

15. The suspect himself, through his lawyers and in response to a civil claim for defamation, did not deny making the utterances, but claimed they concerned gender-based violence and crime in general, not the personal identity or conduct of the complainant. The ANC repeated the same in a media statement in support of Mr Mbalula. For the reasons submitted above, this defence is unsustainable when regard is had to the context and time the suspect made the statements.
16. Curiously, the prosecutor formulated this defence without having obtained a warning statement or any version from the suspect when making the decision not to prosecute.
17. The prosecutor's reasons or excuse not to prosecute are unconvincing and a mere attempt to let the matter go away without prosecution or further investigation.
18. The significance of these statements cannot reasonably be considered in isolation. Mr Pieterse is a married family man, a career teacher and a school principal. To publicly associate such a person with the rape or brutal violation of a seven-year-old girl, when he was neither a suspect of implicated by any evidence, constitutes an exceptionally serious attack upon his dignity, reputation and privacy.
19. We have followed both the social media storm surrounding the allegations and the parallel official investigation. We have also noted the profound impact which various uninformed, misleading and defamatory statements made by a political leader, and subsequently disseminated through platforms including SABC, Newzroom Afrika and eNCA have had on Mr Pieterse, his family, and his friends.

20. Mr Pieterse, after consultation with members of this office, made an informed decision not to institute a criminal complaint against the mother of the alleged “victim”. Although she participated in numerous media interviews and made many various statements on her social media platforms which remain publicly accessible, our client’s focus is on those persons who, in his view, exploited the circumstances for their own political or public gain.
21. We fully appreciate that every decision whether to prosecute must be carefully considered and that the discretion to prosecute rests with the NPA. However, we respectfully submit that the reasons furnished for declining to prosecute Mr Mbalula do not withstand scrutiny.
22. In particular, the fact that Mr Pieterse was not expressly named cannot, in the circumstances of this matter, be determinative. The question is not merely whether his name was uttered, but whether the words, viewed in their full context and against the surrounding circumstances, were objectively understood to refer to him. The evidence and surrounding circumstances must be considered in their totality. Every prosecutor must be alive of the value and strength of circumstantial evidence.
23. Similarly, the fact that Mr Pieterse subjectively experienced an impairment of his dignity cannot simply be dismissed. The circumstances are particularly compelling given that he was publicly associated with the alleged rape of a seven-year-old child despite the fact that he had never been a suspect and despite the subsequent confirmation of the NPA that there was no evidence that the child had been raped.
24. We accordingly submit that the evidence disclosed a *prima facie* basis upon which Mr Mbalula should be prosecuted for *crimen iniuria*. It is further submitted that these facts coincide with the matter under reference 10/2/11/1 – 2026/49 the NPA previously determined that Mr Malema should be prosecuted on a charge of *crimen iniuria* in

circumstances involving public statements and the alleged impairment of another person's dignity.

25. We respectfully submit that the case is an uncomplicated matter that demands prosecution, should the NPA be true to its stated principle of acting without fear, favour, or prejudice.

26. In the circumstances, and the reasons set out above, we respectfully request that the decision of 4 December 2025 be reconsidered and that Mr Mbalula be prosecuted on a charge of *crimen iniuria*.

27. We await your decision with anticipation and trust that the matter will receive the careful consideration it warrants.

Yours sincerely



ADV. GERRIE C NEL

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