

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 36/00

In the matter between:

GARRETH ANVER PRINCE

Appellant

versus

**THE PRESIDENT OF THE LAW SOCIETY
OF THE CAPE OF GOOD HOPE**

First Respondent

**THE LAW SOCIETY OF THE CAPE OF
GOOD HOPE**

Second Respondent

**THE SECRETARY OF THE LAW SOCIETY
OF THE CAPE OF GOOD HOPE**

Third Respondent

THE MINISTER OF JUSTICE

Fourth Respondent

**THE ATTORNEY-GENERAL OF THE
CAPE OF GOOD HOPE**

Fifth Respondent

AFFIDAVIT

I, the undersigned **NOEL MELVILLE** do hereby solemnly affirm and say:

1. The facts herein contained are within my personal knowledge and belief, unless it appears otherwise from the context, and are both true and correct.

2. I am an adult male residing at Judah Square, Knysa. I have been a practising Rastafari for over 16 years and a practising a member of the Nyahbinghi House of Rastafari for the past 5 years. I am known as Ras Maxi.

3. I have been National Secretary of the National Executive Committee of the Rastafari National Council ("RNC") since 1998 and am authorised to depose to this affidavit on behalf of the RNC.

4. I confirm that a registration programme was commenced during 2000 by the Nyahbinghi House to ascertain the numbers of Nyahbinghi members in South Africa. I believe that the number of persons who are presently registered or will soon be registered, or who identify with Nyahbinghi principles in South Africa is between 3000-4000 persons.

5. I confirm that the Constitution of the RNC was formally adopted at a meeting in Johannesburg during December 2000 and that it has been implemented.

6. I confirm that in terms of the Constitution of the RNC, Rastafari youth (under the age of 18 years) are forbidden to smoke the holy herb, unless it is in another form with parental supervision on special occasions. The reasons for this prohibition is the following:

- 6.1 Youth are generally immature and not yet ready to engage in conscious reasoning and meditation. The RNC is accordingly aware and shares the belief that children must be protected from any activity or conduct that can or be seen to cause them harm. However, in the same manner that children of other religious groups are occasionally allowed on special occasions under the supervision of their parents a small sip of alcohol, the RNC believes that permitting persons under 18 years of age to partake of gods fruit when they are mature enough to do so **under strict supervision of their parents on special occasions** in similar circumstance within our religious paradigm will not cause them any harm. As the holy herb is only used by us within a spiritual, religious and sacramental setting and context, any usage in another form would only be permissible **within this religious paradigm** when used **under strict supervision** and **on special occasions** and only when such youth is mature enough.
- 6.2 It is self-evident that no adult Rastafari would allow an immature youth to smoke the holy herb in any form; but that a mature youth could be introduced to the holy herb in a non-invasive form such as in tea (which does not have any psychoactive component in small quantities) or in food

in the most minute of quantities on special occasions and under parental supervision.

- 6.3 The RNC believes that such an approach is a proper and responsible one and in the best interests of our children.
- 6.4 The RNC disapproves of and forbids the recreational use of cannabis (or of any 'drug') and would not allow anything to jeopardise the health or welfare of our children.
- 7 Should an exemption be granted by the above Honourable Court to adult Rastafari to use, possess, cultivate and transport cannabis for religious observance and practice, I confirm:

- 7.1 that the RNC is aware of the belief among certain sections of society, that the proscription on the use and possession of cannabis by Rastafari serves an important public interest, and that while the use of cannabis is proscribed in South Africa, the RNC will assist the authorities to the fullest extent of its authority in ensuring that only bona fide adult

Rastafari are benefitted by this exemption for use of cannabis for religious purposes in private.

- 7.2 that the RNC is starting to compile a list of bona fide Rastafari in South Africa which compilation will assist in minimising any perceived practical difficulties in the administration of an exemption granted.
- 7.3 that the RNC is keen to liaise with and to co-operate with the authorities in helping set-up and administer an administrative permit system, should such be contemplated as part of any exemption granted.
- 7.4 that to the extent that it may be necessary in an attempt to achieve accommodation with the authorities, the RNC, if required in terms of any exemption granted, will authorise its local structures to make available members to assist the Courts either as assessors, or in such other position as required, to ensure that **only** bona fide Rastafari, who may have been charged with possession, use, cultivation or transportation of cannabis for the purposes of religious

observance and practise, are able to claim the exemption granted.

- 8 I confirm that the RNC is of the belief that there are between 8 000 and 12 000 bona fide practising Rastafari in South Africa.
9. I confirm that the RNC is holding a meeting on 28 January 2001 in Kimberley, where a new Council will be elected.

NOEL MELVILLE

I certify that:

1. the deponent acknowledges to me that:
 - 1.1 he knows and understands the contents of this affidavit;
 - 1.2 he has an objection to taking the prescribed oath;
 - 1.3 he solemnly affirms that the contents of this affidavit are true and correct.
2. the deponent signs this declaration in my presence at KNYSA on this 17 day of January 2001.

COMMISSIONER OF OATHS