

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA STATEMENT BY REGISTRAR OF THE SUPREME COURT OF APPEAL - JUDGMENT IN *S v* SHAIK AND OTHERS

From: The Registrar, Supreme Court of Appeal
Date: 13 November 2006
Status: Immediate

Please note that this statement is intended for the benefit of the media and the public and does not form part of or amplify the judgment of the Supreme Court of Appeal.

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This statement is released by the Registrar of the SCA in response to media reports regarding the judgment in *S v Shaik and others*, which have pointed out that the SCA erred in ascribing the words 'a generally corrupt relationship' to the trial court.

(i) The misattribution did not occur in the SCA's judgment in the criminal appeal. The quote is to be found only in the introduction to the Court's subsidiary civil judgment on the forfeiture of Shaik's assets.

(ii) As in the case of all appeals, the SCA made its own independent findings. They are based on an exhaustive review of the evidence and the record of the trial court – this is apparent from the SCA's extensive judgment.

(iii) The trial court found in the context of the corruption charges that the evidence established a 'mutually beneficial symbiosis' between Mr Shaik and Mr Zuma.

The trial court stated the following:

'It would be flying in the face of commonsense and ordinary human nature to think that he [Shaik] did not realise the advantages to him of continuing to enjoy Zuma's goodwill to an even greater extent than before 1997; and even if nothing was ever said between them to establish the mutually beneficial symbiosis that the evidence shows existed, the circumstances of the commencement and the

sustained continuation thereafter of these payments, can only have generated a sense of obligation in the recipient.

If Zuma could not repay money, how else could he do so than by providing the help of his name and political office as and when it was asked, particularly in the field of government contracted work, which is what Shaik was hoping to benefit from. And Shaik must have foreseen and, by inference, did foresee that if he made these payments, Zuma would respond in that way. The conclusion that he realised this, even if only after he started the dependency of Zuma upon his contributions, seems to us to be irresistible.' – See judgment of the Court, Trial transcript, page 6556.

(iv) The SCA considered these findings to be central to the conclusion of the trial court on count 1 – see paragraph [33] of the SCA judgment. The quoted words, incorrectly and regrettably ascribed to the trial judge, are consistent with the passage quoted above and appropriately summarise what the SCA found.

(v) The trial court's view of the 'symbiosis' between Mr Zuma and Mr Shaik was confirmed by the SCA in various parts of its judgment which ultimately conveyed that on the evidence in this case an overall corrupt relationship existed.

(vi) Self-evidently the case was one against Mr Shaik and not one against Mr Zuma. The judgment necessarily had to deal with the relationship between Mr Shaik and Mr Zuma on the evidence presented in this case and does not pre-empt any finding that may subsequently be made in respect of another accused in another trial.

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