

# WEBBER WENTZEL

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## The National Commissioner for Correctional Services Mr A Fraser

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and

## The Honourable Minister for Correctional Services Mr Ronald Lamola, MP

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Your reference

Our reference

Date

V Movshovich / P Dela / D Cron /  
D Rafferty / D Qolohle  
3050264

09 September 2021

Dear Sirs

### The decision to place former president, Mr Jacob Gedleyihlekisa Zuma, on medical parole

1. As you know, we represent the Helen Suzman Foundation ("**HSF**" or "**our client**"). We refer to our letter dated 6 September 2021 attached hereto marked "**A**" for your convenience ("**our letter**").
2. On 8 September 2021, Mr Fraser, in his capacity as the National Commissioner of Correctional Services, was interviewed on SABC by Mr Vuyo Mvoko in relation to the decision to place the former president, Mr Zuma, on medical parole ("**the interview**"). The interview may be accessed at the following link:  
<https://www.youtube.com/watch?v=tKMaxcVwUgk>
3. During that interview, Mr Fraser stated that he "*took the decision to place [Mr Zuma] on medical parole, and [he has] given a host of reasons. The reasons are available. It's in documentation, and it will be presented to whoever needs to see that*". This statement is made approximately 54 mins 30 seconds into the interview.
4. Following the interview, Mr Fraser was quoted as making the above statement in media publications, some of which are attached hereto marked "**B**".
5. In light of the above circumstances, you are requested to provide the documents and information set forth in our letter as soon as possible but, in any event, by no later than 5pm

**Senior Partner:** JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Beillings AE Bennett AP Blair DHL Booyen AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Felekis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealy S Haroun JM Harvey JS Henning KR Hillis Z Hlopho CM Holfeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlall M Moloi N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjattan GI Rapson K Rew SA Ritchie NJA Robb J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tihavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmali JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warmington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaken

**Chief Operating Officer:** SA Boyd

on Monday, 13 September 2021. This should include (but not be limited to) the documentation referred to by Mr Fraser.

6. As previously stated, given the urgency of the matter, we submit that the above time periods are reasonable and necessary.
7. Should you fail to deliver the abovementioned information and documentation timeously or should the information/documentation not negate our client's concerns about the lawfulness or otherwise of the decision, our client will have no option but to exercise its legal rights, in its interest and in the public interest, on an urgent basis.
8. All our client's rights are reserved.

Yours faithfully

PP 

**WEBBER WENTZEL**

Pooja Dela

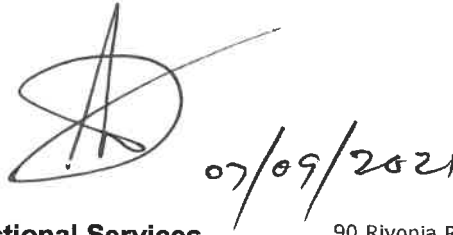
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*Letter sent electronically*

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**The National Commissioner for Correctional Services  
Mr A Fraser**

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**The Honourable Minister for Correctional Services  
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PRETORIA

MINISTERIE VIR JUSTISIE EN  
KORREKTIEWE DIENSTE

Date

06 September 2021

Your reference

Our reference

V Movshovich / P Dela / D Cron /  
D Rafferty / D Qolohle  
3041349

Dear Sirs

**The decision to place former president, Mr Jacob Gedleyihlekisa Zuma, on medical parole**

1. We represent the Helen Suzman Foundation ("HSF" or "our client").
2. HSF is a not-for-profit public interest organisation actively involved in the advancement of respect for the rule of law and constitutionalism in South Africa. HSF acts in its own interest as well as in the public interest.
3. HSF participated in the proceedings before the Constitutional Court in the matter of Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others 2021 (5) SA 1 (CC) ("the initial application") and [2021] ZACC 18 ("the main application"). The HSF is further cited and is participating as a respondent in the matter before the Constitutional Court under case number CCT52/21 which relates to the rescission application brought by Mr Zuma against the judgment and order of the Constitutional Court in the main application.

**Senior Partner:** JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Beilings AE Bennett AP Blair DHL Booysen AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Felekis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealy S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Hoffeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlal M Moloi N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjettan GI Rapson K Rew SA Ritchie NJA Robb J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tlhavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmali JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaken

**Chief Operating Officer:** SA Boyd

4. Our client understands that on 5 September 2021, the Department of Correctional Services issued the media statement attached marked "A" which confirms, *inter alia*, that:
  - 4.1 Mr Zuma has been placed on medical parole;
  - 4.2 the National Commissioner has taken the decision in terms of section 75(7)(a) of the Correctional Services Act, 1998 read with section 52, to place Mr Zuma on medical parole and has prescribed conditions which will apply to such medical parole ("**the decision**");
  - 4.3 the decision was based on a medical report received by the Department of Correctional Services; and
  - 4.4 Mr Zuma shall, in terms of the decision, complete the remainder of his period of incarceration, which was ordered in the main application, in "*the system of community corrections, whereby he must comply with a specific set of conditions*";
5. As you will know, our client is (and has been) concerned that the rule of law is upheld in all spheres, including the essential fight against corruption and organised crime mandated by the Constitution.
6. The decision to place Mr Zuma on medical parole is shrouded in secrecy; it seems to be based on a medical report – the details of which are entirely concealed from the public; and has been made in circumstances where it is reported that Mr Zuma has refused, despite an order by the Honourable Mr Justice Koen in separate proceedings in the KwaZulu-Natal High Court, Pietermaritzburg, to subject himself to an independent medical examination. These circumstances give rise to concerns about the rule of law.
7. In light of the above circumstances, you are requested to provide the following, by no later than 5pm on 13 September 2021:
  - 7.1 full written reasons for the decision;
  - 7.2 a copy of any documents or information which formed the basis of, or which were considered in the taking of, the decision, including but not limited to any application for parole by Mr Zuma and the medical report referred to in the media statement attached as annex A;

- 7.3 the conditions which have been prescribed in terms of section 52 of the Correctional Services Act;
  - 7.4 an indication as to which individuals, in which capacity, took the decision and made recommendations in relation to the decision;
  - 7.5 a copy of the decision and the aforesaid recommendations; and
  - 7.6 any other information or documentation relevant to the decision.
8. Given the urgency of the matter, we submit that the above time periods are reasonable and necessary.
  9. Should you fail to deliver the abovementioned information and documentation timeously or should the information/documentation not negate our client's concerns about the lawfulness or otherwise of the decision, our client will have no option but to assume that there was no lawful basis for the decision and to exercise its legal rights, in its interest and in the public interest, on an urgent basis.
  10. All our client's rights are reserved.

Yours faithfully



pp  
**WEBBER WENTZEL**

Pooja Dela

Partner

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Email: [pooja.dela@webberwentzel.com](mailto:pooja.dela@webberwentzel.com)

*Letter sent electronically*



## **correctional services**

**Department:  
Correctional Services  
REPUBLIC OF SOUTH AFRICA**

**"A"**

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### **MEDIA STATEMENT**

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05 September 2021

#### **MR ZUMA PLACED ON MEDICAL PAROLE**

The Department of Correctional Services (DCS) is able to confirm that Mr Jacob Gedleyihlekisa Zuma has been placed on medical parole.

Section 75(7)(a) of the Correctional Services Act 111 of 1998, affords the National Commissioner a responsibility to place under correctional supervision or day parole, or grant parole or medical parole to a sentenced offender serving a sentence of incarceration for 24 months or less. The National Commissioner is also in terms of Section 52, empowered to prescribe conditions of parole.

Medical parole's eligibility for Mr Zuma is impelled by a medical report received by the Department of Correctional Services. Apart from being terminally ill and physically incapacitated, inmates suffering from an illness that severely limits their daily activity or self-care can also be considered for medical parole.

The risk of re-offending of released inmates must also be low and there must be appropriate arrangements for the inmate's supervision, care and treatment within the community to which the inmate is to be released to.

Medical parole placement for Mr Zuma means that he will complete the remainder of the sentence in the system of community corrections, whereby he must comply with specific set of conditions and will be subjected to supervision until his sentence expires.

Medical Parole can only be revoked if an offender does not comply with the placement conditions.

We want to reiterate that placement on medical parole is an option available to all sentenced offenders provided they meet all the requirements. We appeal to all South Africans to afford Mr Zuma dignity as he continues to receive medical treatment.

**Ends.**

**Enquiries, Singabakho Nxumalo on 079 523 5794.**

**Issued by the Department of Correctional Services.**

## SOUTH AFRICA

# 'I placed Zuma on medical parole': prisons boss Arthur Fraser

Correctional services commissioner Arthur Fraser confirmed during an SABC interview that the medical parole advisory board did not recommend former president Jacob Zuma's release – but that he overruled it.



**Matthew Savides**

Night news editor




08 September 2021 - 22:36



Correctional services commissioner Arthur Fraser told the SABC that he took the decision to place former president Jacob Zuma on medical parole, despite a recommendation from the medical parole advisory board not to do so. File photo.

*Image: Gallo Images / Netwerk24 / Jaco Marais*

Correctional services commission Arthur Fraser overruled a recommendation that former president Jacob Zuma should not be released on medical parole, he said on Wednesday.



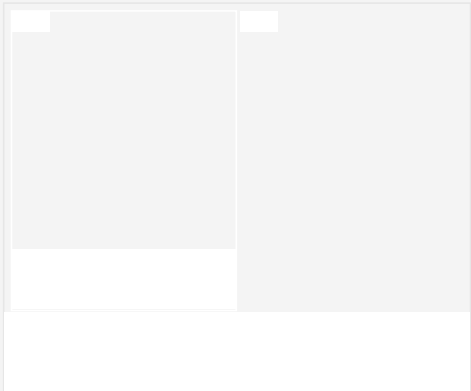
Speaking to the SABC's Vuyo Mvoko in an exclusive interview on his show, *The Watchdog*, Fraser admitted that, after assessments, the medical parole advisory board "did not approve medical parole" because Zuma was "in a stable condition".

But, said Fraser, he stood by his decision to overrule this and release the former president.

"I took the decision to place him on medical parole, and I've given a host of reasons. The reasons are available. It's in documentation, and it will be presented to whoever needs to see that. I'm sure parliament will be asking," he said.

Earlier in the hour-long interview, Fraser explained the process that was followed which ultimately saw the former president released.

He said that Zuma was brought into the Estcourt correctional facility and underwent various assessments, including a health assessment, by medical and administrative staff. This was the same process followed for every inmate, and was not unique to Zuma.



"When you do the assessments, you then know what type of care must be given. When we deal with care we deal with even dietary requirements. Every offender ... will have to be able to give a history of themselves, health and otherwise. Then we assess how we categorise them and how we are able to place them. This was the process applied [to Zuma]," said Fraser.

It was during this process that Zuma "declared his comorbidities", the prisons boss said.

"But additional to that, because he was still under the care of the SA military health service, they also provided us [with] an assessment on his first day of admission. So that is when we realised that we've got a person in our custody who actually is frail.

"We then received further reports, medical reports, that indicated that he required specialised treatment and it was only around the third report that we received, where his medical team - the medical team, in conjunction with our team - indicated that he can no longer be kept in our facility because the type of med care required we are not able to provide," he said.

It was at this point that Zuma was taken to hospital.

"When we are directed by health professionals, we are obligated. It has to be done. You'll recall that he had gone to hospital because we were advised that the type of care he needed and the type of



clinical procedures that needed to be done couldn't be done in our facility. We then had to move him to a medical healthcare institution, and it's there that we got further reports. We then got informed that there's a range of procedures that need to happen, and all of that," said Fraser.

Now, he said, was when the application was made for medical parole. This was in early August, said Fraser, who said he didn't have the exact dates at hand.

"There was then, from the medical staff, an application made much earlier where they applied for medical parole. And I think that's at the beginning of August, when they applied, and we directed [them] to the relevant structures [to assess the application]. In our structures we've got healthcare and then we've got [the] medical advisory parole board, so we directed it to them.

"They allocated a doctor to go and do an observation, as they do in all instances. They did the observation, and based on the doctor's engagement and assessment on the patient, recommendations were made to the medical parole advisory board.

"The recommendations were that the board did not approve medical parole, because they indicated that he was in a stable condition," said Fraser.

He said that the head of the Estcourt prison - "who has the authority to decide" - reviewed the information available and "then indicated that the conditions, based on all the reports that we have, require us to release the former president".

This was when he, personally, took the decision to release Zuma on medical parole. Mvoko asked Fraser whether he felt this decision would stand up to scrutiny.

"It's legal and procedural," he said.

The Jacob G Zuma Foundation said on Tuesday night that the former president was still in hospital and had not yet gone home, despite being placed on medical parole.

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■ NATIONAL

## Arthur Fraser says he put Jacob Zuma on medical parole

Correctional services commissioner confirms the medical parole advisory board did not recommend Zuma's release

08 SEPTEMBER 2021 - 23:01 by MATTHEW SAVIDES



Correctional services commissioner Arthur Fraser. Picture: GALLO IMAGES/NETWERK24/JACO MARAIS

Correctional services commissioner Arthur Fraser overruled a recommendation that former president Jacob Zuma should not be released on medical parole, he said on Wednesday.

Speaking to the SABC's Vuyo Mvoko in an exclusive interview on his show, *The Watchdog*, Fraser admitted that, after assessments, the medical parole advisory board "did not approve medical parole" because Zuma was "in a stable condition".

But, said Fraser, he stood by his decision to overrule this and release the former president.

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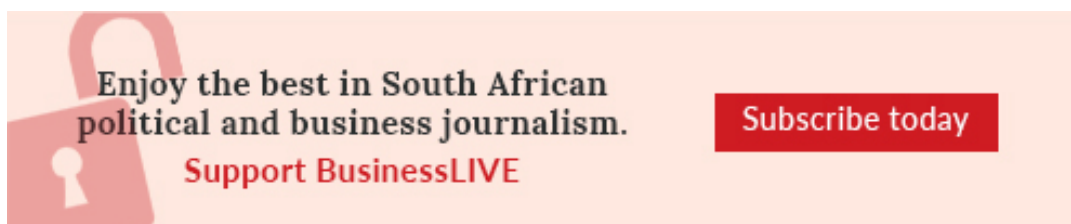
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