



**IN THE HIGH COURT OF SOUTH AFRICA**  
**(GAUTENG DIVISION, PRETORIA)**

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED

DATE: 22 October 2025

SIGNATURE:.....

**Case No. 003372/2024**

In the matter between:

**THE PRESIDENCY OF THE REPUBLIC OF  
SOUTH AFRICA**

**FIRST APPLICANT**

**THE STATE ATTORNEY**

**SECOND APPLICANT**

**THE SOLICITOR GENERAL OF THE  
REPUBLIC OF SOUTH AFRICA**

**THIRD APPLICANT**

And

**ZUMA, JACOB GEDLEYIHLEKISA**

**FIRST RESPONDENT**

HULLEY & ASSOCIATES INC.

SECOND RESPONDENT

LUNGISANI MANTSHA INC.

THIRD RESPONDENT

DEMOCRATIC ALLIANCE

FOURTH RESPONDENT

ECONOMIC FREEDOM FIGHTERS

FIFTH RESPONDENT

*Coram:* Millar J

*Heard on:* 16 October 2025

*Delivered:* 22 October 2025 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 12h15 on 22 October 2025.

## JUDGMENT

**MILLAR J**

- [1] The applicants (the State) together with the fourth respondent (the DA), have applied for an order directing the first respondent (Mr. Zuma) to repay all the monies disbursed by the State towards his legal costs incurred and relating to a

criminal prosecution and ancillary litigation instituted against him in his personal capacity.

[2] On 13 December 2018, the Full Court of this Division of the High Court<sup>1</sup>, found *inter alia* that the State was not liable for those costs that had been disbursed. The decision to make payment was declared invalid, reviewed and set aside and further directory orders were made for the recovery of what had been paid. This judgment was appealed to the Supreme Court of Appeal. It was upheld in a judgment handed down by that Court on 13 April 2021.<sup>2</sup>

[3] The judgment of 13 December 2018, pertinently ordered<sup>3</sup> that:

“(d) *The State Attorney is directed forthwith to:*

(i) *compile a full and complete accounting of all the legal costs that were incurred by Mr. Zuma in his personal capacity in the criminal prosecution instituted against him and all related or ancillary litigation, including all the applications referred to in this matter, and which were paid for by the State; and*

(ii) *to take all necessary steps, including the institution of civil proceedings, to recover the amounts paid by the State for Mr. Zuma's legal costs referred to in paragraph (d)(i).*

(e) *The State Attorney is directed within three months of the date of this order, to file a report, under oath and supported by the full and complete accounting referred to in paragraph (d)(i), detailing the steps that have been taken and that will be taken to recover the amounts paid by the State for Mr. Zuma's legal costs.”*

[4] It was also ordered that a report together with a full and complete accounting and detailing the steps to be taken for the recovery of what had been paid be filed

<sup>1</sup> *Democratic Alliance v President of the Republic of South Africa and Others and a related matter* [2019] 1 ALL SA 681 (GP).

<sup>2</sup> *Zuma v Democratic Alliance and Another* 2021 (5) SA 189 (SCA).

<sup>3</sup> Above n 1 at 716C-D.

within 3 months.<sup>4</sup> Initially the 3 month period would have expired in March 2019 but because of the appeal, this period only commenced running when judgment was handed down by the Supreme Court of Appeal in April 2021.

- [5] On 14 July 2021, the State Attorney filed the report in compliance with the judgment of the Full Court. This was followed with a letter of demand for repayment addressed to Mr. Zuma served on him on 1 October 2021. The amount demanded was R18 261 347.72. Subsequently, in its preparation for the present proceedings, the State discovered an additional R10 699 426.62. Accordingly, the total amount in respect of which an order for repayment is sought, is R28 960 774.34.<sup>5</sup>
- [6] It was argued for the State that the order for repayment should be made together with a punitive order for costs. Counsel for the State indicated that an advertant decision had been made by it not to claim interest. The DA for its part, besides making common cause with the order sought by the State, counter-applied for an order for the payment of interest together with further directory orders. It also seeks an order for costs but not on a punitive scale.
- [7] It is not in issue between the parties that the total of the legal costs disbursed by the State on behalf of Mr. Zuma is R28 960 774.34. It was also not opposed on behalf of Mr. Zuma, with any vigor, that in the event that judgment was entered against him, that an order for the payment of interest should be made.
- [8] It was argued for both the State and the DA that the judgment of the Full Court is clear and unequivocal in its terms that it is Mr. Zuma that should be ordered to

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<sup>4</sup> Above n 1 at 716D-E.

<sup>5</sup> During the hearing, Counsel for the Applicants moved for an amendment of the amount sought for repayment. This was occasioned by a minor calculation error and served to increase the total of the amount claimed by 34 cents. The application for the amendment was not opposed.

make the repayment of the R28 960 774.34. Various defences were raised on behalf of Mr. Zuma.<sup>6</sup> The present proceedings relate to the implementation of an extant court order. The various defences raised, all relate to matters that either were or ought to have been raised before the Full Court or the Supreme Court of Appeal. They have, in my view, no bearing whatsoever in the present proceedings and for this reason I do not intend to deal with them. I am bound by the decision of the Full Court and the Supreme Court of Appeal. However, there is one defence which was argued for Mr. Zuma that merits consideration because it falls within the orders of both Courts. I refer to this defence as the main defence.

- [9] The main defence which was argued, was that the order of the Full Court, in its terms, as set out in paragraph (d)(ii), does not specifically provide that it is Mr. Zuma himself who must be ordered to make the repayment. In other words, it is a question of the interpretation of the order.
- [10] It was argued that since the decision to pay the legal costs in the first place had been made by the State Attorney, the primary party against whom recourse ought to have been sought should have been the Office of the State Attorney and the officials who had given the advice that the costs could lawfully be paid. It was argued that it was the "constitutional delinquency" on the part of officials within the State Attorney through their incorrect opinions and advice that the present situation had been brought about.
- [11] While it was not disputed that Mr. Zuma had been the recipient of the legal services in respect of which the costs had been paid, it was argued that he had received no direct financial benefit by way of a payment from the State Attorney to him and for that reason, properly construed, paragraph (d)(ii) ought to be

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<sup>6</sup> The defences raised were: (i) clean hands doctrine, (ii) estoppel, (iii) reliance on representations, (iv) causation, (v) fault, (vi) doctrine of laches, (vii) prematurity of proceedings and violation of constitutional rights, (viii) claim barred by the supreme court of appeal's termination of the undertaking to refund the state, (ix) restitution remedy not available to the state, (x) set off, (xi) *stipulatio alteri* and, (xii) unjustified enrichment claim by a third party and violation to the right to equality under the constitution.

interpreted as requiring the State to seek excussion of the “constitutional delinquents.”

[12] It was further argued that since Mr. Zuma was not constitutionally delinquent himself in this case, he ought not to have to make any repayment. However, if the Court takes the view that Mr. Zuma does have an obligation to make payment, then this would only arise after the excussion of the “constitutional delinquents”.

[13] Before dealing with the argument raised by Mr. Zuma, it bears mentioning that on 13 August 2025, a notice in terms of rule 6(5)(d)(iii) of the Uniform Rules of Court was delivered indicating that Mr. Zuma intended to raise three points of law. The first was challenging the *locus standi* of the DA to bring its counter application. The second, its entitlement to seek an order for the payment of interest and thirdly, whether it was entitled to seek the ancillary supervisory orders sought in the counter application.

[14] This was not pursued, correctly so, in my view. Since the DA was a party to the original order of the Full Court, sought the orders that were ultimately granted and was also in those proceedings granted costs, it would be bizarre were it to be found that a party who has an unquestionable direct legal interest<sup>7</sup> in those proceedings and was cited in the present proceedings, had no *locus standi* to bring the counter application that it has.

[15] Turning now to the question of the text of paragraph (d)(ii) of the order, and the argument advanced that properly construed, it is to be interpreted in favour of Mr. Zuma on the basis that it does not specify that payment it to be recovered from him personally. How is the order to be construed?

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<sup>7</sup> *Four Wheel Drive Accessory Distributors CC v Rattan N.O* 2019 (3) SA 451 (SCA) at para [7].

- [16] In *Finishing Touch 163 (Pty) Ltd v BHP Billiton Energy Coal South Africa Ltd and Others*,<sup>8</sup> it was pertinently held with regards to court orders that:

*"The starting point is to determine the manifest purpose of the order. In interpreting a judgment or order, the court's intention is to be ascertained primarily from the language of the judgment or order in accordance with the usual, well-known rules relating to the interpretation of documents. As in the case of a document, the judgment or order and the court's reasons for giving it must be read as a whole in order to ascertain its intention."*

- [17] Furthermore, in *Capitec Bank Holdings Limited and Another v Coral Lagoon Investments 194 (Pty) Ltd and Others*,<sup>9</sup> it was held:

*"It is the language used, understood in the context in which it is used, and having regard to the purpose of the provision that constitutes the unitary exercise of interpretation. I would only add that the triad of text, context and purpose should not be used in a mechanical fashion. It is the relationship between the words used, the concepts expressed by those words and the place of the contested provision within the scheme of the agreement (or instrument) as a whole that constitute the enterprise by recourse to which a coherent and salient interpretation is determined."*

- [18] The obvious starting point is that before the Full Court, the DA and the Fifth Respondent, the EFF, in a related matter which was consolidated, both sought an order that repayment was to be made by Mr. Zuma personally. It is readily apparent from the judgment of the Full Court that the order that it made was in respect of Mr. Zuma personally. In this regard, the Full Court, held:

<sup>8</sup> 2013 (2) SA 204 (SCA) at para [13]. See also *Eke v Parsons* 2016 (3) SA 37 (CC) at para [29].

<sup>9</sup> 2022 (1) SA 100 (SCA) at para [25]; *South African Nursing Council v Khanyisa Nursing School (Pty) Ltd and Another* 2024 (1) SA 103 (SCA).

[81] *I am of the view that a just and equitable remedy in all the circumstances of this case is one that requires the State Attorney to render an account of all the private legal costs that were incurred by Mr. Zuma in defending the criminal charges against him and in all the related and ancillary litigation, and to take the necessary steps to recover the amounts paid by the State for his private legal costs. First, such an order is essential for the vindication for the rule of law, the correction of Mr. Zuma's use of public resources to enable him to defend himself against the criminal charges brought against him and to litigate in the various related civil proceedings on a most luxurious scale, and to enforce the constitutional principal of public accountability – especially by those entrusted with the highest office in the Republic of South Africa. Simply declaring the agreement and the decisions to appoint private legal representatives and to pay Mr. Zuma's private legal costs unlawful, without order repayment, would not achieve the remedial objects inherent in the relief which a court should grant in a vindication of the rule of law." [My emphasis].*

[19] The Full Court went further in dealing with the case presented by the EFF and held:

[82] *... Mr. Zuma, although uniquely position to present factual material to contradict the EFF's proposed remedy, failed to do so, nor did he explain why he should be entitled to retain the benefit of the unlawful payments made by the State for his private legal costs. In his answering papers, Mr. Zuma offered no factual material about his personal circumstances or any other circumstance to counter the EFF's contention about his ability to repay the money in full and in good time." [My emphasis].*

[20] On appeal, the Supreme Court of Appeal, held that:

[45] *A just and equitable remedy in this case, so found the High Court, requires a full and complete accounting by the State Attorney under oath and an*

order directing Mr. Zuma to repay to the State the legal costs incurred on his behalf. A repayment order may well be essential to remedy the abuse of public resources; vindicate the rule of law; and, reaffirm the constitutional principles of accountability and transparency, especially by a former incumbent of the highest office of the land. Simply setting aside the decision to pay, without ordering an accounting and repayment, would achieve none of those crucial remedial objectives. This, in any event, is less onerous than if Mr. Zuma were asked to repay the amounts on demand as he had undertaken to do. [My emphasis].

[46] In any event, given the nature of the discretion exercised by the High Court, no warrant exists for interference." [My emphasis].

- [21] Upon a plain reading of the judgment of the Full Court, it is readily apparent that it intended that the order made relating to repayment was made in respect of Mr. Zuma personally. The passages which I have underlined, make this clear.
- [22] Similarly, the Supreme Court of Appeal found this also. The orders sought in the proceedings that were instituted against Mr. Zuma by both the DA and EFF, together with the findings of the Full Court, as confirmed by the Supreme Court of Appeal, are unequivocal.
- [23] There is, given the context and the language of the respective judgments, simply no other rational interpretation that can be ascribed to the order in question other than that it was intended that Mr. Zuma personally be ordered to repay the R28 960 774.34.
- [24] Besides associating itself with the orders sought by the State for the repayment of the R28 960 774.34, the DA also sought an order for the payment of interest and a further directory order and supervisory order. None of the orders sought by the DA were opposed.

[25] Regarding the payment of interest, it was argued by the DA that an order for this would be a just and equitable one. It was argued that the purpose of *mora* interest was to compensate a creditor when a “debtor who is tardy in the due payment of a monetary obligation” deprives the “creditor of the productive use of the money and thereby causes him loss.”<sup>10</sup>

[26] In *Crookes Brothers Ltd v Regional Land Claims Commission, Mpumalanga and Others*,<sup>11</sup> it was held that:

*“The term mora simply means delay or default. When the contract fixes the time for performance, mora (mora ex re) arises from the contract itself and no demand (interpellatio) is necessary to place the debtor in mora. In contrast, where the contract does not contain an express or tacit stipulation in regard to the date when performance is due, a demand (interpellatio) becomes necessary to put the debtor in mora. This is referred to as mora ex persona (See Scoin Trading (Pty) Ltd v Bernstein NO 2011 (2) SA 118 (SCA) paras 11 and 12.) The purpose of mora interest is therefore to place the creditor in the position that he or she would have been had the debtor performed in terms of the undertaking. Here a demand (interpellatio) was necessary to place the respondents in mora.”*

[27] In the present instance, until such time as the State had calculated how much had been disbursed for Mr. Zuma’s legal costs in terms of the order of the Full Court, and then demanded payment from him, the amount to be paid by him was unknown. This occurred in the present case in two parts – the first when the amount of R18 261 347,72 was demanded on 1 October 2021 and the second when the additional amount of R10 699 426,62 was added and the total of R28 960 774.34 demanded when the present process was served on 24 January 2024. In other words, the demand occurred in two tranches, and it is for this

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<sup>10</sup> *Bellairs v Hodnett and Another* 1978 (1) SA 1109 (A) at 1145G-H.

<sup>11</sup> 2013 (2) SA 259 (SCA) at para [17].

reason, given the separation in time between the two, that mora interest began to run on the different amounts began to run on different dates.

- [28] However, put simply, mora interest runs on the amount of R18 261 347.72 from 22 October 2021 until 24 January 2024 and from 25 January 2024, mora interest runs on the total amount of R28 960 774.34.
- [29] Regarding the directory order, the DA seeks an order that any order for repayment be executed within 60 (sixty) days against the property of Mr. Zuma. Initially, the order included provision for the direct attachment of Mr. Zuma's entire presidential pension. After some debate, on whether it was possible for this Court to make such an order, at this stage of the proceedings, the DA amended the order that it intended to seek to provide *inter alia* that Mr. Zuma's pension or a portion thereof could be attached in the event of non-payment but subject to due judicial process. I have no difficulty with the amended directory order as it subjects Mr. Zuma to the same process of law as any other debtor. Only one aspect bears mention in this regard and that is that while Mr. Zuma's presidential pension<sup>12</sup> is referred to as a "pension", it is not a pension as defined in the Pension Fund's Act<sup>13</sup> and thus is not subject to the protections of that Act<sup>14</sup>.
- [30] In regard to the supervisory relief sought, this is simply an extension of the order granted by the Full Court. It imposes no obligation upon Mr. Zuma but upon the State.
- [31] It was held in *Council for the Advancement of the SA Constitution and Others v Ingonyama Trust and Others*,<sup>15</sup> that:

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<sup>12</sup> Granted to him in terms of section 2 of the Remuneration of Public Office Bearers Act 20 of 1998.

<sup>13</sup> 24 of 1956.

<sup>14</sup> The benefit provided to Mr. Zuma is not protected by the provisions of section 37A(1) of the Pension Funds Act as this only applies to benefit provided for in the rules of a registered fund.

<sup>15</sup> 2022 (1) SA 251 (KZP) at para [201].

*"Supervisory structural interdicts serve to 'ensure that courts play an active monitoring role in the enforcement of orders'. The requirement that the respondents should report to court, on affidavit, on the steps taken ensures that the administrative measures ordered are complied with within the specific time period. Furthermore, '... the court's role continues until the remedy it has ordered in a matter has been fulfilled'. By granting the structural interdict, a court receives 'a response in the form of reports and thereby prevents a failure to comply with the positive obligations imposed by its order'. The enrolment of the matter before this court is essential for the court to determine the progress made in the implementation of the orders sought, which 'guarantees commitment to the constitutional values of accountability, responsiveness and openness by all concerned, in a system of democratic governance'." [References omitted].*

- [32] The State does not oppose this order, and I am of the view that it is entirely appropriate that I grant it<sup>16</sup>.
- [33] Since both the applicants and the fourth respondent have been successful, the costs will follow the result. Given the nature of the matter and its importance, all the parties who were represented saw fit to brief two counsel. A wise and reasonable precaution in the circumstances.
- [34] The applicants sought a punitive order for costs, but I am of the view that given their own delay in properly quantifying the claim and then instituting the proceedings that the Full Court had ordered them to institute, it would be inapposite to order Mr. Zuma to pay punitive costs which includes the costs consequent upon the engagement of two counsel. To order this would be to

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<sup>16</sup> See *Nyathi v Member of the Executive Council for the Department of Health Gauteng* 2008 (5) SA 94 (CC). Given the history of the present matter and especially the delay in the institution of proceedings, see para [69] in which it was stated "I accordingly find that the relevant State institutions should take steps to rectify the problems highlighted above and report back to this court as to the progress made." See also paras [83] – [87].

endorse the failure on the part of the applicants to explain their tardiness in complying with the order of the Full Court.

[35] The DA did not seek a punitive order for costs but also sought an order for the costs consequent upon the engagement of two counsel.

[36] Costs will follow the result as set out below.

[37] In the circumstances, I make the following order:

[37.1] The first respondent, Mr. Jacob Gedleyihlekisa Zuma, is ordered to make payment to the second applicant, the State Attorney, of the sum of R28 960 774.34 (twenty-eight million nine hundred and sixty thousand seven hundred and seventy-four Rand and thirty-four cents) being in respect of monies advanced for his legal fees and associated expenses.

[37.2] In addition to payment of the sum of R28 960 774.34, set out above, the first respondent, is ordered to pay interest as calculated at the rate prescribed by section 1 of the Prescribed Rate of Interest Act 55 of 1975, to the second applicant, the State Attorney, as follows:

[37.2.1] On the sum of R18 261 347.72 from 22 October 2021 to 24 January 2024, both days inclusive.

[37.2.2] Together with interest on the sum of R28 960 774.34 from 25 January 2024 to date of payment, both days inclusive.

- [37.3] In the event that the first respondent, fails to satisfy the judgment debt in this matter within 60 (sixty days of the date of the court's order, the State Attorney is directed to have a writ of execution issued by the Registrar of this Court for the attachment and sale in execution of immovable and/or movable and/or incorporeal property of the first respondent, to satisfy the judgment debt, including his presidential pension benefit, or portion thereof, if required and subject to an order of court authorizing that such attachment order be issued after satisfying itself that it is just and equitable that the order be issued and that the amount is appropriate.
- [37.4] The State Attorney shall report on affidavit, to the court within three months of the date of the order, and thereafter every three months until the first respondent's judgment debt is satisfied or the Court otherwise directs, on:
- [37.4.1] the steps the State Attorney has taken to obtain satisfaction of the first respondent's judgment debt.
- [37.4.2] the steps the State Attorney intends to take to obtain satisfaction of the first respondent's judgment debt; and
- [37.4.3] the amounts the State Attorney has recovered from the first respondent in satisfaction of the judgment debt.
- [37.5] The fourth respondent may reply to the State Attorney's report/s within one month of receipt thereof and may apply to this Court on duly supplemented papers for further and/or alternative relief.

[37.6] The first respondent is ordered to pay the costs of the applicants on the scale as between party and party, which costs are to include the costs consequent upon the engagement of two counsel. In respect of senior counsel such payment is upon scale C and in respect of junior counsel upon scale B.

[37.7] The first respondent is ordered to pay the costs of the fourth respondent in respect of the counterapplication on the scale as between party and party, which costs are to include the costs consequent upon the engagement of two counsel, both upon scale C.

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**A MILLAR**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

HEARD ON: 16 OCTOBER 2025

JUDGMENT DELIVERED ON: 22 OCTOBER 2025

COUNSEL FOR THE APPLICANTS: ADV. G AVVAKOUMIDES SC  
ADV. E NDEBELE

INSTRUCTED BY: THE STATE ATTORNEY, PRETORIA  
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COUNSEL FOR THE FOURTH

RESPONDENT:

ADV. S ROSENBERG SC

ADV. J BLEAZARD

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MINDE SHAPIRO AND SMITH INC.

REFERENCE:

MS. E JONKER

NO APPEARANCE FOR THE SECOND, THIRD AND FIFTH RESPONDENTS.