

IN THE SUPREME COURT OF SOUTH AFRICA.

Between : (WITWATERSRAND LOCAL DIVISION)

10020

Applicant.

and

THE SUPERINTENDANT OF THE JOHANNESBURG
GAOL.

Respondent.

RESPONDENT'S ANSWERING AFFIDAVIT.

I, CHRISTIAN LE ROUX, of the Fort, Johannesburg, do hereby make oath and say -

1. I am Commanding Officer of the Johannesburg Prison and in my capacity as such have been cited as the Respondent in this matter.
2. I have perused Petition, completed and verified by Applicant under oath at Johannesburg on the 25th day of April 1960.
3. I admit the allegations in paragraphs 1, 2 and 14 of the said Petition.
4. I have no knowledge of the allegations and am therefore unable to admit or deny the allegations in paragraphs 3, 4, 5, 6, 7 and 8 and 18 thereof.
5. Ad Paragraph 9.
Saving that the Warrant was signed by the said Colonal Spengler and that I do not know what information was given to the Applicant, I admit this paragraph.
6. Ad paragraph 10.
Saving that visits from legal advisers and others are now permitted twice weekly, I admit this paragraph, but would add that Applicant is a legal practitioner of several years standing and I am advised of considerable ability and well able to look after himself. The official circular refers to visits from legal advisers on purely business and domestic matters. In the case of any other intended visit by legal advisers, applications

may be made by detainees, which applications will be dealt with by me in terms of Rule 3 of Government Notice No. 551 of the 11th day of April 1960. Applicant has at no time made such an application to me.

7. Ad paragraph 11.

Permit:
I say that in terms of ^{the} Regulations, it is I who is to decide whether permission is to be given for visits to a detainee and as required by the said Regulations, I give my decision after consultation with the Police. I have not refused any Attorney permission to see Applicant. For the sake of convenience, in the case of business and domestic visits, it has been arranged between myself and Colomal Spengler that legal advisers who intend visiting detainees obtain from the said Colomal Spengler a letter of Consent for such visit. On the production of such letter, I act in terms of Rule 3 of the aforesaid Government Notice. I submit that the rest of paragraph 11 is hearsay evidence.

8. Ad paragraph 12.

See Ans.
I admit that initially the detainees, including Applicant, were advised by me that the purpose of visits by legal advisers must be limited to business and domestic matters. This was done before the promulgation on the 11th day of April 1960 of the Rules by the Honourable the Minister of Justice in Government Notice No. 551. The Extraordinary Government Gazette No. 6416 containing these rules was made available for the perusal of every detainee. I deny that any legal practitioner has in fact been refused permission to see Applicant and re-aver that he at no time made such an application and he is well able to take care of his own interests including formulating such submissions as he desires.

9. Ad parafraph 13.

This paragraph contains arguments and no allegations of fact which I am called upon to reply to. I do not admit the

contentions advanced by the Applicant.

10. The contentions advanced in paragraph 15 are disputed.
11. I deny paragraph 16. It is I who decide whether to accord or with-hold permission for a visit to any detainee, although as stated, I am required by the Regulations both to consult and bear in mind the views of the local Police authorities, as I do.
12. Ad paragraph 17.
I aver that Applicant is being detained by me under authority of a valid warrant but otherwise have no knowledge of and am unable to respond to the remaining allegations herein.
13. Ad paragraph 19.
I deny that this matter is one of urgency.
14. In regard to the Rule Nisi granted by this Honourable Court on the 26th day of April 1960, I am advised that I am not permitted by law to produce the Applicant in this Honourable Court.

WHEREFORE I respectfully pray that it may please this Honourable Court to dismiss this application with costs.

(Signed) C. Le Roux.

Signed and sworn to before me at Johannesburg on this 28th day of April 1960 the deponent having acknowledged that he knows and understands the contents of this Affidavit.

COMMISSIONER OF OATHS.

Area: Union of South Africa.

Capacity: Compensation Commissioner.

To The Registrar of the
Above Honourable Court,
Johannesburg.

10020

1. Removal from W.H.D. to T.P.D.

§ 9. Act. 59/1959

2. Making W.H.D. order enforceable in T.P.D.

§ ~~29~~ 26. /59/59.

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