

African National Congress



National Disciplinary Committee of Appeal (NDCA)

OFFICE OF THE CHAIRPERSON: CDE JEFF RADEBE

**IN THE NATIONAL DISCIPLINARY COMMITTEE OF APPEAL
(NDCA)**

HELD AT ST. GEORGE HOTEL, IRENE, PRETORIA

ON FRIDAY 27 NOVEMBER 2015

CASE NUMBER: 7/2015

In the application of

**THE CHAIRPERSON
KWA ZULU NATAL PDC**

Applicant

In the matter between

AFRICAN NATIONAL CONGRESS

Complainant

AND

**SIYABONGA THANGO
ZANELE NDZOYIYA
SDUDUZO MAGWAZA**

Charged Members

NDCA RULING

PDC request for extension of time

1. On 5 November 2015 the Chairperson of the PDC in Kwa Zulu Natal applied to the NDCA in terms of Rule 25.53 of the ANC Constitution

for an extension of time to conclude the disciplinary proceedings against the abovenamed charged members.

Background

2. The allegation against the charged members was that on 15 March 2015 at the Ward 30 BGM of the ANC held at the Chesterville Community Hall, they consciously worked towards the failure of the BGM by:-
 - 2.1 discouraging members from attending;
 - 2.2 failing to participate effectively in programmes of the ANC towards a successful BGM;
 - 2.3 intimidating members not to attend; and
 - 2.4 refusing to sign the register for the BGM.
3. The charged members were alleged to have contravened the following acts of misconduct:-
 - 3.1 Rule 25.17.3 – failing or neglecting to execute ANC policy;
 - 3.2 Rule 25.17.4 – bringing the ANC into disrepute;
 - 3.3 Rule 25.17.5 – sowing racism or any other form of discrimination;
 - 3.4 Rule 25.17.6 – provoking divisions or impacting negatively on the unity of the ANC;
 - 3.5 Rule 25.17.8 – abuse of an elected or employed office to obtain an undue advantage;
 - 3.6 Rule 25.17.9 – participating in organized factional activity;
 - 3.7 Rule 25.17.11 – impeding the functioning of any structure or committee of the ANC; and
 - 3.8 Rule 25.17.15 – behaving in an unruly manner at ANC meetings and/or disrupting meetings.

4. Charge Two was preferred against comrade Siyabonga Thango for carrying a firearm to the said meeting.
5. The disciplinary hearing was postponed on 25 July 2015 at the request of the charged members and was postponed again on 8 August 2015 due to the absence of one of the charged members.

Evaluation by NDCA

6. When considering an application for an extension of time, the NDCA is obliged in terms of Rule 25.54 to take into account all the circumstances, including the competency of the charges and the prospects of success, to establish whether good cause exists for the granting of the application.
7. On Charge One, the NDCA is of the view that the charge is too widely framed. The alleged acts of misconduct should be set out separately so that the charged members would be placed in a position to understand the precise nature of the charges against them.
8. The charge against Comrade Thango for carrying a firearm to an ANC meeting and pointing that firearm at members in an ANC meeting is a very serious charge.
9. In the view of the NDCA such action is not only criminal conduct which brings the ANC into disrepute in the community which it purports to serve but it also subverts the very essence of a voluntary association where members should feel free to associate with each other without fear of criminal acts being visited upon them.
10. On the last two sittings, the PDC could not continue with the disciplinary hearing due to a request for a postponement by the charged members' representative on the first occasion and the unavailability of one of the charged members on the second occasion.
11. Consequently, no fault can be attributed to the PDC for failing to finalising the disciplinary hearing within the prescribed time as stipulated in the ANC Constitution.

NDCA Finding

12. The application for an extension of time is granted.
13. The PDC should reformulate Charge One against the charged members.
14. The PDC should proceed with Charge Two against comrade Siyabonga Thango.

Dated at Irene, Pretoria on this 27th day of November 2015

Sgd. J. Raडेbe

**JEFF RADEBE
CHAIRPERSON
NDCA**

Sgd. N. Pandor

**NALEDI PANDOR
MEMBER
NDCA**

Sgd. G. Nkwinti

**GUGILE NKWINTI
MEMBER
NDCA**