

IN THE EQUALITY COURT
(HELD AT THE MAGISTRATE'S COURT UBOMBO)

In the matter between:

Case #: 01/2017

iSIMANGALISO WETLAND PARK AUTHORITY

FIRST APPLICANT

DEPARTMENT OF TOURISM

SECOND APPLICANT

And

SODWANA BAY GUEST HOUSE /

KATARÍNA KRIŽÁNIOVÁ (Manageress)

FIRST RESPONDENT

ENKI ANDRE M. SLADE

SECOND RESPONDENT

WITNESS BRIEFING

We, The Respondents hereby wish to inform you, Slindile Mthiyane, as a witness in this case as to the line of questioning you will be facing. Indicate if you agree or disagree with the following statements of opinion and fact on the replying form. If you disagree, please state the reason for disagreement. This is in order for you to be sufficiently informed about your role in the trial and also to make the proceedings more efficient. Remember that your purpose is not to testify on behalf of anybody but simply to let the presiding officer know what you know.

Please hand-deliver your replying form to The Respondents at Emoyeni, Sodwana Bay Main Road on or before 13/11/2017.

- 1) Truth holds the highest value in life. Both science and justice call for us to seek and tell the truth, not to tell lies and spread error.
- 2) God has been scientifically proven as The Creator of all life. I believe in God.
- 3) The Bible contains The Word of The Almighty God Yahweh.
- 4) I believe that The Son of God, The Lion of The Tribe of Judah (known as Jesus Christ) is coming back to Earth in a physical body as a White man.
- 5) I have worked for Andre and Katarina for almost 4 years now; I like to work for Them even though They do not have a lot of money. My partner loves Andre and wants me to work for Him.
- 6) I do not feel that Andre and Katarina treat me like nothing. They reprimand or ignore me, but I have never felt hated in Their company.
- 7) Andre and Katarina do not display hate towards the neighbourhood; They have been very helpful and kind to the Local Black Community, and community likes Them.
- 8) Except for dogs and pigs, which God also hates, Andre and Katarina love animals very much. They even like animals I am scared of, like lizzards, snakes, frogs or bats.
- 9) I serve and love Andre and Katarina; I am an orphan, and They are like my parents. I can ask Them for help with anything, and I listen to Their guidance/advice.
- 10) Andre and Katarina grow their own vegetables and fruit and make their own food, including bread. When guests used to leave products from the shopping centre, They let us have it. However, They told me what I should not eat from that and that it was my choice.
- 11) Andre and Katarina are much more clever than me; they have taught me many new things. They spend most of their time reading.
- 12) Katarina can draw perfect pictures; I have not seen Blacks draw or paint like She does.
- 13) Andre can fix almost anything, and many neighbours admire Him.
- 14) The local high school asked Andre and Katarina to teach Mathematics and Physical Science as students had a problem learning it.

- 15) When Katarina was in prison, I visited Her together with my partner and another housemaid which used to work here; We all missed Her and were very happy to see Her. We bought Her and Andre some fruit as They had no money at that time.
- 16) When Katarina was in prison, Andre gave me a letter for the neighbourhood to sign to show they support Andre and Katarina. I came to ask for more papers as many more neighbours wanted to sign it.
- 17) Since the guesthouse was closed, almost no one visited here.
- 18) My family and the local "Induna" helped Andre and Katarina with food.
- 19) The Black community does not like iSimangaliso; they wanted to remove us from our houses but did not even speak to us about it. We are very angry with them.
- 20) The Black community cut part of the forest in The Park in a protest against iSimangaliso.
- 21) The Black community feels that iSimangaliso did nothing good for them.
- 22) I see big difference between Black and White mentality; for example, Blacks express themselves much louder and with more rythm, they litter more indiscriminately, they are much less punctual and hygienic, they are much more concerned with image, and they read much less than Whites.
- 23) Blacks call a White mulungu but also isilwane (meaning animal) because Whites are always with animals and look after them.
- 24) Black females love babies very much. We have babies very young, but we often do not get married.
- 25) There is widespread practice of witchcraft and ancestral beliefs amongst Blacks.
- 26) Black males in general drink a lot and are sexually uninhibited.
- 27) I like it when males are drunk, loud and horny.
- 28) Black females in general want to look like White women; they hate their hair and put on false hair instead, disrespecting themselves and God Almighty (1 Peter 3:3).
- 29) I prefer the company of Blacks as I relate to them better.

FYI: Witness Preparation (source: *Your Guide to the South African Equality Courts, 2015*)

There are two parts to witness testimony: (1) the witnesses' responses to your questions (direct examination), and (2) their responses to the opposing parties' questions (cross-examination). Unfortunately, many unprepared witnesses have enormous difficulty in responding to cross-examination and treat questions from the opposing party with hostility.

The reason for this is two-fold. First, they often believe that they are testifying on your behalf, and therefore tend to take sides. Secondly, they may view the opposing party as the enemy, and they may testify differently when you are asking the questions as opposed to when the other side is asking the questions. A change in demeanor of a witness tends to show bias to the presiding officer and needs to be avoided, so that the witness is viewed as neutral and reliable.

Preparing the Witness for direct and Cross-Examination Testimony

Tip 1: Explain that the witness's purpose is not to testify on behalf of anybody, but is simply to let the presiding officer know what the witness knows. In this regard, it is important that witnesses understand that they are not advocates, but simply people who have information that may be useful to the decision maker.

Tip 2: Explain to the witnesses that they should: (i) listen to each question carefully; (ii) answer only the question asked; and (iii) then be quiet and wait for the next question. The untrained witness tends to ramble and say things that are irrelevant, or worse, wrong.

Example:

An easy way to demonstrate this principle is to ask the witness "do you know what time it is?" Almost invariably the witness will look at his/her watch and say, "it is 9:30 a.m." This is the wrong answer. The question only calls for a "yes" or "no" answer. Had you wanted to know what time it was, you would have asked the question, "what time is it?".

This example helps witnesses understand that they answer only the question that is being asked and then remain quiet.

Tell witnesses that when they go beyond the scope of the direct answer to a question, whether it is from the complainant or the respondent, they open up a door that may allow for greater cross-examination than what was otherwise available. If they introduce new facts, the other party may be able to ask them about those facts. Additionally, the witness may say something that confuses the presiding officer. A good practice is to make sure you know everything the witness will say in response to prepared questions.

Tip 3: Make sure the witnesses understand that they must only testify about things they actually know, not about something that they assume is true.

Tip 4: Explain to the witnesses that they should never guess. A guess to a question can only have one of two results: the guess is correct or the guess is incorrect.

When the guess is incorrect, the witness will be made to look foolish if properly cross-examined. Explain that if the witness does not know the answer to a question, the proper answer is "I do not know."

Tip 5: Explain to the witnesses that they are to show the same respect to the other side's representative as they show to you. Being disrespectful to one side demonstrates a bias and weakens the testimony.

Tip 6: Advise the witnesses to look directly into the eyes of the presiding officer when they are testifying. When the witnesses are listening to questions, they can look at the person asking the question, but when testifying, they should look at the person whom you are trying to convince with the testimony.

....

The most important concepts for witnesses to remember are:

- ◆ do not take sides;
- ◆ listen carefully to the question being asked;
- ◆ answer only that question, then be quiet;
- ◆ never guess.

When schooled on these basic principles, witnesses can generally be relied on not to make unanticipated statements.

Applying these principles to our sample case...mr. Klein will testify about what he observed on January 1, 2012. You should explain to mr. Klein that he should only testify as to exactly what he observed, and he is not to serve as mr. masuku's advocate.

You should also advise him not to get hostile with the opposing counsel. Instead he should listen very carefully to the questions, and provide short, thoughtful and direct answers. He should never guess – if he does not know the answer, he should inform the court. He should look at the presiding officer when he answers any questions.

....

Date: 30th day of October 2017

Place: Mbazwana, Sodwana Bay