

CLERK OF CRIMINAL COURT
UBOMBO
24 MAY 2017
PRIVAATSAK/PRIVATE BAG
X612, UBOMBO, 3970
CLERK OF CRIMINAL COURT



REPUBLIC OF SOUTH AFRICA

UBOMBO
 F. No. 01/2017
 Date: 24 May 2017

J694

FORM 3

NOTICE TO RESPONDENT REGARDING INSTITUTION OF PROCEEDINGS IN TERMS OF SECTION 20 OF THE PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT, 2000 (ACT NO. 4 OF 2000) [Regulation 6 (2)]

File No: 01/2017

IN THE EQUALITY COURT HELD AT THE MAGISTRATE'S/HIGH COURT
 UBOMBO

HELD AT UBOMBO

In the matter between: 1ST: ISIMANGALISO WETLAND PARK AUTHORITY 2ND: DEPARTMENT OF TOURISM

ID No./Date of Birth/Registration No.:
Complainant
 And

FIRST RESPONDENT: SODWANA BAY GUEST HOUSE

SECOND RESPONDENT: ENKI ANDRE M SLADE

ID No./Date of Birth/Registration number:
Respondent

NOTICE TO RESPONDENT

PART A: PARTICULARS OF RESPONDENT

Residential address:
 SODWANA BAY MAIN ROAD, EMOYENI
 Code (3974)

Residential telephone number: _____

Cellular telephone number: _____

Work address:
 Code ()

Postal address:
 Code ()

Work telephone number: _____

Physical address (where documents can be served):
 Code ()

PART B: PARTICULARS OF COMPLAINT

On 24 MAY 2017
....., the Complainant instituted proceedings in the above-mentioned court.
(Date)

The alleged complaint(s) against you is/are as follows:

.....
REFER TO THE FOUNDING AND CONFIRMATORY AFFADAVITS ATTACHED
.....
.....
.....
.....
.....
.....
.....

The Complainant is seeking the following assistance/relief:

.....
REFER TO PARAGRAPH 14 OF THE FOUNDING AFFADAVIT
.....
.....
.....
.....
.....
.....
.....

Copies of the following documentation are herewith attached for your information:

.....
REFER TO ANNEXURES 'EC1', EC 2 AND EC3 ATTACHED TO THE FOUNDING AFFADAVIT
.....
.....
.....
.....
.....
.....
.....

PART C: INVITATION TO RESPONDENT TO RESPOND TO ALLEGATIONS AND TO SUBMIT INFORMATION

- (a) You are hereby invited to -
- (i) respond to the complaint(s) mentioned in part B; and
 - (ii) submit any information you wish to bring to the attention of the presiding officer, relating to your personal circumstances (e.g. your financial and socio-economic position). You may also indicate whether the matter in your opinion should be heard by the court or any other forum, stating reasons for your preference.
- (b) The information must be in writing and in the form of an affidavit and must be submitted to the clerk of the above-mentioned court on or before
20 JUNE 2017
- (c) At the date referred to in paragraph (b) above, the matter will be referred to the presiding officer.

PART D: GENERAL INFORMATION

Your attention is drawn to the fact that the presiding officer may decide to refer the matter to an alternative forum (such as the Human Rights Commission, the Gender Commission etc.) in terms of section 20(5)(a) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), for a decision and that the alternative forum may refer the matter back to the equality court for finalisation. The clerk of the court will inform all the parties accordingly.

Signed at UBOMBO

CLERK OF CRIMINAL COURT

this UBOMBO day of MAY

year 2017

NPJobe

Clerk of the Equality Court

24 MAY 2017

PRIVAATSAK/PRIVATE BAG
X612, UBOMBO, 3970

CLERK OF CRIMINAL COURT

PART E: RETURN OF SERVICE

I,, certify that I have delivered a copy of the notice to
..... personally.

Signed at this day of year

* Sheriff/.....

*Delete whichever is not applicable

IN THE EQUALITY COURT
HELD AT UBOMBO MAGISTRATE'S COURT

CASE NO:

IN THE MATTER BETWEEN

ISIMANGALISO WETLAND PARK
AUTHORITY

FIRST APPLICANT

DEPARTMENT OF TOURISM

SECOND APPLICANT

AND

SODWANA BAY GUEST HOUSE

FIRST RESPONDENT

ENKI ANDRE M. SLADE

SECOND RESPONDENT

FOUNDING AFFIDAVIT

I, the undersigned,

Andrew Zaloumis

Do hereby state under oath that:

1.

I have deposed to this affidavit for purposes of providing the details required by Part E of Form 2 in terms of Regulation 6(1) of the Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000. Thus the main purpose is to inform the Respondents of the case that they have to meet, and if necessary, further details elaborating on the facts deposed will be provided at the hearing of the matter.

2.

The facts deposed hereto are to the best of my knowledge and belief both true and correct unless specifically otherwise stated. Legal submissions have been made on the advice of my legal representatives.

3.

For the purposes of this affidavit, I need to state that I am a white South African adult male, identity number 611101 5055 089. I am employed by the iSimangaliso Wetland Park (hereinafter referred to as, "the First Applicant") in the capacity of Chief Executive Officer. The First Applicant is registered as a Schedule 3A Public Entity in terms of the Public Finance Management Act No. 1 of 1999, and is the protected area manager for the iSimangaliso Wetland Park World Heritage Site ("Park"). I am also resident in the Park managed by the First Applicant, at Mission Rocks, Eastern Shores, iSimangaliso (The Park does not have a street address).

4.

I have been holding the above post of Chief Executive Officer for a period of fourteen (14) years and am duly authorised to depose to this affidavit on behalf of the First Applicant.

5.

The First Respondent is the Sodwana Bay Guest House, a business operating as a guest house situated at Sodwana Bay Main Road, Emoyeni.

6.

The Second Respondent is Enki Andre M. Slade an adult white male, the owner of the First Respondent who carries on business and is resident in the immediate vicinity (within 5 kilometres) of the iSimangaliso Wetland Park, the World Heritage Site managed by the First Applicant. The Second Respondent's full and further particulars are unknown to the Applicants.

7.

On or about 22 June 2016, I became aware of an email communication that was being circulated on the social network platforms, Twitter and Facebook. The twitter feed was copied and forwarded to me via "Whatsapp" by Ms Terri Castis, a white

adult female employed by First Applicant. The content of the Twitter feed received on "Whatsapp" reflected the following:

"Hi

We do not accommodate blacks or government employees any longer.

Sodwana Bay Guest House

Enki Andre M Slade

The Book of Revelation 10..."

(A copy thereof is annexed and marked as, Annexure "EC1")

8.

I thereafter became aware of a newspaper article that was published by Independent Online (IOL) on or about 23 June 2016, wherein the Second Respondent confirmed that his guest house no longer accommodates "blacks or government employees". This was in response to a booking enquiry that had been made by a Ms Sizakele Msimango. In the article the Second Respondent further states, "...we work according to God's law, and according to God's law, we have to have some sort of segregation between the creation that he left here...the law you have in South Africa is Satan's law." A copy the said article is annexed and marked as, Annexure "EC2".

9.

In a further interview with the Second Respondent, he made the following offensive and discriminatory comments to radio presenter on "Vuma FM", Ms Jacinta Ngobese, a black female. The interview was published online by "News 24". A copy of the article is annexed and marked as, Annexure "EC3". The Second Respondent made the following comments during the interview:

9.1 "...black people were servants and the Bible made it very clear...his Bible said he could not mix with another race..."

9.2 "We do not have the same blood, skin, hair and there is about 300 differences between you and me..."

9.3 "You are classified in the Bible as an animal, you are not homosapien."

9.4 "...black people were not people..."

10.

Following the widespread circulation of the abovementioned publications, the First Applicant received several telephonic enquiries from concerned members of the public enquiring as to whether the First Applicant had any affiliation to the First and Second Respondents. The First Applicant advised callers that it (the First Applicant) was not affiliated to the Respondents in any way.

11.

As a registered public entity, the First Applicant considers the Second Respondent's comments towards African people and government employees to be extremely humiliating, hurtful, and discriminatory in the South African context. The Second Respondent's comments are further deeply demeaning and are invasive of the human dignity of African people and government employees.

12.

The First Applicant therefore approached the South African Human Rights Commission and requested that they institute an Equality Court Application against the First and Second Respondent on its behalf.

13.

The First Applicant believes that the First and Second Respondents' conduct amounts to a *prima facie* violation of the rights of African people and government employees to Equality and Human Dignity, in terms of Sections 9 and 10 of the Constitution. It further amounts to unfair discrimination on the grounds of race, as provided for in Sections 6 and 7 of the Promotion of Equality and Prevention of

Unfair Discrimination Act (hereinafter referred to as, "the Act") and hate speech as provided for in Section 10 of the Act

14.

Fuller and more detailed legal arguments will be made to the above Honourable Court when this matter is heard.

The First Applicant seeks the following order:

A finding that the Second Respondent's comments and/or conduct as described in paragraphs 7, 8 and 9 above amounts to:

- a) Unfair discrimination on the ground of race as defined in terms of Section 9 of the Constitution and Sections 6 and 7 of the Act;
 - b) Hate speech as defined in Section 10 of the Act;
 - c) An impairment of the Human Dignity of African people and government employees in terms of Section 10 of the Constitution;
 - d) An unconditional apology from the Respondent, for his comments and/or conduct towards the African people and government employees as well as an undertaking, not to engage in similar conduct against African people and government employees or any other person based on their race;
- a. That the First and Second Respondents be directed to pay the amount of R50 000-00 (fifty thousand rand only) jointly and severally, the one paying the other to be absolved. This amount is to be donated to Mpilonhle, a Non-Profit Organisation based in Mtubatuba.


DEPONENT

Signed at St Lucia on this 19 day of December 2016.

I HEREBY CERTIFY THAT the deponent has acknowledged that he knows and understands the contents of this affidavit which was sworn to/affirmed and signed before me at St Lucia this 19 day of December 2016 in compliance with regulations contained in Government Notice R.1258 dated 21 July 1972 as amended.

[Signature]
7971467
28/12/16
Commissioner of Oaths


Name: F.S. RBS

Address: Lot 52 Pelican Street

Designation: CSA

Area: St Lucia

[Faint stamp]
3-12-2016
[Faint stamp]

 Hi Siza Thanks for getting in contact with us, Unfortunately we only have

Sodwana Bay Guest House <sbgh-bookings@idsa.co.za>

to me -

Hi

We do not accommodate blacks or government employees any longer.

Sodwana Bay Guest House

Enki Andre M Slade

The Book of Revelation 10

When To From Here: Counter

Free download. <http://www.hereistomorrow.com/the-book>

Proverbs 29:2

Racist claims it's God's law

NEWS / 23 June 2016, 08:25am

 Lerato Mbangeni



File picture: Raphaelstrada, Flickr.com

Johannesburg - An unapologetic racist says “blacks and government workers” are not allowed to stay at his guest house because “it’s God’s law” to segregate people by race.

André Slate, the owner of Sodwana Bay Guest House in KwaZulu-Natal, made this declaration when responding to a booking enquiry sent by Sizakele Msimango on Wednesday.

“We do not accommodate blacks or government employees any longer,” he stated in an e-mail.

Msimango said she and her cousin had found the place – whose tagline on the internet is “Better than home” – and were looking to book for 12 people.

"I was so angry. When I showed my cousin, she said we should post it on social media."

Msimango also responded to Slate's mail, saying: "This is appalling. This makes me wonder to myself if the president of this country (the country you live in) is not allowed in your whites-only guest house since he is black?"

Slate, the self-proclaimed "King of the Zulu/Heavenly Kingdom", is a religious fanatic who, in his blog and book called *Where to from Here, Cognition*, states that blacks need to be kept separate from other races.

When the Daily News sister newspaper, The Star phoned the 52-year-old, who says he has a "great passion for the ocean, nature and people", he seemed unperturbed: "My book explains everything. You cannot speak to me until you've read my book."

He went on to say he was aware that the constitution did not allow discrimination based on race, but he followed only one law.

"Well, according to your constitution, perhaps yes, but we work according to God's law, and according to God's law, we have to have some sort of segregation between the creation that he left here... the law you have in South Africa is Satan's law."

In his blog, wheretofromhere.org, Slate mentions DA leader Mmusi Maimane, who he calls a "beast" and "little bastard".

After the matter blew up on social media, other people tried calling him themselves, and got the same response Msimango did.

[News \(/dailynews/news\)](#)



[SABC probe: ANC 'getting cold feet'](#)

[\(/news/politics/sabc-probe-anc-getting-cold-feet-7517575\)]((/news/politics/sabc-probe-anc-getting-cold-feet-7517575))



[Reaction officer dies in hospital](#)

[\(/news/crime-courts/reaction-officer-dies-in-hospital-7512192\)]((/news/crime-courts/reaction-officer-dies-in-hospital-7512192))

'Blacks are not people' - Sodwana Bay Guest House owner tells radio presenter

2016-06-24 07:58

Amanda Khoza, News24



Andre Slade (Facebook)

Durban – A KwaZulu-Natal based radio presenter said she was reeling after interviewing Sodwana Bay Guest House owner, Andre Slade on Thursday afternoon.

"I knew that there was hatred but I did not know that someone could hate you so deeply because of the colour of your skin. It's shocking," said Vuma FM presenter Jacinta Ngobese, 28 - who is herself black - of her interview with Slade during her lunch time radio show, *The Brunch*.

Slade was interviewed during the show, which aired between 09:00 and 12:00 on Thursday.

Slade made headlines on Thursday after an e-mail he sent to a would-be visitor to Sodwana Bay Guest House in northern KwaZulu-Natal, went viral. The e-mail read, "Hi. We do not accommodate blacks or government officials any longer."

The e-mail was reportedly signed Enki Andre M Slade, with the postscript Proverbs 29:2, which read: "When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn".

In the 19-minute radio interview, Ngobese called the guesthouse and asked to speak to Slade. The woman who answered asked her if she was from the media.

Ngobese said no.

When Slade answered the phone he realised that he was speaking to the media.

Ngobese asked Slade if she could book accommodation for next week and Slade responded by saying, "No you won't be able to because you are phoning about a statement I made last night and it is now world news.

"We have not had any phone calls for a long time and then in one day we have so many blacks phoning for accommodation."

'You are not homosapien'

Slade then asked Ngobese if she was black and she asked him why did the colour of her skin matter.

He responded by saying he was asking because the guesthouse did not accommodate black people.

When she asked him what was wrong with black people he said, "Well, we have to restore what is happening in the world right now and the hierarchy of the world is wrong at this point in time."

He said black people were servants and the Bible made it very clear.

When asked which Bible he was referring to, he said the King James Bible.

Slade told Ngobese that his Bible said he could not mix with another race.

"We do not have the same blood, skin, hair and there is about 300 differences between you and me," he said.

Slade said he had melanin because he was royal and Ngobese was short of it because she was an animal.

"You are classified in the Bible as an animal, you are not homosapien."

Slade said if Ngobese was intelligent, she should go and read the book [Bible].

"Most of the times that we get blacks walking through these doors, they bring prostitutes here and they fuck all night in their rooms and make me feel uncomfortable.

"They bring booze here and sit and get drunk and break things...And when my maid has left, they come to me and demand things. They ask me to clean their bedrooms..."

He said white people did not behave that way.

"I have never had this problem with white people," said Slade.

He said black people were "not people".

Saddened

The presenter then offered Slade an opportunity to spend a week with her and other black people but he referred her to a woman called Katalina.

Ngobese said afterwards, "I was saddened by how much hatred he has for black people. I feel like he needs help. He is oblivious to reality and he is clearly naïve about black people."

Ngobese said not all black people behaved the way Slade had described.

"I am traumatised by the interview. I would be interested, and hope others will join me, in teaching him about black people and what it feels like to be treated like nothing.

"Maybe then he will understand that he is wrong," she said.

KwaZulu-Natal Economic Development, Tourism and Environmental Affairs MEC Sihle Zikalala said he was investigating the matter.

IN THE EQUALITY COURT
HELD AT UBOMBO MAGISTRATES COURT

CASE NO:

IN THE MATTER BETWEEN

ISIMANGALISO WETLAND PARK
DEPARTMENT OF TOURISM

FIRST APPLICANT
SECOND APPLICANT

AND

SODWANA BAY GUEST HOUSE
RESPONDENT
ENKI ANDRE M. SLADE

FIRST
SECOND RESPONDENT

CONFIRMATORY AFFIDAVIT

I, the undersigned,

Miriam Mmaditlonki Setwaba

Do hereby state under oath that:

1.

I am an African adult female person, employed as the Chief Director: Legal Services for the Department of Tourism (hereinafter referred to as "the Second Applicant"), situated at Tourism House, 17 Trevenna Street, Sunnyside, Pretoria, 0001 in the Gauteng Province.

2.

The facts deposed hereto are to the best of my knowledge and belief both true and correct unless specifically otherwise stated. Legal submissions have been made on the advice of my legal representatives.

3.

I have been holding the above post of Chief Director: Legal Services for a period of five (5) years. The Minister of Tourism designated me as the Tourism Complaints Officer in terms of section 45 of the Tourism Act, 2014 and published the designation under Government Gazette No. 38418, Notice No. 53 of 30 January 2015. I have a duty in terms of section 47(d) of the Tourism Act, 2014 to refer a complaint to the equality court referred to in section 16 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), if a complainant alleges unfair discrimination against a tourist. I am therefore duly authorised to depose to this affidavit on behalf of the Second Applicant.

4.

The Second Applicant is mandated by the Tourism Act No 72 of 1993 to promote *"tourism to an in the Republic and for further regulation and rationalisation of the tourism industry. This includes the co-ordination and rationalisation, as far as practicable, of the activities of persons who are active in the tourism industry."*

5.

The Second Applicant's values and descriptions are to be innovative, ethical and customer focused. The Second Applicant further prescribes the following values and descriptions for people involved in the tourism industry:

- *"Empowerment (Growth, Training, Develop, Skills): Create an environment conducive for our people's Growth and Development;*
- *Integrity: We will act with integrity by being accountable, showing respect and serving with honesty, respect and trustworthiness;*

¹ <http://www.tourism.gov.za/AboutNDT/Pages/Legislative-and-Other-Mandates.aspx>

MS
D.C.

- *Recognition (Appreciated, Get Support, and Fairness): We want to be an organisation that values its own people by ensuring fairness of the systems and processes, supportive, recognising and rewarding performance.*²

6.

The Second Applicant was alerted to the First and Second Respondents' comments via social media reports that were circulated on Facebook and Twitter.

7.

I confirm that I have read the affidavit of the First Applicant, which makes reference to the Respondents' comments that were widely circulated on social network platforms.

8.

The Second Applicant is of the view that the Respondents' comments towards African people and government employees are extremely humiliating, hurtful, and discriminatory in our current democratic dispensation. The Respondents' comments are further deeply demeaning and invasive of the human dignity of African people and government employees in general.

9.

The recent spate of incidents involving racism and hate speech across the country has caused huge public outrage. Given the history and strained relations between Africans and Whites in this province and in the country in general, the Respondent's comments and/or utterances could have the effect of promoting further racial conflict and of propagating hatred between these racial groups. It could also create violent retaliation, harm and general chaos by African people and government employees in general against members of the White community.

² <http://www.tourism.gov.za/AboutNDT/Pages/Values.aspx>

10.

The Second Applicant therefore approached the South African Human Rights Commission and requested that they institute an Equality Court Application against the First and Second Respondents on its behalf.

11.

Fuller and more detailed arguments will be made to the above Honourable Court when the matter is heard as to why the comments made by the Respondent as detailed in the main (founding) affidavit amounts to a *prima facie* violation of the rights of African people and government employees to Equality and Human Dignity, in terms of Sections 9 and 10 of the Constitution and further to unfair discrimination on the grounds of race, as provided for in Sections 6 and 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act (hereinafter referred to as, "the Act") and to hate speech as provided for in Section 10 of the Act.


DEPONENT

Signed at Pretoria on this 19th day of January 2017.

I HEREBY CERTIFY THAT the deponent has acknowledged that she knows and understands the contents of this affidavit which was sworn to/affirmed and signed before me at Pretoria this 19 day of January 2017 in compliance with regulations contained in Government Notice R.1258 dated 21 July 1972 as amended.



COMMISSIONER OF OATHS

EX OFFICIO

SIGN D. Mouselle DATE 19/01/2017
NAME Diphoto C. Mouselle
DESIGNATION Legal Admin Officer

DEPARTMENT OF MINERAL RESOURCES RSA
TREVENNA CAMPUS, 70 MEINTJIES STREET
PRIVATE BAG X59, ARCADIA, 0007
REPUBLIC OF SOUTH AFRICA