

CHAPTER 22

INSPECTOR van RENSBURG

&

MR GROOTBOOM

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CHAPTER 22

INSPECTOR van RENSBURG & MR GROOTBOOM

1. INTRODUCTION

During the Commission's hearings into the St Albans Management Area, evidence was led regarding allegations of corruption involving three (3) members, Messrs Redcliff, Ferreira and Ruiters (subsequently deceased), all of whom the Department employed at this Management Area. The allegations were that these members assisted and allowed a prisoner, Mr Godfrey Grootboom, to leave the prison and thereafter took him to his girlfriend, Ms Carmen van Rensburg, for him to have sexual intercourse with her. As a result of this, a child was born.

Evidence will show that this child was conceived and born during the period within which Mr Grootboom was incarcerated at St Albans Prison. The prisoner, Mr Grootboom, is a former member of the South African Police Services and his girlfriend, Ms van Rensburg, is currently an active member of the South African Police Service.

The conduct of these warders, if proved, would amount to a breach of the Department's Disciplinary Code and the Correctional Services Act, which would justify their dismissal.

Furthermore this report deals with the conduct of both Mr Grootboom and Ms van Rensburg in the alleged falsification of official documents from the Department of Home Affairs. In an official document of registration of births issued by the Department of Home Affairs and brought to Mr Grootboom by Ms van Rensburg at St Albans Prison, Mr Grootboom, whilst a prisoner at St Albans Prison, signed this document acknowledging paternity in respect of a child born to Ms Carmen van Rensburg. As the evidence will show, when Mr

Grootboom gave evidence before the Commission, he denied paternity of the said child.

A further aspect of this report involves criminal conduct by Ms van Rensburg, in that she provided the motor vehicle to the warders referred to above, in order to enable Mr Grootboom to leave prison and visit her. Evidence will show that the white Honda Ballade, which was used by the said warders to take Mr Grootboom out of the prison, belonged to Ms van Rensburg.

The evidence in support of the allegations against the warders referred to above is set out below.

2. EVIDENCE

2.1 Mr Fezile Mbuqe

Mr Mbuqe is a prisoner currently incarcerated in Medium B, section C, cell 1 at St Albans Prison. He has been at St Albans Prisons since 20 October 1998 in Medium B. He knew Mr Grootboom as a member of the South African Police Service even before he was incarcerated in 1998.

Whilst incarcerated at St Albans Prison, Mr Mbuqe was assigned tasks to perform as an assistant in the kitchen from 22 May 2000. Mr Grootboom was also incarcerated at Medium B and also worked in the kitchen.

Mr Grootboom was given a number of privileges, which other prisoners did not enjoy. For example, he was allowed to go on his own and unguarded to the fields. He also received preferential treatment at the hospital.

The members who made it possible for Mr Grootboom to receive preferential treatment were Messrs Redcliff and Ferreira. Another member, Mr Ruiters (deceased), would take a white Honda Ballade motor vehicle belonging to Mr

Grootboom's girlfriend, Ms van Rensburg, to the back of the kitchen area, where Messrs Redcliff and Ferreira would open the back area of the kitchen to enable Mr Grootboom to go out to the car and leave with Mr Ruiters. Mr Mbuqe knows Mr Grootboom's girlfriend, Ms van Rensburg, as a police officer and positively identified her in court during the Commission's hearings. Mr Grootboom would leave in this motor vehicle and return later and tell Mr Mbuqe everything he did during his absence from prison. This happened on many occasions during the day.

Mr Grootboom at one stage told Mr Mbuqe that his girlfriend was pregnant. He went to the extent of showing him a scan of the pregnancy of his girlfriend. He even showed him a photograph of Ms van Rensburg depicting her as pregnant. He also told him when his girlfriend had given birth to the child.

Mr Mbuqe did not report that Mr Grootboom was receiving unfair privileges to any of the officials because he was afraid to do so. He, however, knew that the Jali Commission was coming and had decided he would report this incident to the Commission. However, Mr Mbuqe no longer works in the kitchen as he was dismissed. He denied that he was falsely implicating Mr Grootboom because of his involvement in his dismissal from the kitchen but he did make a number of complaints against Mr Grootboom.

2.2 Mr Nelson Mbuzeli Mene

Mr Mene is employed by the Department of Home Affairs as an Acting Regional Representative. He is in charge of this office. He referred to the notice of birth document, normally referred to as B124, and testified that the document is completed by the parent or parents on behalf of a child. This document was handed in as Exhibit 'PP1'. The document has been completed in respect of a child, namely Candice Alysia van Rensburg. According to this document, she was born on 11 May 2001.

The column dealing with the natural father of the child has been completed by Mr Godfrey Grootboom. The column dealing with the natural mother of the child has been completed by Ms Carmen Carmelita van Rensburg. In this document, both Mr Grootboom and Ms van Rensburg acknowledged being parents of the said child. The document was filed with the Department of Home Affairs on 4 June 2001. The document was obtained by Ms Carmen van Rensburg from the Department of Home Affairs and sent to Mr Mene from Pretoria for the purpose of registration in the Population Register, which is kept in Pretoria. The document contains the stamp of the document dated 4 June 2001.

Mr Mene, however, stated that the policy does not allow people to get the document and take it home to complete. These documents must be completed at the offices of the Department of Home Affairs. He did, however, concede that it is possible to go out of the Department with the document and complete it at home.

During cross-examination, Ms van Rensburg conceded that she went to the Department of Home Affairs, requested the document and took it home and brought it back after completion. She admitted that exhibit 'PP1' was the form that she had completed.

Mr Mene then confirmed that he had verified the identity numbers of both parents through the computer and it was confirmed that the identity numbers of both parents were correct.

2.3 Mr Hermanus Lambertus Kruger

Mr Kruger has access to the records of prisoners at Medium B section. He knows the prisoner, Mr Grootboom.

According to his records, Mr Grootboom was admitted to St Albans Prison on 16 August 1999 and on 20 December 2000 was removed to St Albans Medium

A. He was moved back to Medium B on 3 July 2001. During the period August/September/October 2000, Mr Grootboom was at Medium B prison.

Mr Kruger, however, admitted that he had taken Mr Grootboom out temporarily when he went to hospital or court.

According to Mr Kruger, prisoners are not allowed to go to hospital for anything to do with family planning.

2.4 Mr Godfrey Grootboom

Mr Grootboom has been incarcerated at St Albans Prison since 16 August 1999. He has been moved from one prison to another, from Medium B to Medium A and back to Medium B. The day after his incarceration, he worked at the hospital section as he was a policeman and he had to be kept in safe custody. He later asked to work in the prison kitchen and was moved to the prison kitchen in the year 2000. He was at the time of the hearings also working in the prison kitchen. He denied the evidence of Mr Mbuqe and stated that no member had ever taken him out of prison for any other reason or any of the reasons as stated above by Mr Mbuqe.

If he had been taken out by any member, he would have come to the Commission himself and would have made a statement without being prompted to do so.

He also told the Commission investigators when they approached him that these things never happened. He did not know Messrs Redcliff and Ferreira before he worked in the kitchen. He also denied that he was given any special privileges in prison. He said no-one was given any special treatment in prison. He had previously worked at Kabega Park, which is a police station near the prison. As a result, he was involved in many high profile investigations of the prison itself. He mentioned the hostage drama and things that had happened in the prison a few years before.

He was therefore known to many members at St Albans Prison. He had no special relationship with any member.

He knows Ms Carmen van Rensburg as they used to be romantically involved before he went to prison. When he was sentenced to nine (9) years imprisonment, his wife left him. Ms van Rensburg was the one who supported him at prison and they remained good friends. They decided to break off the relationship but remained good friends.

The signature on Exhibit 'PP1' was appended by him on the document¹ at the prison when the form was brought to him by Ms van Rensburg. He never thought his signing would result in this process.

He admitted before the Commission that by putting his signature on this form, he was acknowledging that he was the father of the child. If he had done anything wrong, it was to have put his signature on this form. No member ever took him out to have sexual favours with Ms van Rensburg.

He was asked by Ms van Rensburg to put a signature on the document because she fell pregnant by the person that she was involved with whilst he was in prison. The reason she asked him to put his signature on the form was that she needed someone to fill in the father's particulars on the document. He completed this document whilst he was in prison. He then stated that because he was an ex-policeman there were many things said about him. Prison members treat him well because he treats them with respect.

Mr Grootboom said there is a lot of prison politics and that Mr Mbuqe believed he was responsible for influencing the Head of Prison to dismiss him from the kitchen section.

¹ See Exhibit "PP1" St Albans hearings.

He was taken out of prison as a musician to perform at Centenary Hall on 1 December 2000. On numerous occasions, he was taken out of the prison premises to perform songs. He had also been taken out to go to Livingstone Hospital. However, he has never been taken out for family planning reasons, nor has he been taken out for purposes of artificial insemination. He had been a policeman for a period of sixteen (16) years.

He admitted that Ms van Rensburg's child was born on 11 May 2001. He also admitted that the child must have been conceived whilst he was still in prison and working in the kitchen. He confirmed that Ms van Rensburg has a white Honda Ballade as described. He also confirmed that he signed exhibit 'PP1' and declared that he is the natural father of the child. He, however, stated that he was lying when he made that declaration. He was asked by Ms van Rensburg to complete the document. He also confirmed that Ms van Rensburg brought the said forms to the prison during a weekend.

Both Messrs Redcliff and Ferreira handed in affidavits wherein they denied everything. They elected not to testify.

Ms Carmen van Rensburg also did not testify and elected to hand in affidavits. In her first affidavit, she stated that the father of her child is a certain Mr Marco Singh, who works at a computer company in Johannesburg. She also stated that she has no further dealings with Mr Singh as there is nothing between them anymore. She further states that her child was born on 11 May 2001, and that the child's registered father is Mr Godfrey Grootboom. This was as a result of an arrangement between her and Mr Grootboom, who is her ex-boyfriend. She also admits that she is the one who registered Mr Grootboom as the child's father. She took the form to Mr Grootboom as he was already serving a term of imprisonment at the time, who signed it as the father of the child.

In her second affidavit, she states that she is not prepared to submit her child for a D.N.A. test because the child's father is known to her and she does not

want to expose the child to the trauma of the D.N.A. testing or to any further trauma, which the Commission investigations have already caused.

She further states that during her pregnancy, she informed Mr Singh, the natural father of the baby, about the pregnancy. She further states that Mr Singh did not deny being the father of the said child. She thereafter did not communicate with him at all. She does not want him to be part of her child's life but Mr Singh was not married to anyone at the time of her pregnancy.

3. EVALUATION OF EVIDENCE

The evidence of Mr Mbuqe against the three (3) warders, Messrs Ferreira, Redcliff and Ruiters, that they assisted Mr Grootboom in leaving the prison through the kitchen during the day, is direct evidence, which has only been contradicted by denials by Messrs Ferreira and Redcliff through cross-examination and their affidavits. Mr Ruiters, who is alleged to have driven the white Honda Ballade to take Mr Grootboom out of prison, has since died. Messrs Ferreira and Redcliff, elected not to give evidence but submitted affidavits. The contents of their affidavits are essentially a denial of the allegations against them, which could not be tested under cross-examination.

Mr Grootboom, when he gave evidence, similarly denied that he was at any stage taken out of the prison by the said warders for any purpose. He, however, alleged that Mr Mbuqe falsely implicated him because he believes that he was responsible for his dismissal from the kitchen. Mr Grootboom confirmed that Ms van Rensburg owns a white Honda Ballade and Ms van Rensburg did not dispute that when she was afforded an opportunity to cross-examine Mr Mbuqe. Mr Mbuqe's evidence is that the motor vehicle, which smuggled Mr Grootboom out of the prison, was driven by Mr Ruiters.

Insofar as the evidence of Mr Mbuqe relates to what transpired when Mr Grootboom left prison, it is essentially hearsay in that he alleged that it was

information that Mr Grootboom told him and it is therefore unreliable hearsay evidence. It appears that it would not be safe to rely on such hearsay evidence. In addition thereto, and despite the fact that the child was born during the period within which Mr Grootboom was incarcerated, there seems to be insufficient evidence to show that Mr Grootboom is indeed the father of the said child as there was no D.N.A. test done, which would have shown conclusively that Mr Grootboom is the father of the child. He admitted and acknowledged in exhibit 'PP1' that he was the natural father of the child, but when he gave oral testimony before the Commission, he denied that he was the father of the child and alleged that he was asked by Ms van Rensburg to sign the form and acknowledge that he was the father of the child.

Ms van Rensburg, in her affidavit, has denied that Mr Grootboom is the father of the child in question and alleged that a certain Mr Singh is the father. She has also refused to subject the child to D.N.A. testing to prove paternity.

There is therefore no conclusive proof that Mr Grootboom is indeed the father of the child.

There is sufficient proof, as shown above, that Mr Grootboom did leave the prison in the company of Mr Ruiters but there is insufficient proof that the purpose thereof was to visit his girlfriend and have sexual intercourse. There is also insufficient proof to show that the child conceived by Ms van Rensburg was born out of such a relationship.

The alleged criminal conduct of both Mr Grootboom and Ms van Rensburg relates to the falsification of Exhibit 'PP1' referred to above. In exhibit 'PP1', the notice of birth document from the Department of Home Affairs, Mr Grootboom acknowledged in writing that he is the father of the said child. When he gave oral testimony before the Commission, he denied that he was the father of the child and stated that he was asked by Ms van Rensburg to declare that he was the father.

Mr Grootboom conceded in his evidence that he lied when he declared that he was the father of the child in exhibit 'PP1'.

The conduct of Mr Grootboom in this regard amounts to a contravention of section 31(b) of the Births and Deaths Registration Act No. 51 of 1992.

This section provides as follows:

“Any person who –

makes or causes to be made, any false statement relating to any of the particulars required by this Act to be made known and registeredshall be guilty of an offence and on conviction, liable to a fine or to imprisonment for a period not exceeding five (5) years or both such fine and such imprisonment”.

Similarly, Ms van Rensburg may also be charged under the same provisions as on her own version, she caused Mr Grootboom to make a false statement.

Section 129 of the Correctional Services Act No. 111 of 1998 provides that any person who assists, conspires with or incites another to contravene any provision of this chapter, commits an offence and is liable on conviction to punishment stipulated in this provision.

The evidence of Mr Mbuqe is that the car belonging to Ms van Rensburg, a white Honda Ballade, was used in taking Mr Grootboom out of prison. The said motor vehicle could not have been used without the knowledge of its owner Ms van Rensburg. It is therefore not an unreasonable conclusion that Ms van Rensburg assisted by providing the said motor vehicle to allow Mr Grootboom to leave prison unlawfully.

The section provides as follows:

“ any person who without lawful authority removes a prisoner or allows him or her to leave the prison or place where such prisoner is in custody, is guilty of an offence and liable on conviction to a fine or in default of payment, to prison for a period not exceeding eight (8) years or imprisonment without an option of a fine.”

4. FINDINGS & RECOMMENDATIONS

4.1 Messrs Ferreira and Redcliff

The Commission finds that:

4.1.1 There is no conclusive evidence, which could lead to a conviction that these members assisted the prisoner, Mr Grootboom, to leave prison without lawful authority;

4.1.2 There is merely suspicion about the conduct of both these men.

4.1.3 Accordingly, the Commission makes the following recommendations in respect of Messrs Ferreira and Redcliff:

- (a) That they be counselled about having a close relationship with a prisoner;
- (b) The provisions of the Correctional Services Act No. 111 of 1998, in this regard should be brought to their attention.

4.2 Ms Carmen van Rensburg -

4.2.1 The Commission finds that:

- (a) There is sufficient proof that the motor vehicle, a white Honda Ballade, belonging to Ms van Rensburg was used unlawfully to remove a prisoner, Mr Grootboom from prison;
- (b) The conduct of Ms van Rensburg in this regard amounts to indirect complicity contemplated in section 129 of the Correctional Services Act No. 111 of 1998;
- (c) There is also sufficient proof that Ms van Rensburg caused Mr Grootboom to falsify the registration of birth document, Exhibit 'PP1';
- (d) Her conduct in this regard amounts to a contravention of section 31(1)(b) of the Registration of Births and Deaths Act No. 51 of 1992.

4.2.2 Accordingly, the Commission makes the following recommendations in respect of Ms Carmen van Rensburg:

- (a) That she be charged criminally with contravening section 129 of the Correctional Services Act;
- (b) That she be charged criminally with contravening section 31(1)(b) of Act No. 51 of 1992;
- (c) That her conduct in this regard be reported to the Provincial Commissioner of the South African Police Service, Eastern Cape, for consideration of any disciplinary action that should be instituted against her;

- (d) That the record of proceedings in this regard be referred to the Director of Public Prosecutions, Eastern Cape, to consider charging her criminally.

4.3 Mr Grootboom

As regards Mr Grootboom, the Commission finds that there is sufficient proof that he made a false statement relating to particulars in terms of Act No. 59 of 1992. Accordingly, the Commission recommends that he be charged with contravening section 31(1)(b) of Act No. 51 of 1992.

5. GENERAL RECOMMENDATIONS

As indicated above there is no conclusive proof that Mr Grootboom is the natural father of the child of Ms Carmen van Rensburg. It is recommended that this matter be referred to the South African Police Service to enable them to conduct further investigations like a D.N.A test for example, which may prove conclusively that Mr Grootboom is the natural father of the said child.

PRETORIA