

## **CHAPTER 24**

# **SUPPLY OF DRUGS BY WARDERS TO PRISONERS**

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## CHAPTER 24

# SUPPLY OF DRUGS BY WARDERS TO PRISONERS

### 1. INTRODUCTION

Correctional Officers are to a large extent the only members of the public that sentenced prisoners come into contact with while serving their sentence. If the Departments' vision of a rehabilitation focused correctional environment is to be realised then it is important that all correctional officers undertake their duties with integrity and honesty. Those who engage in corrupt or criminal activities with prisoners have no place in the Department and only serve to tarnish the image of the Department and their fellow officers.

In all the management areas investigated by the Commission during drug trafficking was found to be rife.<sup>8</sup> Members of the Department were at most times involved or implicated in such during smuggling.

At Pretoria Central Prison the situation was no different. In this chapter the Commission deals with illicit relationships between warders and prisoners at Pretoria Central Prison, involving warders supplying prisoners with drugs in exchange for money. The Chapter also deals with the manner in which the drug dealing took place.

The four warders implicated in this matter are the following:

1.1 Mr Godfrey Mothusi Modisakeng.

1.2 Mr Moses Thabo Tabane.

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<sup>8</sup> For further details on drug trafficking at the Durban-Westville Management Area, see the Commission's First Interim Report.

1.3 Mr Douglas Ntsie.

1.4 Mr Hendrik Ranku Mashike.

## **2. EVIDENCE LED**

The evidence in support of these allegations is set out below:

### **2.1 Mr Godfrey Mothusi Modisakeng**

Mr Modisakeng is a Correctional Officer, Grade 3, at Pretoria Central Prison. He previously worked at Johannesburg Prison as a guard.

During 2002 he was approached by a prisoner, Mr Faniki Maluleka, who asked him to help him smuggle dagga into the prison. The prisoner promised to pay him R1 000 in return. He told him that as he was working inside the prison he could not assist him but that when he worked outside the prison he would be able to help. This conversation took place inside the prisoner's cell.

Mr Maluleka told him that dagga was being brought into the prison from the outside by an ordinary person. A week later, while he was on duty inside the prison, Mr Maluleka told him that there was dagga in the dustbin outside the cell building. They agreed that at about 19H30 Mr Modisakeng would tie a rope to the dagga parcel and throw it over the wall for the prisoner to pull it inside the building.

He removed the dagga from the dustbin and went to a place where Mr Maluleka had arranged to throw a rope out from the cell. He fastened the parcel with the dagga to the dangling rope, which was then pulled back into the cell by Mr Maluleka.

The following day he went to Mr Maluleka and asked for his money, instead of giving him R1 000 as agreed, Mr Maluleka gave him R700. When he asked for the balance Mr Maluleka told him that he had not finished selling the dagga to the other prisoners and that he would pay him the balance later. He never paid him the balance.

Approximately (2) two months later, Mr Maluleka called Mr Modisakeng again and told him that there was dagga amongst the flowers in the bowling field and asked him to fetch it for him. He told him that he could not help him because he did not pay him the balance of R300 from the previous transaction. Mr Maluleka told him that if he helped him, he would include the R300 together with the payment for the new job. He agreed and followed the same procedure as the previous occasion. The quantity of dagga that he brought in on this occasion was half of a 50kg maize meal bag.

The following day, Mr Modisakeng went to Mr Maluleka's cell where he was given an amount of R600 for the job. He then decided to withdraw from their deals because the prisoner did not honour his undertakings.

The warders are not usually searched at the main gate and he was able to bring dagga in through there.

During June or July 2003, he was approached by another prisoner, Mr Ngcobo, at B section, Medium A. Mr Ngcobo said he had somebody outside prison who could bring him dagga and he wanted Mr Modisakeng to bring it inside the cells. He gave Mr Ngcobo his cell number (0721937915) so that he could make arrangements for the handover of the dagga.

The dagga provider called him on his cellular phone and told him to meet him at the Bosman Station at about 17H00 the next day. He was given an Edgars store plastic bag filled with dagga and told to hand it over to Mr Ngcobo and Mr Maluleka.

He then hid the dagga amongst the flowers at the bowling field and told Mr Ngcobo where it was but said he would not take it into the cells. The following day he met Mr Ngcobo and Mr Maluleka and asked them for the R500 they had promised him for the job but they did not pay him.

A week later Mr Ngcobo called him on his cellular phone and asked him for his bank account number so that he could deposit R500 into his account. He gave Mr Ngcobo his Absa account number, 9083121600.

An amount of R300 was deposited into his account, which he withdrew and used to buy groceries for his family. He identified this direct deposit dated the 26 August 2003 on the copies of his bank statement, which are annexed to his affidavit.

Early in September 2003, another prisoner, Mr Solly Maluleka, told him that the money that was deposited into his bank account belonged to him and he was waiting for the dagga to be delivered to Mr Ngcobo so that Mr Ngcobo could hand it over to him (Mr S. Maluleka). Mr Modisakeng denied any knowledge of such a deal. A few days later, he was confronted by another prisoner, Mr Pankie Claas, who said he owed him money. He also said that the money that was deposited into his bank account belonged to him and that he wanted him to hand over the dagga in exchange for that money.

On the 16 October 2003 he received a call on his cellular phone from an investigator of the Jali Commission of Inquiry, who requested him to meet him at their offices on the 17 October 2003. He became suspicious and felt that something was going wrong. While he was waiting to meet with the investigators, he decided to go to the prison and see Mr Ngcobo and asked him who Mr Baker was, as this name was mentioned by the Jali investigators on the phone. He could not find Mr Ngcobo and instead spoke to another prisoner, David, who told him that Baker and Solly are the same person.

He then met the prisoners, Mr Solly Maluleka, Mr Claas and Mr Sipiwe Twala, and asked Mr Maluleka what he had told the Jali investigators. Mr Maluleka told him that he had informed them that he owed Mr Twala and Mr Claas some money. Mr Modisakeng told them that he did not owe them any money and that they should claim it from Mr Ngcobo.

The three (3) prisoners told him he should co-operate and if he brought them the dagga they would withdraw the case against him with the Commission. He told them that he would need one week to come up with the money or the dagga as he did not have either at that time. He told them that they should give the investigators a statement that he was not involved in the case in order to protect his employment because he could be dismissed for these actions. Mr Solly Maluleka asked him to buy them a box of tobacco from another prisoner. He was given a parcel wrapped in black, yellow and brown striped paper but he did not open it. He paid R1 and gave the parcel to the three (3) prisoners and then left the cells.

He was later called to Mr Rakoma's office, where he met members, Mr Rakoma, Mr Christian Knox, Mr Winson Naidoo and Mr Storm. They asked him about the allegations leveled against him by the Jali Commission of Inquiry. He was told that he should not enter the prison premises until the investigations were completed.

He was later called to Mr Naidoo's office and told that he had delivered dagga to section B2-35 that morning. He denied the allegation and Mr Naidoo told him he could show him where the dagga was.

He, Mr Naidoo, Mr Knox and another member went to B2-35 section where he found Mr Solly Maluleka, Mr Claas and Mr Twala. Mr Naidoo took a parcel from the top of the locker and showed it to the three (3) prisoners and asked them if the parcel was the dagga that was brought to them by Mr Modisakeng. They said it was. They then searched the prisoners' cell.

Mr Modisakeng does not and never has smoked dagga. He has stopped smuggling dagga into the prison. He knew that dealing in dagga was a criminal offence and that it was against the Prison Regulations to do so. He asked for pardon from the Commission.

Mr Modisakeng has, in his evidence, made a number of admissions that amount to contravention of the Prison Regulations and the Correctional Services Act. He has on more than two (2) occasions admitted smuggling dagga into prison for the prisoners in return for money. He has received money in return for this arrangement, delivered certain items for the prisoners and breached the internal security of the prison in terms of the Regulations. He has also entered into prohibited pecuniary transactions with prisoners.

## **2.2 Mr Mzimkulu Pankie Claas**

Mr Claas is a prisoner at Pretoria Central Prison. He confirmed his smuggling dealings with Mr Modisakeng, with whom he had established a close relationship.

During September 2003, he was introduced to a member, Mr Thabo Tabane, by a fellow prisoner, Mr Bongani Twala. He made an arrangement with Mr Tabane to buy them dagga and bring it into the prison. He paid him R20.

On another occasion, he gave Mr Tabane R100 so that he could buy them food. A few days later Mr Tabane came to his cell, where he was with Mr Solly Maluleke, and gave them five (5) plastic bank bags full of dagga and demanded R100 cash from them. He promised to work with them in future and gave them his cellular number (082475274) and asked them to telephone him over the weekend.

A few days later he wanted Mr Tabane to smuggle in some more dagga but as he had no cash he would transfer the payment into his account. Mr Tabane gave him his Absa bank account number 9084692501. He was promised R600,

of which R300 was to buy the dagga and R300 his fee for smuggling the dagga into the prison.

Mr Claas transferred R600 telephonically from his Pick 'n Pay bank account number 1248164407 to Mr Tabane's bank account. The amount is reflected in a copy of his bank statement annexed to his affidavit. The transaction took place on the 16 September 2003.

Mr Tabane confirmed that R600 was transferred into his bank account and he promised to carry out the deal but a few days later he told Mr Claas he had financial problems as a member of his family had died and he had spent the money on funeral arrangements. He promised, however, to smuggle dagga for him as arranged.

Out of the money he owed, he deducted R50 for himself and bought groceries for R250, which he smuggled into prison. A bank account for him was opened by his attorney and his mother and he started smuggling in June or July 2003.

### **2.3 Mr Sipiwe Bongani Twala**

Mr Twala is a prisoner at Pretoria Central Prison, serving ten years' imprisonment for robbery. He was introduced to Mr Tabane by a fellow prisoner, Dumisani, who told him that Mr Tabane could assist him in smuggling dagga into the prison. The following day, Dumisani came to him with Mr Tabane in his cell. Mr Tabane told him that he had dagga outside prison and he wanted somebody who could give him money in exchange for it. Mr Tabane told him that he had been dealing with other prisoners previously but those prisoners were not honest in that he gave them dagga but some did not come up with any money and others paid less than the amount agreed upon.

On the same day he gave Mr Tabane R40, and thirty (30) minutes later he came back with two (2) plastic bank money bags full of dagga. Mr Tabane

complained about financial problems and he gave him an extra R20 and thanked him for the job.

During the same week, he gave Mr Tabane R100 for dagga. He promised to bring dagga on the Friday but he did not come and he noticed two (2) prisoners who were working with Mr Tabane at Landbou section selling dagga to other prisoners. One of these prisoners was Mr Jimmy Ngobeni. He asked Dumisani whether he knew anything about Mr Tabane and his dagga, and was told he was not honest as he took money but then sold the dagga to other prisoners. He suspected that the dagga being sold by the two (2) prisoners mentioned above was his but he did not ask them.

He met Mr Tabane on the Saturday of the same week and asked him about his dagga and was told him he had left it at his place at Mamelodi. Mr Tabane asked him for taxi fare to get there but he did not have the money at that time.

Three (3) weeks later, he asked Mr Tabane again about his dagga because he had still not received it. He could see he was not trustworthy and asked him to return his R100 so that he could organise another member to bring dagga into the prison for him. Mr Tabane changed his earlier statement and said he had used the money himself and that he would bring it back on the 15 September 2003. He never returned the money as he had decided to stop dealing in dagga.

Mr Twala used to smoke dagga during 2001 with a member, Mr Ntsie. He paid Mr Ntsie R300 for dagga that he never received.

#### **2.4 Mr Moses Thabo Tabane**

Mr Thabane works for the Department at Pretoria Central Prison. During August 2003, he was approached by Mr Solly Maluleka, who told him that he would be released soon and asked him to buy him 'takkies'. Mr Maluleka told

Mr Tabane that he would arrange with somebody outside prison to deposit money into his bank account (Absa number 9084692501).

Two (2) days later he was approached by Mr Maluleka and asked to check his bank account, into which R600 had been deposited. From that amount he withdrew R580. He went to Mr Maluleka and told him that he had received the money and asked him when he would be released but Mr Maluleka said he did not want him to buy 'takkies', but asked him instead to assist in buying and smuggling dagga.

Mr Maluleka then gave him a cellphone and asked him to phone 012-8014926 and arrange with somebody called Tau for some dagga to bring into the prison. He refused and told the prisoner that he did not smuggle dagga because he knew that dagga was not allowed in prison. He further told him that the reason why he agreed to the transfer of the funds into his bank account was to help him buy 'takkies' and not to smuggle dagga.

Mr Maluleka told him that if he did not want to smuggle dagga for him, he would report him to the Jali Commission and say that he was smuggling dagga. Mr Tabane told the prisoner to go ahead.

He did not know who had deposited the R600, which appears on the copies of his bank statement annexed to his affidavit. He admitted that he knew that it was against Department policy to receive money from prisoners and to give a prisoner his banking details. The matter was reported to his supervisor, who died before he could take any action. He has not returned the R600 to the prisoner; he has kept it in his safe.

He denied receiving R100 to buy food for a prisoner, as stated by Mr Claas in his affidavit.

## **2.5 Mr Douglas Ntsie**

Mr Ntsie is employed by the Department and stationed at the Pretoria Central Prison. In May 2001, he was transferred from Johannesburg Prison and stationed at "Landbou" section of Pretoria Central. During 2002, he was asked by a prisoner, Bongani, to work with him in bringing dagga into the prison. Bongani said he would pay him. Mr Ntsie said he would assist him but in his heart he told himself that he would not do it. Bongani gave him R50 to buy dagga but he never brought any dagga to the prisoner and used the money for his own needs.

Four (4) months later, during 2003, he met Bongani again, who asked about his money as he had not received his dagga. They argued and Mr Ntsie told Bongani he would not return his money, as he was not supposed to carry money inside prison.

During 2002, another prisoner, whose name he could not recall, came to him and gave him R70 to buy dagga. He took the money and never brought the dagga to prison. He never saw that prisoner again.

He said that he started smoking dagga in 1986, when he was fourteen (14) years old. He still smokes dagga because it helps him relieve his nightmares. He also bled from his nose before he smoked dagga but the bleeding had since stopped. He denied smuggling dagga at any stage.

## **2.6 Mr Hendrik Ranku Mashike**

Mr Mashike is stationed at Pretoria Central Prison Medium B. During August 2003, he bought parts of a wall clock from a shop in Pretoria that he wanted a prisoner to assemble for him. While he was searching for that prisoner at Medium B, he came across Mr Claas, who offered to buy the parts. He agreed to sell them for R300 and Mr Claas said he would arrange with somebody outside prison to deposit the money into his banking account. He gave Mr

Claas his bank details: Absa Account No. 9069487040 at the Cullinan branch, Pretoria.

On the 2 September 2003, Mr Claas told him that the money had been deposited. He went to the bank and withdrew the R300 and used it for his personal needs. He gave Mr Claas the clock parts as agreed.

He did not know that he was not allowed to have such dealings with prisoners. He also did not know that this was a dismissable offence.

He stated that Mr Claas did not tell the truth when he said he had given Mr Mashike the money to buy groceries. He said he had arrested Mr Claas and other members for dealing in drugs during October 2003. He does not know what happened to that case.

Under questioning, he said the wall clock parts were bought in Marabastad, for R270 and sold for R300. He further stated that he bought groceries with some money and gave the rest of the money to Mr Claas.

### **3. EVALUATION OF EVIDENCE**

#### **3.1 Mr Godfrey Mothusi Modisakeng**

Mr Modisakeng, both in his oral testimony and in his affidavit, admitted breaching a number of the provisions of the Department's Disciplinary Code and to committing criminal offences in terms of the Correctional Services Act. He admitted that he had smuggled dagga on more than one occasion for prisoners. He also admitted in his evidence to receiving money for that purpose from more than one prisoner. His evidence also establishes the way in which dagga and other contraband were smuggled into the prison.

There is no reason to doubt the reliability of the evidence implicating him.

There is also evidence of the direct deposit of R300 into his bank account in the copies of his bank account statement annexed to his affidavit.

The evidence against Mr Modisakeng established that he is guilty of contravening the Department's Disciplinary Code and Correctional Services Act No. 111 of 1998.

### **3.2 Mr Moses Thabo Tabane**

In his own evidence, Mr Tabane admitted receiving R600 from a prisoner, Mr Solly Maluleka. There is also documentary proof in the form of copies of his bank statements, which supports that R600 was deposited into his bank account. He knew that it was against Departmental policy to receive money from prisoners. There is also ample evidence from both prisoners, Mr Claas and Mr Twala, that he smuggled the dagga for them. There is no reason why the evidence of these two (2) prisoners should not be accepted as they were reliable and honest. There is also evidence that he never returned this money to any of the prisoners.

The conduct of Mr Tabane amounts to a contravention of the following clauses of the Department's Disciplinary Code and Correctional Services Act No. 111 of 1998:

- (a) Clause 4.1 Column A;
- (b) Clause 4.5 Column A;
- (c) Clause 4.7 Column A;
- (d) Section 118 (2)(b);
- (e) Section 119.

### **3.3 Mr Douglas Ntsie**

In his own evidence, Mr Ntsie admitted taking amounts of R50 and R70 respectively from different prisoners to buy dagga for them. He stated that he did not bring the dagga to the prisoners and never returned their money and used it for his own purposes instead. There is no direct evidence that he smuggled dagga into the prison. His conduct amounts both to a breach of the provisions of the Department's Disciplinary Code and the Correctional Services Act. He admitted that he smokes dagga.

His conduct amounts to a breach of the Department's Disciplinary Code and Correctional Services Act No. 111 of 1998.

### **3.4 Mr Hendrik Ranku Mashike**

In his own evidence, Mr Mashike admitted selling parts of a wall clock to a prisoner, Mr Claas. He also admitted that R300 was deposited into his bank account. This transaction is corroborated by copies of his bank statements attached to his affidavit. In his affidavit, he stated that he bought parts of a wall clock in Pretoria but when he was questioned, he stated that he bought these parts from Marabastad. Mr Claas testified that he gave Mr Mashike money to buy groceries and Mr Mashike's version is that he sold him parts of a wall clock. He, however, did not put this version to the prisoner when he was given an opportunity to cross-examine him after he gave evidence. He stated that Mr Claas had not told the truth. He admitted that he had bought groceries with the money, not for prisoners, but for members.

His conduct amounts to a breach of both the Department's Disciplinary Code and the Correctional Services Act No. 111 of 1998.

When the four (4) warders were given an opportunity to address the Commission, they simply pleaded for forgiveness and mercy from the Commission.

## **4. RECOMMENDATIONS**

### **4.1 Mr Godfrey Mothusi Modisakeng**

There is sufficient proof that Mr Modisakeng committed the transgressions referred to above. Accordingly, the Commission recommends that:

#### **4.1.1 He be charged with contravening:**

- (a) Clause 4.1 Column A of the Department's Disciplinary Code – Bribery and Corruption.
- (b) Clause 4.7 Column A of the Department's Disciplinary Code – Receiving or claiming money from a prisoner.
- (c) Clause 5.10 Column A of the Department's Disciplinary Code – Breaching of internal security arrangements.
- (d) Clause 6.1 Column A of the Department's Disciplinary Code – Trading in prohibited drugs.
- (e) Clause 6.3 Column A of the Department's Disciplinary Code – Being in possession of prohibited drugs on Departmental premises.
- (f) Clause 6.4 Column A of the Department's Disciplinary Code – Permitting a prisoner to be in possession of prohibited drugs.
- (g) Section 118 (2)(b) of the Correctional Services Act – Pecuniary dealings between warders and prisoners or members of their family.
- (h) Section 119 of the Correctional Services Act – Supplying certain articles to prisoners.

### **4.2 Mr Moses Thabo Tabane**

There is sufficient proof that Mr Tabane's conduct amounted to a breach of both the Disciplinary Code and the Correctional Services Act.

Accordingly the Commission recommends that:

4.2.1 He be charged with contravening:

- (a) Clause 4.1 Column A of the Department's Disciplinary Code – Bribery and Corruption.
- (b) Clause 4.5 Column A of the Department's Disciplinary Code – Unauthorised possession of a prisoner's property.
- (c) Clause 4.7 Column A of the Department's Disciplinary Code – Receiving or claiming money from a prisoner.
- (d) Section 118(2)(b) of the Correctional Services Act – Pecuniary dealings between warders and prisoners or members of their family.
- (e) Section 119 of the Correctional Services Act – Supplying certain articles to prisoners.

### **4.3 Mr Douglas Ntsie**

Evidence has established that Mr Ntsie's conduct amounts to a breach of both the Department's Disciplinary Code and the Correctional Services Act.

Accordingly, the Commission recommends that:

4.3.1 He be charged with contravening:

- (a) Clause 4.5 Column A of the Department's Disciplinary Code – Theft of a prisoner's money – two counts.
- (b) Clause 4.7 Column A of the Department's Disciplinary Code – Receiving money from a prisoner – two counts.
- (c) Section 118(2)(b) of the Correctional Services Act No. – Pecuniary dealings between warders and prisoners or members of their family – two counts.

#### **4.4 Mr Hendrik Ranku Mashike**

There is sufficient proof that the conduct of Mr Mashike constitutes a breach of both the Departmental Code and the Correctional Services Act.

Accordingly, the Commission recommends that:

4.4.1 He be charged with contravening:

- (a) Clause 4.1 Column A of the Department's Disciplinary Code – Bribery and corruption.
- (b) Clause 4.5 Column A of the Department's Disciplinary Code – Theft of money from prisoners.
- (c) Clause 5.10 Column A of the Department's Disciplinary Code – Breaching of internal security.
- (d) Clause 4.7 Column A of the Department's Disciplinary Code – Receiving or claiming money from a prisoner.
- (e) Section 118(2)(b) Act No. 111 of 1998 – Pecuniary dealings between prisoners and warders.

#### **5. RECOMMENDATIONS ON DISCIPLINARY INQUIRIES**

For the reasons set out in the First Interim Report and several other reports already filed by the Commission, it is recommended that the disciplinary inquiries against these members be dealt with by a Special Task Team contemplated by the Commission.