

INVESTIGATION INTO ALLEGED MISCONDUCT

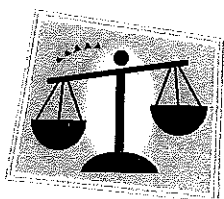
STELLENBOSCH UNIVERSITY

CASE NO: REC01/11/2019

DATE: 2019-11-14

COMMISSIONER: JUDGE BURTON FOURIE

WITNESS: MR JAN MEIRING



**DIGITAL AUDIO  
RECORDING TRANSCRIPTIONS**

Glen Manor Office Park  
138 Frikkie de Beer Str  
Block 5, Suite 1/G  
Menlyn

Tel.: (012) 940 6821  
Fax: (012) 348 3542  
[www.digitalaudio.co.za](http://www.digitalaudio.co.za)

TRANSCRIBER'S CERTIFICATE

This is to certify that, **insofar as it is audible**, the foregoing is a true and correct transcript of the proceedings recorded by means of a mechanical recorder in the matter of:

STELLENBOSCH UNIVERSITY PRIVATE

CASE NUMBER : PRIVATE

RECORDED AT : STELLENBOSCH

DATE HELD : 14 NOVEMBER 2019

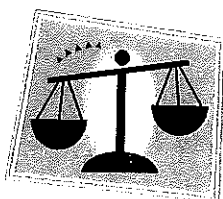
TRANSCRIBERS : MARLESE RADYN

NUMBER OF AUDIO FILES : 1

NUMBER OF PAGES : 52

REPORT ON RECORDING

1. GOOD RECORDING, NO PROBLEMS.



**DIGITAL AUDIO  
RECORDING TRANSCRIPTIONS**

Glen Manor Office Park  
138 Frikkie de Beer Str  
Block 5, Suite 1/G  
Menlyn

Tel.: (012) 940 6821  
Fax: (012) 348 3542  
[www.digitalaudio.co.za](http://www.digitalaudio.co.za)

INVESTIGATIONUNIVERSITY OF STELLENBOSCH

---

PROCEEDINGS RESUME ON 14 NOVEMBER 2019

COMMISSIONER: Ma'am, are we on the air so to speak? Right. Mr Meiring, maybe just for the record your full names please?

MR MEIRING: Jan Johannes Meiring.

COMMISSIONER: Right

10 MR MEIRING: I haven't succeeded in switching off my cell, so if it goes off...

COMMISSIONER: An apology in advance. Now maybe just as an outline, what I've been mandated to do by way of this enquiry is to have an investigation which I've decided and which we've done on an inquisitive basis, in other words there's no need, there's no room for cross-examination or all of that that goes with it, and *dis amper 'n verkennende gesprek* if you wish.

MR MEIRING: H'm.

COMMISSIONER: To see what the facts are and what else we  
20 need. The mandate itself is limited to – that's now in terms of the mandate of the Executive Committee of the Council – to conduct an investigation and to prepare a written report on the alleged serious violation of the law or serious misconduct on the part of the Rector, so that is as far as my mandate goes. That is taken from the later statute, those would be the two bases as I

understand the statute that Council would be entitled to terminate if you wish the services of the Rector.

MR MEIRING: H'm.

COMMISSIONER: Based on alleged, or rather then serious violation of the law, or serious misconduct on the part of the Rector. Now as you well know, Mr Meiring, this all stems from the nomination of Justice Cameron for the position of Chancellor and everything that went with that. The basis of the complaint is to be found in the letter of...I don't know whether you've seen that, of Dr  
10 Schreiber?

MR MEIRING: I have seen it reported on in the media.

COMMISSIONER: Yes. I would term it a bit of a blunderbuss approach if you wish, that him being (indistinct). He gave evidence too and what appears from his written complaint is that he put it on both legs if you wish as far as bias in concerned, in other words subjective.

MR MEIRING: Yes.

COMMISSIONER: Direct proof of actual bias, that was the one leg which it seemed to cover in the written complaint, and the  
20 second leg being the more usual one, if I can call it that, of a reasonable suspicion or apprehension.

MR MEIRING: And now in part of [indistinct) Justice Cameron.

COMMISSIONER: Yes. Or let me put it this way, I say yes in general speaking too as far...I think one should go wider than that,

in the goings on if you wish as Mr Schreiber painted them, between Justice Cameron and the Rector.

MR MEIRING: Yes, but his complaint is obviously premised upon the Rector per definition being biased obviously.

COMMISSIONER: Exactly.

MR MEIRING: And he's seeking to [indistinct].

COMMISSIONER: So that obviously then that there's an offer, we'll nominate you *quid pro quo* being some favourable outcome.

MR MEIRING: Ja.

10 COMMISSIONER: In fact the words are used in the letter of complaint, a favourable outcome then be the *quid pro quo* in this relationship. In his evidence I asked him and Dr Schreiber said okay he understand the two legs of, if I can call it that, as far as bias is concerned and he actually abandoned if you wish the first leg, in other words he says there is no evidence that he can point to that can show actual bias on the part of the two [indistinct].

MR MEIRING: Ja.

COMMISSIONER: So that he remains, or the complaint remains then based on the second leg of the reasonable person  
20 that would reasonably apprehend having regard to all the facts, reasonably apprehend and come to the conclusion that reasonably speaking, objectively speaking there was a perception of bias.

MR MEIRING: But you then presumably per force have to yoke in the two legs if you look on the law of recuse law.

COMMISSIONER: Yes.

MR MEIRING: Not only must the person having that perception be reasonable, but the perception itself objectively has to be reasonable.

COMMISSIONER: Exactly, yes.

MR MEIRING: Is that right?

COMMISSIONER: Yes, you're quite right.

MR MEIRING: That would then be...

COMMISSIONER: That is called the double reasonable test.

MR MEIRING: Yes.

10 COMMISSIONER: Yes. So it's got to be the reasonable person and the grounds upon which the perception is found that has to be reasonable too, and that is on condition that this reasonable person is in fact *au fait* of all the facts.

MR MEIRING: Yes.

COMMISSIONER: Not just some of them, but it is he's actually in the shoes if you wish of the two parties, have full knowledge.

MR MEIRING: Ja.

20 COMMISSIONER: And then with a reasonably objectively speaking there is such a perception of bias. So that's the line that it then took. As far as yourself is concerned we have correspondence, the emails etcetera. You've mentioned that you also have on your laptop, we can see if there's anything that we don't have, but I think the best approach would be to take it in your own words so to speak.

MR MEIRING: Yes.

COMMISSIONER: And maybe give us an indication as to when first this whole issue of the nomination maybe raised its head.

MR MEIRING: Yes.

COMMISSIONER: And whatever role you may have...

MR MEIRING: Yes.

COMMISSIONER: Have played there.

MR MEIRING: So I'll tell you and I'm just referring  
10 to...okay.

COMMISSIONER: The earliest...maybe I can assist you from this side, the earliest that we have in terms of the chronology is the email that you sent Judge Cameron on the 19<sup>th</sup> of August.

MR MEIRING: No, these are earlier, the full picture is the following.

COMMISSIONER: Right.

MR MEIRING: The previous...that 19<sup>th</sup>...if you will assist and just...that was a Monday, correct, it was the Monday just before because I make reference to it, his valedictory, Justice  
20 Cameron's valedictory session.

COMMISSIONER: Oh, yes.

MR MEIRING: Was that a Monday? So it happened I think, and your records will show that the call for nominations was published the previous Wednesday or thereabout.

COMMISSIONER: All right.

MR MEIRING: At that point very shortly after the call for nominations went out. I got messaged on social media, I'm only on Facebook, so on Facebook friends of mine who are alumni of the University started messaging, not hundreds, but a handful, and I had a conversation with specifically one such alumni who's quite engaged and I had some difficulty at the outset thinking who on earth could one approach.

COMMISSIONER: H'm.

MR MEIRING: He gave a cluster of names, the obvious  
10 one of Thuli Madonsela, I think if I'm...certainly her name came up somewhere and I said well no, she's a professor and she's by all accounts flourishing in her chair, she's not likely to relinquish that to become the Chancellor at this point. And then in that context the name of Frank Chikane came up and I thought okay that's quite an interesting suggestion, my own sense of him is a positive one and I then went on to Wikipedia and I thought *ja*, actually he's quite an attractive candidate. I didn't at that juncture really take account of the fact that there is a sort of sense that it ought to be an alumni or someone associated with the University, which in fact  
20 Chikane isn't, and that was mid sort of the Thursday or so that week. Then the Friday evening I attended a birthday party at the Rand Club and I knew that Edwin was also a friend of the birthday...the person celebrating his birthday, but because Edwin Justice Cameron's close friend and my less close friend Hans van der Riet SC had passed away a week or so, or in that week



possibly, I assumed and I knew from other mutual friends at the Bar who were travelling down to a memorial for Hans van der Riet in Betty's Bay the Saturday morning I assumed that I wouldn't see Justice Cameron there, although all things being equal otherwise he might, but I in fact get ahead of myself, because between Mr Frank Chikane and seeing Justice Cameron at this event the Friday evening, so in the course of the Thursday and the Friday in being prompted to think about who might be a good candidate it dawned upon me like a lightning bolt obviously Justice Cameron, 10 he's such an obvious candidate and I was aware that he was close to...I'm pretty sure I was aware of his valedictory event the next Tuesday, I'd be surprised if that weren't in my head.

To be honest with you I was aware of the court case inter alia because I had just by chance spoken to someone involved in that matter in a totally different matter, but h'm...it really didn't to me as a practising lawyer, and this might be a prism through which helpfully, or perhaps it's not that helpful because I am a lawyer, but it didn't for a moment occur to me that the...and obviously I didn't follow the matter, but it didn't for a moment occur to me that 20 that should stand in the way of an approach being made to Justice Cameron because of a number of reasons, h'm...

COMMISSIONER: I'm sorry to interrupt. You were aware of the fact that he was part of the bench or only later?

MR MEIRING: H'm not...not until he told me on the Friday.

COMMISSIONER: Oh, I see.

MR MEIRING: At the event. I genuinely didn't h'm frankly because I was too busy at my own practice, and you may find that unusual because of my involvement at the University, but really I mean it was a...my own sense was it's in the hands of the Constitutional Court and what will happen will happen and it's our Constitutional Court deciding it.

So there wasn't really because of the stature most notably of the Constitutional Court, because of the stature of Justice Cameron to me the suggestion that there might be any sort  
10 of influence is frankly...well, it didn't enter my head at that time, and now that it has been presented to the world it's frankly a deeply disrespectful and opportunistic gambit in my view. And I said earlier perhaps my perspective as a lawyer is a helpful one, perhaps it's not so helpful in getting to the heart of what you are mandated to do.

But in the period since then I've been...and I'll get back to the chronology in a moment, but I'm trying to sort of inform you about what was going on in my head.

COMMISSIONER: Yes.

20 MR MEIRING: Why didn't it trouble me? And I've in the interim period been thinking [indistinct] why you know there's now this big noise being made over it, why distinctively, because I'm a cautious lawyer, I'm not a risk taker and chance taker in the way that I litigate on behalf of my clients, and I think it's a number of things. Firstly it is the respect in which I hold the Constitutional

Court and the respect in which I hold Justice Cameron.

To me I mean it's just simply and frankly in that number are also many other judges whom I respect, and partly because of being at the Bar I'm friends with judges, I go to judges' homes, have drinks with them because of advocacy training, I have h'm engaged with judges from across the Commonwealth on a social level, I'm Facebook friends with judges, some abroad, yes, so the notion that that sort of social engagement, and I have, I have been in advocacy training events where I'm waiting for a judgment from  
10 a judge, but we're use to that, we know that judges...even puny judges who don't have the experience of Justice Cameron they are pretty well experienced in dealing with these sorts of continuities and discontinuities.

But also of course we have – and I'm going to get off the theory and get to the facts in a moment – but we also have increasing use of acting judges, certainly in the Johannesburg Bar, also increasingly juniors, people who haven't even taken silk. So a week or two ago I was...I acted before, or I appeared rather before a junior silk in our group whose junior I am in an ongoing manner  
20 and it's simply one of those things and the very next day, we even that afternoon I think I ran into her, she's got her chamber a few doors down from mine and we discussed our matter, not the matter obviously that I just appeared before her, but we've been joking, we've been talking with one another, we're friends. So I guess those sorts of thing ...[intervention]

COMMISSIONER: It's part of the occupational environment if you wish.

MR MEIRING: Well, absolutely, so...

COMMISSIONER: Technically counsel and as you say juniors of yours that might be acting.

MR MEIRING: Absolutely, absolutely.

COMMISSIONER: Yes.

MR MEIRING: And so those are the things I think.

COMMISSIONER: H'm.

- 10 MR MEIRING: Because I have interrogated myself why isn't it it didn't jar to me and I think all of those factors, but certainly in that Thursday, so now I'm going back the Frank Chikane sort of pocket before I got to meeting Edwin the Friday evening, so in that Thursday/Friday I thought well obviously Edwin is the choice, not only does he have international, intellectual and academics stature which I don't mention other than in passing in the email to him a few days later simply because it's so obvious, but I met him at All Souls in a sort of which I mention there in a sort of misty reading room over coffee, I travelled there from
- 20 Cambridge to go and meet him and I know the sort of regard, the things he has written and he his continued connection with Commonwealth Academic Law, I just thought it would record such stature to Stellenbosch to have someone who had arrived at my two old universities Oxford and Cambridge and fitting into any high table, any library, be able to...it's just so important to the

University at this juncture especially.

But also, and this is the theme of that [indistinct] so I then approached him on Friday evening having realised and I by that time had responded to this friend, most notably the one with whom I had mooted or who had mooted Fran Chikane and I said but aren't we missing the obvious, Edwin Cameron. Then I saw him that Friday evening, as I told you not expecting him to be there, and I went up to him before we were seated for dinner and said to him after pleasantries and such like I said to him there's  
10 something I'd really like to discuss with you, and he almost instinctively knew I think what I was going to ask because he knows I'm on Council, although that may just be something I've [indistinct] in the subsequent period.

Anyway, we spoke, I said to him you know there's...I sort of took him aside a bit and I said two days ago the call for the Chancellor position became open and he immediately then said to me and it's recorded in fact, so the first...ja, so let me refer to...there's an email that possibly you don't then have h'm which is one I then on... So I spoke to Edwin, to Justice Cameron, and I  
20 said to him that I thought he would be an excellent candidate and he rejoined and as I recall it there were two sort of things he said to me, he said to me that the judgment, I can't remember in what order, but the judgment, but what stuck most in my mind was the impression that he didn't want to exceed to a nomination because he was a white man, that was my impression. He certainly

mentioned the case and that was the first time when I thought oh okay, oh so ja...when it really was brought to my attention, it hadn't played any role in my thinking up until then.

And I then said to him, again not knowing what the configuration in the bench or whatever was, I said to him but surely there's a way that that can be dealt with properly so that it doesn't create any difficulty. Obviously that was an intellectual bridge for me continuing to deal with it because obviously I wasn't going to continue, firstly I would be embarrassed *vis-à-vis* Justice Cameron  
10 who is a friend of mine, but a friend, Justice Cameron has many friends, I'm one of his friends, but a friend who I respect him immensely and I would've...it wouldn't even [indistinct]. We had dinner, he told me then, I said to him oh I'm surprised to see you here and he said no we are going to Hans's memorial, we're flying at five a.m. or six a.m. or something like that, we're getting up at five or something like that, and we're therefore not going to be here very long.

So I kept an eye on his table and he was seated ironically with Peter Leon, Dr Schreiber's well...colleague or associate, not  
20 quite a colleague, but you get the point.

COMMISSIONER: H'm-'m.

MR MEIRING: And I went up to him and before the sense I got they were leaving and I said to him can I just ask you one thing, would you find it improper or would you be irritated if I wrote something to you, if I sought to persuade you that this was

something that you ought to consider being honoured for. He got up, I think he got up as I approached the table and he said no, I wouldn't be offended or...because I would never, I mean I certainly sensed that he...but really the evasive sense I had was that it was because he was a white man h'm and he did say...sorry also in fact [indistinct] Wim De Villiers the Vice Chancellor had approached him.

COMMISSIONER: Right.

MR MEIRING: He did tell me that, and he then raised the  
10 judgment and he raised at least by implication his white maleness. And then...so then he said no he wouldn't, he wouldn't be irritated by my [indistinct] putting something on paper and I thought that I had a more imaginative approach to him than perhaps the University had had, so that was my sense, my sense was frankly – and I say this tongue in cheek – I'm a better advocate than Wim De Villiers.

I didn't think that oh cloak and daggers, oh we're entering the netherworld, this is all dastardly stuff. I really had the sense that Justice Cameron was being reticent because (a) he was tired,  
20 he by then probably already learned about his visiting position in prisons and all manner of probably other things that were coming his way, but my sense was not that ooh this is now very...my sense was that obviously the case is an issue, but that it couldn't and if he were to proceed would be dealt with properly.

So I really thought and dead honesty I thought I have I

think the right way of conveying to Justice Cameron the role he might fulfil in this University at this juncture, hence the very personal nature of the email that I sent to him the Monday. So then the Sunday...the party was the Friday evening, the Saturday...what dates are here, what was the Friday? The 16<sup>th</sup>, the 17<sup>th</sup>? Yes, I think, well it's just before that, yes.

MR CARIEM: Friday is the 16<sup>th</sup>.

MR MEIRING: Okay, so the 18<sup>th</sup> I then...and I was mulling over what I might write to Justice Cameron, and then because he  
10 had mentioned Professor De Villiers in our exchange on the Friday I emailed Professor De Villiers on the Sunday evening and that I don't think...well, by what you've said to me it doesn't appear that you have that and I'm obviously prepared...

COMMISSIONER: Yes.

MR MEIRING: Yes, so the 18<sup>th</sup> of August 18 minutes to eight.

COMMISSIONER: That must be the 18<sup>th</sup>.

MR MEIRING: Yes, sorry.

"Dag, Wim. Ek hoop als gaan goed."

20 COMMISSIONER: Mr Cariem...no, we don't have that.

MR MEIRING: Okay, well I will provide that to you.

COMMISSIONER: Yes, thank you.

MR MEIRING: It's headed Edwin and it says:

"Dag, Wim. Ek hoop als gaan goed. Sedert die bekendmaking van die kanseliers-oopte het etlike mense met



my hieroor in gesprek getree.”

These are the people on Facebook etcetera.

“Daarom dan dat ek laat verlede week begin dink en dit my soos 'n blits...”

At least my metaphors are consistent and I didn't actually look at this before today.

10 “...soos 'n blits tref dat daar geen beter mens vir die rol as Edwin Cameron is nie. Toevallig loop ek hom Vrydagaand by 'n partytjie raak en ek sê toe vir hom dat daar iets is wat ek met hom wil bespreek. Ek voel-voel aan die onderwerp en hy sê toe dat jy reeds met hom gepraat het. Sy aanvanklike gevoel is van nee. Ek vra hom toe baie pertinent of ons hom nog kan bearbei synde ek as verteenwoordiger van die Universiteit. ‘Ek sal jou nie irriteer as ek my gedagtes hieromtrent neerpen en aan jou stuur nie?’ Sy antwoord was: ‘Doen dit gerus.’ Ek dink tog daar is nog ruimte vir oorreding.”

My sense that I...

20 “Ek gaan beslis in die volgende klompie dae bogenoemde gedagtes aan hom stuur. Dalk moet ons ook per telefoon praat, mnr Wim, ek sal nie mistrap of op jou tone trap nie.”

Because I didn't want to approach Justice Cameron in a way...

COMMISSIONER: Ja.

MR MEIRING: I'm not a representative of the University, I'm an opinionated member of Council who cares profoundly for

the future of this university and that's it, but I don't...didn't have mandate and I didn't want to say things that...ja, that would in some way embarrass anyone. And then *tone trap nie* and then I moved on to a different topic and that is the topic of the Honorary Degrees Subcommittee of which I'm a member and there were things going on there. So that I sent to Professor De Villiers on the Sunday evening. Shortly after ...[intervention]

COMMISSIONER: That would be pretty handy for me personally in the sense of getting the link because I looked at that  
10 again this morning and I said but something had to have happened in-between.

MR MEIRING: Yes.

COMMISSIONER: To foster the link between that and then the long email that went out the following day.

MR MEIRING: Correct.

COMMISSIONER: And...ja.

MR MEIRING: Ja.

COMMISSIONER: Thank you.

MR MEIRING: Well, shall I...let me email it now just...I've  
20 been communicating with you on Gmail and I'm on my work email now.

MR CARIEM: Okay, so it's yaseen...

MR MEIRING: Ja.

MR CARIEM: ...c@veslaw.co.za

MR MEIRING: Okay. I'll send that now.

MR CARIEM: Sure.

MR MEIRING: I've sent it. Okay, so then on the Monday, and it was something that I really had to think about and I didn't...I felt at that juncture that my respect for Edwin despite the go ahead he had given to me is of such a nature that I didn't want to...I would rather not to have written something if I felt it would be fatuous or it wouldn't actually speak to the...and certainly I had a sense that this is an important juncture for the University, that someone of his stature would just made so much sense to me, 10 having been on Council for a year and a half and understanding the sort of move the University is trying to make and it's got nothing to do with language whatsoever, it's got everything to do with disassociating Stellenbosch from its racist past, it's you know its politicised past where P W Botha very controversially was a chancellor and Vosloo before him controversially was a chancellor and it was all about a figure, an individual who would marry, and Edwin speaks beautiful Afrikaans, who would marry the past and Edwin has what's so notable about him as an individual, Justice Cameron sorry when I speak to Edwin, he's got himself a very rich 20 narrative about his time at Stellenbosch, so his becoming Chancellor would be it wouldn't just be a window-dressing exercise, it would be someone who really conveyed in his *handel en wandel* a sense of a history, a good history of Stellenbosch even in those dark times when frankly everything here wasn't great.

And it was also impelled my urgency about the sense that we mustn't let this opportunity go by the horrible debark that the University was casting to almost unwittingly about this coloured woman research, that article.

COMMISSIONER: Yes.

MR MEIRING: And just the incredibly destructive fallout that that had and still has in serious academic circles in this country and elsewhere about the research produced in this university. So it's in that sort of context that the email that I then  
10 write on the Monday.

So I was at work, I argued an appeal before two judges in Pretoria, in other words an appeal [indistinct] Court in Pretoria, a topic on which there is virtually no jurisprudence, on the Tuesday and it was...I was up against a very senior silk and I spent all of Monday preparing and I was quite stressed by it all and then I did think that...so this is now Edwin had called me, sorry I'm being a terrible witness, I'm jumping around, at least these pockets you can... So on the Sunday I had...I then got this call from Wim and it was he sort of said well I've made an approach and he said no for  
20 these reasons, and I said well my own sense is that Justice Cameron would probably...there would probably be a way around the impending court case, but I said I think to Wim then I've got an angle to approach him that I think will speak to him and will impress upon him the necessity of him considering this. If I can say to you that the language case, I mean besides mentioning that

it was an obstacle I mean it didn't come up in any way other than that, I mean if the suggestion is as I get what you're saying from Dr Schreiber then I would've had to at that point have been *konkeling* with the Vice Chancellor and saying you know we can actually use, I mean it was so far from the conversation I had with Professor De Villiers that Sunday evening, it just isn't what happened, it...there wasn't a...*ja*, no suggestion that there might be a *quid pro quo* or I mean frankly too absurd to even state.

The Monday, going back to the Monday, I was under  
10 pressure, but then ...[intervention]

COMMISSIONER: Sorry to interrupt, Mr Meiring.

MR MEIRING: Ja.

COMMISSIONER: The Sunday evening call was then in response to your email?

MR MEIRING: Email, that I said to him in the email perhaps we should talk on the phone.

COMMISSIONER: Oh, okay.

MR MEIRING: So he then phoned me and it was a six/seven minute call.

20 COMMISSIONER: Ja.

MR MEIRING: H'm...

COMMISSIONER: And, sorry, did he then mention as to what the solution was?

MR MEIRING: No, we didn't go...we really didn't go into it.

COMMISSIONER: As far as he was concerned.

MR MEIRING: No, h'm... Let me just...I want to...in terms of dealing with the court case?

COMMISSIONER: Yes.

MR MEIRING: No, no.

COMMISSIONER: And...

MR MEIRING: No, the sense I got was that there wasn't a great deal of *geoliede ratwerk*.

COMMISSIONER: Ja.

MR MEIRING: It was sort of an idea.

10 COMMISSIONER: Ja.

MR MEIRING: And with respect, but the sense I got was that...and I said to you I thought I can do a better job of seeking to persuade this public figure to take up this public role and it had absolutely nothing to do with language whatsoever.

COMMISSIONER: Well court case is *quid pro quos* or...

MR MEIRING: No, no, absolutely not.

COMMISSIONER: [Indistinct]

MR MEIRING: Absolutely not. In fact h'm we soon on that call moved to the honorary degrees issue because that to me was  
20 very impressing because we had to shift our meetings the whole year because the list of honorary degree candidates were sad, it wasn't good.

COMMISSIONER: H'm.

MR MEIRING: If you see the list that came out eventually you'll see the product of that process, it's a wonderful list. So that

was more impressing almost in that call, or certainly I moved to that, it wasn't as if it was a short call, five/six minutes, and might I add this and...ja, this record is going to be read by everyone, but this is the honest truth. Professor De Villiers and I are not particularly close, we're very cordial or friendly in the way that you might be...would have to be on Council, but I speak my mind on Council and sometimes I find that he...or I've been told he didn't quite like that intervention, it's usually after he gives his opening report on the previous months, so we are not *tjommies* or *pelle* or anything like that, I think he finds me...he values no doubt my role on Council.

COMMISSIONER: H'm.

MR MEIRING: But he does I think sometimes think I could hold my mouth a little bit. So we are not in the game of *konkeling* with one another by any means, by any stretch of the imagination and that's probably the only time I have telephoned him, in fact what I probably would've had to have done, I did have his phone number saved on my phone, I looked for it and I found it in an email, so much so that when he then called me I was *wie's dit*.

20 COMMISSIONER: H'm.

MR MEIRING: So I guess the extent to which the cog, his cog and my cog intersected was really quite coincidentally in a way. Then the Monday, going back to the Monday, I was very busy, under pressure, but by late afternoon I felt I prepared sufficiently for the appeal, I'll get to it later in the evening again,

but I...and there was a lot of buzz about oh are you going to Edwin's valedictory session tomorrow at chambers and I thought actually let me just go and sit and write it now, and I did it, I can't to be honest with you remember whether I wrote it at chambers or at home, but I then wrote the email that was sent, and I'm not sure, I saw on Politicsweb it is redacted, I'm assuming you have the full...

COMMISSIONER: Yes.

MR MEIRING: Yes. So you'll see it's a very personal  
10 letter.

COMMISSIONER: Yes.

MR MEIRING: And that was the approach that I thought would...not in a sort of Machiavellian way, but I thought that would imprint upon Edwin the role that he does play, or has played, does play and can play.

COMMISSIONER: H'm.

MR MEIRING: And shortly before that I attended an event in Joburg, a business day event where Wilhelm Verwoerd and Professor Gobodo-Madikizela, she's a famous academic at  
20 Stellenbosch, similar figure to Professor Madonsela, she has established here the trauma and transgenerational trauma department, it's not a department, it's an institute. She wrote the book on you'll recall on who is one of those Vlakplaas people, she wrote the famous book on who was it...

COMMISSIONER: Oh, yes, you mean the one that was...the



one with the heavy specs.

MR MEIRING: Yes, I think so, I'll tell you now.

COMMISSIONER: Ja.

MR MEIRING: Anyway, it's not...you've got her name and it was a conversation hosted by Business Daily, they were interviewed by Mark Visser and it was a wonderful experience where in the heart of Joburg all the most leftwing Jewish people, black people, *inteleigencia* in Joburg, came and listened to two Stellenbosch professors and when they were introduced as so and  
10 so from Stellenbosch University, so and so from Stellenbosch University there was not the titter you might have heard 10 years ago or 15 years ago and it was just they spoke so compellingly about transformation, about trauma and Professor Gobodo-Madikizela ended off with this really to me powerful vignette about how black students who attends Stellenbosch often travel in from townships wherever because they can't afford to live here and how...her metaphor was how they basically have to disaggregate themselves as they approached the town and then sort of rebuild themselves again as they go home because this is such an alien  
20 place.

It was so touching to me, it was moving, it spoke to where Stellenbosch hopefully is moving and it's with that relatively recent memory of this new image of Stellenbosch, not an image, but the reality because these people are here working, that it was one of the thoughts that I don't mention it in that email, but a lot of the

slightly purple prose in that email is impelled, is driven, informed by those thoughts, and *ja*...and I do think there is and I speak later, I don't really think this is hyperbolic or dramatic, but perhaps it can be and I did think that someone of the stature and with the charisma and with the communication skills of Justice Cameron would be able to bridge the divide to also those students, to really the people that perhaps have greatest difficulty studying and being at Stellenbosch, so to me that was really...

When I speak of transformative that's all I have, I mean  
10 there's no suggestion there of language at all, frankly the irony is personally I'm very pro the retention of Afrikaans, I write in Afrikaans for the papers, personally I'm very sad about...but that's got nothing to do with...

COMMISSIONER: It's the reality of...

MR MEIRING: I'm not...I've got a fiduciary role as a member of Council, of course I can't meddle with the case, but personally if in a perfect world I could reaggregate demographics I would want Stellenbosch to retain more Afrikaans, but that was so far from my thinking at this time, that you know this case that Dr  
20 Schreiber and others have now mounted seems to me so cynical and it's caused so much hurt to...anyway.

So then I sent the email to Edwin, I wrote it, read it, there are one or two typos, I didn't have a lot of time to reread and reread and reread, I sent it off. I then showed it to...after I had sent it to two or three very close friends, one of them being a

senior counsel, very senior counsel who's also an alumnus of Stellenbosch, also attended Van der Riet's memorial and on the Saturday – this is now the Monday just after it – and I did speak to him over the weekend about this, I sought his counsel and then told me oh actually at Van der Riet's memorial Chris Otto, a class mate of ours, approached Edwin, so many people, there was...ja, have been approaching him.

COMMISSIONER: Yes, the names, Mr Otto gave evidence too.

10 MR MEIRING: Correct, his name is mentioned.

COMMISSIONER: And Hertzog, who's Hertzog...

MR MEIRING: Yes, but I know Otto...

COMMISSIONER: Michiel Le Roux.

MR MEIRING: Indeed.

COMMISSIONER: Everybody.

MR MEIRING: But Chris Otto I believe was at the memorial.

COMMISSIONER: Ja.

MR MEIRING: So there was some talk of it there, and  
20 then when...and so when this silk came back to me and sort of...ja, I mean he was very supportive of the idea and he said ja, there have other people talking to me, so I think people also at the memorial spoke to one another.

COMMISSIONER: Yes.

MR MEIRING: Not necessarily...it wasn't an open topic,

but there was a real buzz, that in other words you see now came from a variety of different sources and the [indistinct] thing about of course Hans van der Riet's memorial is Edwin and he were friends at Stellenbosch and Hans himself was a [indistinct] and there was a really interesting sort of life at the Law Faculty that looking back one almost is regretful of having missed out on it because you know Froneman and etcetera etcetera, so I think...and Edwin certainly spoke at Hans's memorial about their time together at Stellenbosch, so it was uppermost in his mind and  
10 in a sense I thought from a persuasive, seeing to persuade him not to be diffident, not to be considering himself a white man, I thought perversely Hans's memorial was sort of...I don't say well time, you get the point I'm making. It's very sad, he was a friend of mine.

COMMISSIONER: I was shocked, I knew him well too you know. I didn't realise that he was ill.

MR MEIRING: Yes, no, he was for quite a while.

COMMISSIONER: Anyway.

MR MEIRING: But so that's the context, and I jump around a bit, but really in a sense thinking back of it all of these  
20 things do mesh, there was a certain [indistinct] to it all.

COMMISSIONER: Ja.

MR MEIRING: And you'll read also in that email my sense was I in dead honesty put my really quite heartfelt to be used in an email and that's it, *nou gaan ek ophou* because I don't want to irritate Edwin and he can really if that doesn't work then frankly it

shouldn't work, and I say work in the sense of persuading him simply to take up this position. And I showed it then to the silk and he said it's a beautiful email, he thinks it's really...well done on doing it, it must've been [indistinct], *moeilik om dit te gedoen het* and whatever, but well done because it's important that we try and persuade him to, and I showed it to one or two other people and there was a general sense of wow let's hope it works because this is really what it's about.

Then on the Thursday, then nothing happened, on the  
10 Thursday there was a memorial for Hans van der Riet at the Joburg Bar and the said silk from whom I had sought counsel he and I were in a matter in Joburg on that Thursday and we left the court quite late, but I think Hans's memorial started at four and we got there sort of 45 minutes late to Sandton and we missed Edwin's talk which was quite early on, we got there mid Froneman and it was again his wonderful stories of Stellenbosch of that era and obviously I saw Edwin there and we went out for refreshments, I was standing talking to someone else, I wasn't going to approach him, I thought the ball is in his court, *ek gaan nou nie jy weet* it's  
20 proper descent to do something and then to let it over to that person because I'm not going to jockey him, I have too much respect for him. Then he came and spoke to me and he called me aside and he in fact spoke to me in Afrikaans, which he sometimes does, slightly tongue in cheek perhaps, but in the most beautiful Afrikaans he said to me something to the effect of he thinks he can

possibly go ahead with this, but he has made the condition that *Gelyke Kanse* accede to his being nominated, and I said to him wow that's super news, but then very shortly after that we were interrupted, it's in the nature of...it's like being next to Queen Elizabeth, everyone wants to come and pay their respects and so it was a very short conversation, and then I returned to chat to other people.

And then I think there were some...yes, then I sent an email to Professor De Villiers, do you have that one?

10 COMMISSIONER: Yes.

MR MEIRING: On the 23<sup>rd</sup> in the morning, so was that...was the 23<sup>rd</sup> the Friday?

COMMISSIONER: Let's just get this clear. The one that I saw of yours...

MR MEIRING: I write here:

"Dag..."

MR CARIEM: [Indistinct]

MR MEIRING: Ja, that would be consistent.

COMMISSIONER: Ja.

20 MR MEIRING: Because the Thursday evening I was at this event, the next morning at quarter to 11 I wrote:

"Dag Wim. Ek het gisteraand vir Edwin by 'n gedenkgeleentheid van Hans van Riet gesien. Verwikkelinge klink positief, maar ek meen jy het dit reeds verneem."

Because I really didn't get into it, I didn't have the opportunity, nor

would I have asked Edwin for the details of who told you that, [indistinct], he did know, he did there mention h'm...he did...yes, because this is now the first time that I speak to Justice Cameron since the Friday night and the email I've sent which there was no response to, there was no response to my email.

The first next thing is I see him there and I sort of thought oh okay, this is going to be interesting because he hasn't responded to me yet, he may come and talk to me about it. Then in that conversation he told me there have been so many people, 10 he mentioned Hertzog, he mentioned I think Kook Bekker if I'm not mistaken.

COMMISSIONER: Yes.

MR MEIRING: And he mentioned Chris Otto. I think those three names, Michiel Le Roux he may have mentioned.

COMMISSIONER: Probably Michiel Le Roux too.

MR MEIRING: He may have well have mentioned it. But you know you're amidst to a lot of people, juggling a glass of wine and a *toebroodjie*, but yes, that was where the first time I'd heard the names other than Chris Otto, because the senior counsel 20 friend of mine have mentioned Chris Otto after the weekend, but the other names actually came as a bit of a surprise to me. Not a shock, but I just hadn't heard them mentioned, and so I thought wow, this is how it should be going, there should be a hardening consensus that this is the right way to go, and through none of that, especially because I mean Edwin then came with the

would I have asked Edwin for the details of who told you that, [indistinct], he did know, he did there mention h'm...he did...yes, because this is now the first time that I speak to Justice Cameron since the Friday night and the email I've sent which there was no response to, there was no response to my email.

The first next thing is I see him there and I sort of thought oh okay, this is going to be interesting because he hasn't responded to me yet, he may come and talk to me about it. Then in that conversation he told me there have been so many people, 10 he mentioned Hertzog, he mentioned I think Kook Bekker if I'm not mistaken.

COMMISSIONER: Yes.

MR MEIRING: And he mentioned Chris Otto. I think those three names, Michiel Le Roux he may have mentioned.

COMMISSIONER: Probably Michiel Le Roux too.

MR MEIRING: He may have well have mentioned it. But you know you're amidst to a lot of people, juggling a glass of wine and a *toebroodjie*, but yes, that was where the first time I'd heard the names other than Chris Otto, because the senior counsel 20 friend of mine have mentioned Chris Otto after the weekend, but the other names actually came as a bit of a surprise to me. Not a shock, but I just hadn't heard them mentioned, and so I thought wow, this is how it should be going, there should be a hardening consensus that this is the right way to go, and through none of that, especially because I mean Edwin then came with the



practical solution, he won't do it unless *Gelyke Kanse* says...and that to me because obviously as a lawyer I wasn't oblivious to the fact, but I still haven't engaged on the case because frankly I was too busy, I had to be in court the Tuesday, I was in court with the silk on Thursday, as you know life at the Bar is busy, you don't look at other people's cases if you've got your own one to worry about, so dead honestly.

And then h'm...

COMMISSIONER: I'm sorry.

10 MR MEIRING: Yes.

COMMISSIONER: And him then mentioning that that *Gelyke Kanse's* view would be sought on taking the nomination.

MR MEIRING: Yes.

COMMISSIONER: You didn't find anything strange in that?

MR MEIRING: No.

COMMISSIONER: Or untoward?

MR MEIRING: No, I...not at all, not at all, because yes there is now this suggestion I read in the media about all, they didn't know this, they didn't know that, but frankly h'm they know  
20 how the Constitution and in fact there's a dishonesty which is another thing that I'm deeply offended about in this whole thing, the public storm that's now sought to be created, also about the Vleesbaai person I know you've attended a book launch of.

COMMISSIONER: I actually wrote something in the book.

MR MEIRING: Ja, we'll wait for the recusal application

here. Is this notion that the rhetoric that is created in the media as if this judgment was by a puny judge, by *aquo* judge sitting alone. These people who are agitating now know very well and if they don't they should have read my interview with Judge Kriegler in a book I edited The Constitution in '21 a year or two ago where Judge Kriegler explains, but these people know it, any lawyer, certain senior counsel knows exactly how collegially these judgments are written and Judge Kriegler in that interview explains that a judge and his clerk do a first draft, in fact frankly the clerk  
10 does a hell of a lot of that work, and then the drafts, there may be more than one draft, are circulated between chambers, then there are meetings, plenaries where people...where it's debated out, it's a...and in fact Judge Kriegler makes an interesting point, he says that there are certain judgments that he has undersigned in which there are propositions he as individual judge didn't agree with because there is this collaborative process of writing creating jurisprudence in the Constitutional Court, and he's also said, he also mentions in that interview that even if you...even if it's a minority that goes against your...you're writing for the majority, you  
20 as a judge in the Constitutional Court are duty bound to correct something, if you see there's an error, a citation error or a linguistic error or a reasoning error in the minority judgment which doesn't bear your name you have a responsibility to...

COMMISSIONER: Yes.

MR MEIRING: So 25 years into our new constitutional

dispensation there can be no uncertainty in a senior counsel or in any lawyer that has a little bit of nous about that process, so to then present to the world a picture that's contrary to that I call it dishonest and I am offended by it because it in fact that is dangerous for the rule of law to create this rhetoric that's simply alien to how these judgments are actually produced.

And I do think when it comes...and in fact this is something I ought to have mentioned at the very outset when I spoke to you about the reason, you know in the context of a  
10 reasonable apprehension and the reasonable person, if you throw that into the mix...ja, but it really is something and it's really difficult to read these things in the media and they are so *verwyderd van die ware toedrag van sake*. H'm...okay.

COMMISSIONER: It's something Mr Otto also touched on saying *hoe gaan een regter in die konstitusionele hof 10 regters of nege ander regters ...[tussenbeide]*

MR MEIRING: Well that's a different point, an ally, but an even more basic point.

COMMISSIONER: Yes, and is that not...

20 MR MEIRING: But important one, of course.

COMMISSIONER: But the man on the street would say but gee whiz, you know it's okay with a puny judge and he's on his own and there's a case of whiskey or whatever the case may be.

MR MEIRING: Yes.

COMMISSIONER: That's the easy ...[intervention]

MR MEIRING: And or where the split is very five/four.

COMMISSIONER: Ja.

MR MEIRING: Oh we swung him...

COMMISSIONER: Yes, ja.

MR MEIRING: So...but in the unanims and frankly there's a real measure of...well, let me not go there, but there's a disrespect to the other judges expressed in this sort of rhetoric, so presumably there must then be evidence of the majority of judges going in a very different direction.

10 COMMISSIONER: Yes.

MR MEIRING: And then after these exchanges Justice Cameron must then have somehow inveigled his way.

COMMISSIONER: If that was so...I'm inclined to agree with you, if there was a ground swell.

MR MEIRING: Yes.

COMMISSIONER: And everybody was heading in that direction.

MR MEIRING: Yes.

COMMISSIONER: And it became clear through argument  
20 etcetera etcetera.

MR MEIRING: Yes.

COMMISSIONER: They're going that direction and then suddenly there's a turnabout.

MR MEIRING: Yes.

COMMISSIONER: Then you would something to hang it on

maybe.

MR MEIRING: Yes, but all of these pieces that have been written on LitNet and in the newspapers have been...you now nice Afrikaans, lots of rhetoric, but really not analytically...it uses the sort of stereotypes that they hope the public sort of oh...and it's just it's equally disrespectful to Justice Cameron and to the rest of the Constitutional Court bench. But all of those factors I think yes are relevant.

COMMISSIONER: But even as one who has now been  
10 through the mill already, the puny judge sitting, I gave the example the other day I think to Mr Heunis, I said I was sitting in a civil trial and at one stage I saw in the back of the court gee but I know this chap sitting there and it happened to be an old school friend of mine, I looked at the pleadings again and he was in fact the expert, main expert of the one side.

MR MEIRING: H'm.

COMMISSIONER: Now what do you do now? My reaction was, and I would expect that from most judges, would be then to say would counsel kindly just come and see me, I explained to  
20 them, I said listen this is the difficulty that's arisen, I don't have a problem.

MR MEIRING: H'm.

COMMISSIONER: But it depends on you guys, go and have a word with your clients and come...well they came back to me and they said clients say no difficulty, let's go ahead with it.

MR MEIRING: H'm-'m.

COMMISSIONER: Isn't that really what's also taking place here on a different scale really?

MR MEIRING: Correct.

COMMISSIONER: But...

MR MEIRING: Correct, no that's absolutely right. And the problem I guess in my specific perspective is being at the Bar where 90% of my life, social life, also is at the Bar.

COMMISSIONER: Ja.

10 MR MEIRING: My extensions are with the people who are now elevating to the bench.

COMMISSIONER: Exactly.

MR MEIRING: Willem van der Linde who sadly passed away, I would...I should've been at his home last night for a book evening, which is attended by other judges often or...

COMMISSIONER: Yes.

MR MEIRING: So ja, I mean I think when you have gotten use to leading your life in that way, and as I've mentioned to you earlier I'm very involved in advocacy training and there are always  
20 judges there and we have dinner with them, we go out for drinks with them, that's the very point, that in fact junior most lawyers also get and the people being training get an opportunity to sit with a judge having a drink because it's a good experience, it's part of how we live, so certainly that informed my thinking throughout all of this, it really didn't enter my mind that if...and certainly when I

got word that Thursday that the plan was now there was...that Gelyke Kanse would be approached to...

COMMISSIONER: Ja.

MR MEIRING: And of course I was aware they may...*hulle mag 'n stokkie daarvoor sit.*

COMMISSIONER: H'm.

MR MEIRING: But that seemed to me to be [indistinct] and I think I still that Thursday I still said to myself well I mean that's really...I'm really pleased that I did try, I did approach him  
10 because there is now a way out that actually deals with the judgment and in fact I thought and you'll see in my letter I don't address the judgment because my gut sense was that Justice Cameron's main reticence was premised upon his being a white man.

COMMISSIONER: Yes, it was something else.

MR MEIRING: And that was exactly...that's what I gleaned, h'm...*ja.*

COMMISSIONER: Yes.

MR MEIRING: Okay.

20 COMMISSIONER: I've interrupted you.

MR MEIRING: So then...no, sorry, so we chronologically...so the Thursday, the Friday I then sent that email to h'm...to...

COMMISSIONER: Are we at the Rector's one?

MR MEIRING: Sorry, yes, so on the h'm...oh sorry. So on

the Monday late in the evening, is that the 19<sup>th</sup>?

COMMISSIONER: Ja.

MR MEIRING: I did send another email to Professor De Villiers and I said:

"Dag Wim. Ek het tyd..."

And it autocorrect, made a t-y-p.

"...ek het tyd gemaak en vir Edwin geskrywe."

Because I had said to him on the Sunday evening that that was I was planning to do, but I did also tell him I've got an appeal on  
10 Tuesday and it will probably only happen later in the week. Then he wrote back and I can send you this as well, I should've sent it.

COMMISSIONER: Yes, I think if we could, we haven't got that one ...[intervention]

MR MEIRING: And he just writes, it's just a response to the previous one.

COMMISSIONER: Ja.

MR MEIRING: H'm...

COMMISSIONER: Yes.

MR MEIRING: So...just sorry, your email address starts...

20 MR CARIEM: Y-a-s.

MR MEIRING: Yes, there it is.

MR CARIEM: The previous one didn't come through [indistinct].

MR MEIRING: Did it not come through? But that's because I'm not online.



MR CARIEM: Okay.

MR MEIRING: It's in the outbox. Sorry, I have...I'll go into...

MR CARIEM: We can sort it out afterwards.

MR MEIRING: Ja.

COMMISSIONER: We can sort it out just now, *ja*.

MR MEIRING: Ja. So he just writes back *dankie*.

COMMISSIONER: Oh okay.

MR MEIRING: Okay. And then...okay, I'm just seeing that  
10 earlier one and then I...oh heavens, received an email from  
Professor Hambidge, let's not get her involved in this. Then on  
the...it was the...when was...h'm...what date are we now on the  
Thursday, the Friday when I sent that email?

MR CARIEM: The Friday would be on the 30<sup>th</sup>.

MR MEIRING: No, no, the previous.

COMMISSIONER: Ja.

MR MEIRING: So Friday the 23<sup>rd</sup>, okay, sorry. So he...so:

"Dag Wim. Ek het gisteraand vir Edwin by 'n  
gedenkgeleentheid gesien."

20 In fact there is a longer email back from him at just after noon  
which I'll send you as well.

"Beste Juan. Dinge lyk inderdaad meer positief."

This was now because I said things look...

COMMISSIONER: Yes.

MR MEIRING:

“...maar die registrateur het ’n ondertekende nominasiebrief nodig teen twaalfuur op die 4de September... Blykbaar vereis Edwin dat beide partye in die Gelyke Kanse saak instem en nie noodwendig ondersteun nie dat hy genomineer word. Ons het natuurlik geen probleem nie, maar weet nie van Jan Heunis nie. Dit sal natuurlik ’n absolute tragedie wees as sy stiksienigheid Edwin se nominasie sou ontspoor. Die Gelyke Kanse groepering het reeds Christo van der Rheede genomineer as ’n kandidaat (onder die bruin personeel hier by die Universiteit is daar nul tot erg negatiewe sentiment vir hierdie voorstel). Vriendelike groete in afwagting.”

10

Then a little later, just immediately after that, this is now all the Friday after Hans van der Riet's memorial, I then write back:

“Dag Wim. Ja, Edwin sê dat Koos Bekker skynbaar met Heunis gaan praat oor die Gelyke Kanse kandidaat. Is daar ander wat in sy dampkring is wat hom tot sy sinne kan laat kom? Steve Jojala(?) was ook gisteraand by Van der Riet se geleentheid. Het Heunis enige agting vir hom H C Viljoen?

20

Ek ken nie die netwerk en invloedslewe so goed nie.”

So it was all how to get sense to prevail, but the language policy and anything directed extracting something from Justice Cameron obviously not there.

Okay, so that's that. And then the next thing that I have is I think as...yes, we jump to the 30<sup>th</sup> h'm and that was really

when it was all nuts and bolts, it was the Registrar Ronel writing to me.

COMMISSIONER: H'm.

MR MEIRING: And Marius De Waal involved h'm...and I'm sure you have all of these.

COMMISSIONER: Yes, we have that.

MR MEIRING: Because those are very much within the University's h'm...ja. And then it was really the mechanics of getting the ballots.

10 COMMISSIONER: That's right.

MR MEIRING: Which I assisted with I think because Ronel was perhaps initially a little reticent, but then I put her in contact with Justice Cameron.

COMMISSIONER: H'm.

MR MEIRING: And I did facilitate it, but it was really just in the way of...ja, speaking to Professor Marius De Waal on email etcetera.

COMMISSIONER: Yes, I see it.

MR MEIRING: And that's really the long and the short of  
20 it.

COMMISSIONER: H'm because the Vice Chancellor also at some stage within his WhatsApp group...

MR MEIRING: Yes.

COMMISSIONER: ...said okay well it's over to Advocate Meiring now who would attend to the nuts and bolts and so on.

MR MEIRING: Yes. I was sort of surprised by that.

COMMISSIONER: Yes.

MR MEIRING: I think with the [indistinct], not...I thought okay I'll do it, I'll help.

COMMISSIONER: Ja.

MR MEIRING: But then I sort of almost saw that there were crossed lines.

COMMISSIONER: H'm.

MR MEIRING: Because who...*want die foto, wie moet*  
10 *teken en watter volgorde* and then I sort of said to Ronel and I think it was a Friday afternoon, I just arrived at home, she was WhatsApp'ing me, my phone's off now, but it was relatively innocuous and I said *ek dink jy moet self met hom praat, want hy...jy weet...*

COMMISSIONER: Ja.

MR MEIRING: Ja. But that was that and that really is the long and the short of it.

COMMISSIONER: Yes.

MR MEIRING: So there's...*ja*, a lot of coincidences, a lot  
20 of a ground swell.

COMMISSIONER: Ja.

MR MEIRING: And to be honest with you at the time I also looked at the lists of chancellors of other South African universities and I thought what an uninspiring list of people, ex-politicians and I thought wow we've got to, we've got to do this for Stellenbosch

because this is such an opportunity and it can mean so much for a transforming university and well Edwin speaks beautiful Afrikaans, he's got the history, he's got so much charisma and he can really mean something for those very black students that Professor Gobodo-Madikizela spoke about being still alienated and I have friends like that, I know, I...it's the reality and if Stellenbosch really wants to move ahead it's got to embrace those students and not be a place where's this still this [indistinct] of wealth, of money, of wine farms and the others will be cut to little bits of pieces and

10 Edwin I do think has and that's what makes this all so...and it gives me such a bitter taste in my mouth about all of this, it's really a cynical after the fact attempt to...and the embarrassment and I've expressly not spoken to Justice Cameron since all of this broke, I feel slightly embarrassed about my silence, but I felt I don't want to...there to be a further discovery of documents.

COMMISSIONER: Ja.

MR MEIRING: And accusations of tailored. I don't know who's coming to testify and you've told me three names of people who've testified, but I haven't spoken to Professor De Villiers at

20 all, I've perhaps spoken to Ronel once, she sent me a message saying are you okay and I was like of course I'm okay, I mean this is upsetting, but I mean I'm okay, but that's...so I've really tried to keep a distance from everyone else involved in this not to give these people, the complainants or whatever any further opportunity to...ja.

COMMISSIONER: Mr Meiring, if I could...let me just read to you the third paragraph of Mr Heunis's letter.

MR MEIRING: Yes.

COMMISSIONER: The one to Justice Cameron.

MR MEIRING: Yes.

COMMISSIONER: Of the 29<sup>th</sup> of August.

MR MEIRING: Yes.

COMMISSIONER: That is where he came back and said you know after the Rector had spoken to Mr Heunis.

10 MR MEIRING: Yes.

COMMISSIONER: And that ended or resulted in this letter being written by Heunis.

MR MEIRING: Yes.

COMMISSIONER: In which he in paragraph 3 he says, he's now referred to the fact that he's been contacted, he says he's spoken to Jeremy Muller and he says ...[intervention]

MR MEIRING: He Heunis says this?

COMMISSIONER: Heunis says this.

MR MEIRING: Spoken to Muller, ja.

20 COMMISSIONER: Yes and Heunis says that:

"It so happens that the number of alumni who have links with Gelyke Kanse themselves considered nominating you Justice Cameron as a candidate for that position."

MR MEIRING: Oh, yes.

COMMISSIONER: But he says:

"In the final analysis decided against it because we concluded that it would not be appropriate to approach you in that regard view the fact that you're a member of the court who sees the matter of *Gelyke Kanse* on the one hand and the University on the other."

And then it leads him to the third paragraph which then reads:

"Be that as it may..."

In other words anything that's now preceded that.

MR MEIRING: Yes.

10 COMMISSIONER:

"Be that as it may this serves to inform you that there will be no objection from the parties which I represent in that case."

I take it that that is a reference to *Gelyke Kanse*.

"...no objection from those parties to your acceptance of a nomination as a candidate for the position of Chancellor of the Stellenbosch University."

MR MEIRING: Yes.

COMMISSIONER: Now is there any ambiguity as far as you're concerned?

20 MR MEIRING: No, obviously not.

COMMISSIONER: In the letter and in particular in paragraph 3 that you note?

MR MEIRING: No, absolutely not and one reads now they say oh we didn't at the time know that the judge was going to write the judgment and then I refer back to what I had told, we spoke

about a bit earlier.

COMMISSIONER: H'm.

MR MEIRING: And that's where I think there's a dishonesty or it's cynicism that's quite profound because of course a senior counsel would've known that there was a good chance that any judge could have written it, but more importantly he knows that that's not really in this collegial context on the court, it's neither nor there, that's what emanates from that, but if you were to turn their own sort of logic on them you would say that well why  
10 did they mention that their members wants to nominate him, isn't that in itself a way of carrying favour at a time when the judgment isn't out yet? I'm not saying that seriously, but that's the sort of logic.

COMMISSIONER: Ja.

MR MEIRING: And why say it, why say it? So if you're going to take...live by the sword then die by the sword.

COMMISSIONER: Ja.

MR MEIRING: Why do you mention that because so you're trying to throw your own hat in the ring as well and make  
20 sure that not only are you're not going to object, but you're actually saying we like you as well and we were more restrained, so...and I mention that simply as a rhetorical gambit.

COMMISSIONER: Yes, yes.

MR MEIRING: I don't seriously venture it because I don't think for all the reasons obviously it's not going to make any jottle



tittles difference to what the court will decide.

COMMISSIONER: Yes because there's been reference to this paragraph as let's say sounding a warning if you wish to the judge that he might be in a compromised position.

MR MEIRING: No, well...

COMMISSIONER: But you got to read it with paragraph 3 then.

MR MEIRING: No, you can't...

COMMISSIONER: That says:

10 "Be that as it may."

MR MEIRING: Ja.

COMMISSIONER: Let's forget about that now.

MR MEIRING: Ja. The point is rather they're saying don't think we don't like you.

COMMISSIONER: Ja.

MR MEIRING: We were considering you, but it's only for that reason that we didn't have the courage of our [indistinct] or whatever, but these are the sort of word games unfortunately that they're engaging in, I do it simply to try and indicate to you that  
20 you know if you play that sort of game it can be used against them as well, it doesn't actually take account of the substance of what we're dealing with, it tries to use quite cynically language and words.

COMMISSIONER: Because Professor De Villiers testified that his words were...you'll see it in the emails too, he regarded this

paragraph 3 as die *groen lig*.

MR MEIRING: Yes.

COMMISSIONER: This is *die groen lig om voort te gaan met die nominasie ensovoorts*. Would you go along with that description?

MR MEIRING: Yes, yes.

COMMISSIONER: If we put ourselves into the boots of the reasonable person what would the reasonable person make ...[intervention]

10 MR MEIRING: Could you just read the culminating paragraph again?

COMMISSIONER: Ja.

"Be that as it may, this serves to inform you that there will be no objection from the parties which I represent in that case to your acceptance of a nomination as candidate for the position."

MR MEIRING: Dit kan nie duideliker wees nie.

COMMISSIONER: Isn't that so?

MR MEIRING: It can't be clearer, that they have traversed  
20 some background simply because that's what one does in a letter.

COMMISSIONER: Ja.

MR MEIRING: And as I say I refer to the points I made about their earlier paragraph, but it's simply context, fairly read it simply narrates a sort of this is where we are, we ourselves [indistinct], but now be of that as it may we've thought about it

because we've been requested to think about this.

COMMISSIONER: H'm.

MR MEIRING: And presumably the subtext there is also a realisation that despite the fact that they nominated Mr Van der Rheede there's also an acceptance there that Justice Cameron is and would be a huge asset as chancellor to the University.

COMMISSIONER: But in any event the paragraph 3 also follows upon the request of the judge, in other words I would like the blessing if you wish of *Gelyke Kanse*.

10 MR MEIRING: Correct.

COMMISSIONER: Now would the reasonable person looking at this not regard it as a blessing of what was requested by the judges?

MR MEIRING: Of course, absolutely.

COMMISSIONER: As what else...

MR MEIRING: But also the formality of the language there, the we hereby notify you, it has slightly the echo of the notice of motion, it's announcing take notice that.

COMMISSIONER: Yes.

20 MR MEIRING: So it's not...yes, it's got a certain tone of phrase that says we have traversed some to use drafting language the memorials or the...what's the top of the contract sometimes?

COMMISSIONER: Oh yes, the recital.

MR MEIRING: The recital.

COMMISSIONER: Yes.

MR MEIRING: We've given you the recitals and now we state our position and this is a lawyer drafting it, so I don't think it's a stretch to say that.

COMMISSIONER: Mr Meiring, anything else that you think...

MR MEIRING: No, I think I have in dealing with the timeline I've given you I think a sufficient sense of the importance of Justice Cameron as Chancellor to this Institution which is I think what impelled all these different actors in their own way, sometimes with some awkwardness at times in these processes  
10 and of course there was, we wouldn't be sitting here if there wasn't an awkward overlap of dates, that's why we're here. The question is was it dealt with in the best possible way, I think that letter being the culmination of it I think it was dealt with because remember this isn't just an ordinary candidate.

COMMISSIONER: Yes.

MR MEIRING: He's a *sui generis* candidate at this point and I think there was a sense, everything I have and will be sending on to you there's that sense of urgency of *stiksienigheid*, you see the bigger picture and that language there also from the  
20 Vice Chancellor is imbued with the sense of the bigger good of the University and that's got nothing to do with the sort of theory of the case that you get from Dr Schreiber et al and really that informs and you know when I spoke to the senior counsel who I sought counsel from the other day and he said this is now happening, I'm coming down to Stellenbosch to...he was really quite alarmed, he

was really alarmed, he doesn't read the Afrikaans media thankfully for him and he said really has it come to this and that's I think, I think he is if anything a reasonable man. H'm...ja.

COMMISSIONER: Mr Cariem, anything else that we need? Yes, thank you, Meiring, thank you very much for making yourself available and coming all the way from Gauteng.

MR MEIRING: No, it's a pleasure, it's an *indicium* of how important this is obviously and I didn't want to speak to you over Skype, it's just more difficult, this is fundamentally important.

10 COMMISSIONER: Yes. No, it's really been helpful, thank you.

MR MEIRING: I'm just putting my phone on so that I can quickly go on to my hotspot.

COMMISSIONER: Ja.

MR MEIRING: And send you...

END OF INTERVIEW

INVESTIGATION INTO ALLEGED MISCONDUCT

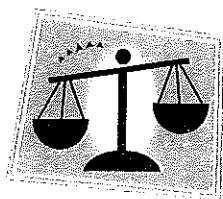
STELLENBOSCH UNIVERSITY

CASE NO: REC01/11/2019

DATE: 2019-11-14

COMMISSIONER: JUDGE BURTON FOURIE

WITNESS: JUDGE EDWIN CAMERON



**DIGITAL AUDIO  
RECORDING TRANSCRIPTIONS**

Glen Manor Office Park  
138 Frikkie de Beer Str  
Block 5, Suite 1/G  
Menlyn

Tel.: (012) 940 6821  
Fax: (012) 348 3542  
[www.digitalaudio.co.za](http://www.digitalaudio.co.za)

TRANSCRIBER'S CERTIFICATE

This is to certify that, **insofar as it is audible**, the foregoing is a true and correct transcript of the proceedings recorded by means of a mechanical recorder in the matter of:

STELLENBOSCH UNIVERSITY PRIVATE

CASE NUMBER : PRIVATE

RECORDED AT : STELLENBOSCH

DATE HELD : 14 NOVEMBER 2019

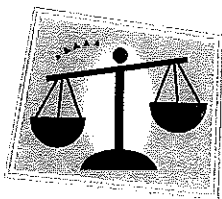
TRANSCRIBERS : DORINETTE STANIFORTH

NUMBER OF AUDIO FILES : 1

NUMBER OF PAGES : 24

REPORT ON RECORDING

1. A FEW WORDS MISSED DUE TO BREAKDOWN IN CONNECTION OF SKYPE.



## DIGITAL AUDIO RECORDING TRANSCRIPTIONS

Glen Manor Office Park  
138 Frikkie de Beer Str  
Block 5, Suite 1/G  
Menlyn

Tel.: (012) 940 6821  
Fax: (012) 348 3542  
[www.digitalaudio.co.za](http://www.digitalaudio.co.za)

INVESTIGATIONUNIVERSITY OF STELLENBOSCH

---

PROCEEDINGS RESUME ON 14 NOVEMBER 2019

COMMISSIONER: Thank you. Yes, Judge Cameron thanks for our time and could I ...[intervenes]

JUDGE CAMERON: I am pleased to be here Chair.

COMMISSIONER: If I could firstly ask would you for the record's sake just give us our full names?

10 JUDGE CAMERON: Yes, my name is Edwin Cameron.

COMMISSIONER: Thank you. Now the – you in fact are our last witness and the procedure that I followed is inquisitorial, in other words I've left it mainly to the witness himself or herself to give an account of what happened at certain times etcetera. Maybe I should just at the outset Justice just tell you that the mandate that I have been given by the Executive Committee of the Council of the University is that in particular I have been tasked to conduct an investigation and to prepare a written report on the alleged  
20 serious violation of the law or serious misconduct on the part of the Rector. That is as far as my mandate goes. The wording I notice is taken from the latest statute of the University which says that the position of the rector can come into question in circumstances where he has committed a serious violation of the law or that there was



serious misconduct on his part, so that's the purpose of the exercise and as far as the rest is concerned, the mechanics are concerned, we have a full bundle and additions thereto regarding the relevant events as far as it has been documented, in other words ...[intervenes]

JUDGE CAMERON: I just lost you for about or ten seconds, you were referring to the full bundle?

COMMISSIONER: That's right, we've received a full bundle from the various parties, mainly from the university  
10 but then the representatives of Gelyke Kanse added to that, Mr Otto added something etcetera, so that we have I believe the full history on paper, so insofar as that is concerned if you refer to email or so we will have it unless it's something new that we haven't stumbled across yet.

JUDGE CAMERON: Terrific.

COMMISSIONER: Yes, if I could then against Justice Cameron looking at our chronology that we have it seems from our part that the first contact that there had been on this issue is or was on the, it seems to me on the 16<sup>th</sup> of  
20 July 2019 Professor de Villiers testified that he had made this phone call to yourself with the request whether you would accept a nomination as a candidate for the position of councillor. He in fact says he phoned from Ireland, I didn't realise that, but he says that was so, and I take it that is the first contact that you are aware of too? Or was there

any other contact before that regarding the issue of chancellorship?

JUDGE CAMERON: Mr Chair we had an email exchange if I remember it where he asked for my number and then my secretary gave it to his PA.

COMMISSIONER: Yes.

JUDGE CAMERON: And my recollect is that we had a very short conversation after that in which he raised the issue and I said but I thought I couldn't or I may share with you  
10 the reasons I think I raised immediately which were that he and the Chair of Council were both white males and I myself was a white male and I thought that that would be running into immediate trouble to add all three, but I said to him but I will think about it, but he said let's have a longer conversation and I think those were the two conversations we had. A very short initial one after making contact and then the longer one when he was abroad and he called me.

COMMISSIONER: Oh I follow, yes. Yes, then if we go on our chronology the next would be the 2<sup>nd</sup> of August 2019  
20 there is an email from yourself to the Rector advising him that you cannot accept the nomination as a candidate for the position of chancellor.

Now that email is the one you will recall where you informed him that you were *omring deur die dokumentasie van die saak van Gelyke Kanse* and that you would be

compromised in the circumstances to accept the offer to have you nominated.

JUDGE CAMERON: Correct.

COMMISSIONER: Okay, following upon that we have it chronology-wise that on the 8<sup>th</sup> of August, this is some six days later, the Constitutional Court heard the Gelyke Kanse's appeal against the judgment of the Western Cape and judgment was then reserved and then we have the 10<sup>th</sup> of August, some two days later where the Rector and  
10 yourself had some correspondence again via email, him expressing his disappointment but his understanding that you – for the reasons that you provided – why you could not accept the nomination and you discussed the Fish River Canyon and so on and so forth, and then we have – yes your response was that you had also walked the Canyon I see, both of you.

JUDGE CAMERON: Are nuts?

COMMISSIONER: Ja. Then it seems to me that what happens then, and we had the evidence this morning of  
20 Advocate Jean Meiring, it seems to me that he was instrumental in the further happenings so to speak, we have heard his evidence I think in particular also on a Friday evening when you were at a mutual friend's birthday, after that there was I believe Hans van der Wietz memorial service at Betties Bay so we ...[intervenes]

JUDGE CAMERON: The next morning.

COMMISSIONER: That's the next morning yes, so we have been through all of that. Could I just ask you maybe as far as your own recollection is concerned how do you recall – how was this taken up by Mr Meiring with yourself?

JUDGE CAMERON: Mr Chair he came across to our table at this rather formal 30<sup>th</sup> birthday party at the Rand Club and he beseeched me, mens kan dit nie anders stel as he besought me not to – he besought me to change my mind, 10 and my recollection he then persuaded me at least to keep an open mind until he wrote to me and that was the deal when I left early with my partner because we had to catch a flight very early the next morning at five or six o'clock down to get to Betties Bay, at Betties Bay the first people we met when we got out of the car, and I may be wrong Mr Chair, I really must warn you here, I don't know how the question of Gelyke Kanse's *instemming* arose but I think when Chris Otto confronted me at Hans van der Wietz memorial service having heard from Jean the night before I said to him the only way 20 in which it might become feasible would be if Gelyke Kanse signified that they had no objection. I might be wrong, but I think that's what happened.

I had obviously not spoken to Jean or to Chris Otto or to the Rector at all.

COMMISSIONER: Yes, so I believe. Yes, could I just ask

you Justice then what actually did you have in mind if you say that Gelyke Kanse had to signify what was firstly maybe the purpose of such a request and what did you have in mind, how would they do that?

JUDGE CAMERON: I didn't have anything developed in mind, I thought that if there were a signification from them which would presumably and obviously be formal and had to be in writing but that was never raised. It would then mean that there would be no conflict in the litigation arising from  
10 the litigation about my nomination. So what I had in mind is that the objection that I had articulated to the rector in my email to him on the Saturday before we – when I was *omring*, the *omring* email, which is that that might be alleviated depending on what Gelyke Kanse said, how they formulated it, all of that remain open, I wasn't looking for this job, I had already signified my unavailability but I was being pressured.

I also Mr Chair got a call from I think Koos Bekker at some point, I don't whether call log on my I-phone only  
20 lasts for about a month so I haven't – it was at this point I think after meeting or after bumping into Chris Otto that I got a call also from Koos Bekker, he was in England, he wife was about to open the, I can check the date, she was opening a very significant boutique hotel somewhere in the South of England, so it was roundabout that time, I got a

call from Koos Bekker, so I am answering your question and I thought there might be an *uitweg* but it wasn't clear to me what that *uitweg* would be, for all I knew Gelyke Kanse would say you know we object and I would have been perfectly happy with that.

COMMISSIONER: Yes, that would have been my next question if they had said nay that would have been the end of it then?

JUDGE CAMERON: ...[Indistinct] and unquestionably be  
10 the end, because I had already given my answer to the Rector but now the interstetionaries[?] were Jean, Chris Otto and Koos Bekker and I can't remember when Machiel Le Roux phoned me, he phoned me at some point as well.

COMMISSIONER: Yes.

JUDGE CAMERON: And I don't have his call logged, I don't know if you have spoken to him but he will ...[intervenes]

COMMISSIONER: Yes.

JUDGE CAMERON: He will also be that he also spoke to me at some point.

20 COMMISSIONER: Yes, no we in fact have record of a Whatsapp Group which was Hertzog, I've forgotten his first name now, Dirk.

JUDGE CAMERON: Edwin.

COMMISSIONER: Edwin, that's right. And Machiel Le Roux and Chris Otto and Koos Bekker was mentioned in the

despatches, the Rector was also ...[intervenes]

JUDGE CAMERON: *aka* - sorry Mr Chair, *aka* the Stellenbosch Mafia.

COMMISSIONER: Yes, ja, I saw at one stage they sort of obliquely referred to that name but it didn't according to them wasn't apt, but be that as it may, so yes so we know about all of them and they all, everybody who wanted or did in fact approach you in this regard. The end result if I can take a few steps ahead as far as this aspect is concerned is  
10 then the letter received by the rector from yourself regarding - let me just get to the date of this, it's the 21<sup>st</sup> of August where you informed the Rector in writing that you were approached by all these people and he states says the note that he is reconsidering the nomination in the light of the approaches but says the note here but that they would have to get - and those are the words ascribed to you, an indication from Advocate Heunis SC.

JUDGE CAMERON: Mr Chair may I say that *ek het nie insae* in that note, and I know after that email exchange  
20 previously, the 2<sup>nd</sup> of August and then one a week later I had no further contact with the rector. Is this a note that the rector made?

COMMISSIONER: This is Cameron, J informs the rector in writing, but that was the email of the 21<sup>st</sup> of August.

JUDGE CAMERON: I don't recall that Mr Chair.

COMMISSIONER: Yes.

JUDGE CAMERON: I don't say – did I write an email on the 21<sup>st</sup> of August?

COMMISSIONER: Yes I am just looking at it now, I can read it to you;

“21<sup>st</sup> August 13:16 to De Villiers, WJS

Beste Wim,

Voor en na hierdie skrywes is ek ook genader deur lede van die regs fakulteit en deur Jean Meiring, Machiel Le Roux, Chris Otto, Edwin Hertzog etcetera. Vanoggend het ek vir Machiel gesê dat as onontbeerlike voorvereiste ons van Jan Heunis 'n aanduiding sou moes kry nie noodwendig van steun nie, maar ten minste nie van teensetting nie. Hy werk daaraan.”

And that, so you actually put that in writing in the email.

JUDGE CAMERON: I ...[indistinct] Mr Chair, but I don't disown it, I might be wrong, I might not have said that to Chris Otto at Hans' memorial, I might have said it to Machiel when he called me.

COMMISSIONER: Yes.

JUDGE CAMERON: Thank you.

COMMISSIONER: But be that as it may this has culminated in the email I have just read to you.

JUDGE CAMERON: Yes.



COMMISSIONER: Now if you could just take it from there as to what transpired next insofar as particularly this issue with Heunis is concerned.

JUDGE CAMERON: Ja. The next thing that happened Mr Chair is that my secretary forwards me a letter from Mr Heunis and that ...[indistinct] 21 so that is eight days later and I think that Koos Bekker then phoned me after the Wednesday the 21<sup>st</sup> that you just reminded me of and before Jan Heunis' letter, he sends a letter directly to my  
10 secretary which I also then get via Jean Meiring.

COMMISSIONER: Okay.

JUDGE CAMERON: And the letter says, I can't remember the words but they thought it was impossible, they might have nominated me themselves, didn't think it was possible but certainly from their side they have no objection.

COMMISSIONER: Yes, but that is the letter of Mr Heunis dated the – as you said the 29<sup>th</sup> of August 2019.

JUDGE CAMERON: Exactly.

COMMISSIONER: And where in the second paragraph  
20 they say they would have liked to nominate you as a candidate themselves but due to the Gelyke Kanse litigation pending they thought it's not proper or something to that effect.

JUDGE CAMERON: Yes, yes.

COMMISSIONER: But what they do then say is in

paragraph – or what he Heunis then says in paragraph 3 is, and I quote:

“Be that as it may this serves to inform you that there will be no objection from the parties which I represent in that case.”

Which I believe is a reference to Gelyke Kanse, parties in that case.

“...to your acceptance of a nomination as a candidate for the position of Chancellor of the Stellenbosch University.”

10

JUDGE CAMERON: Correct.

COMMISSIONER: Would it be fair to say that this is what you were in fact asking for, that that is response – that that response met with your approval.

JUDGE CAMERON: Precisely, it opened the way which had been occluded until then.

COMMISSIONER: Yes, yes. I see the rector in his correspondence and also in his evidence refer to it as *die groen lig*.

20 JUDGE CAMERON: *Die groen lig*.

COMMISSIONER: *Die groen lig gekry*, yes.

JUDGE CAMERON: Yes, correct.

COMMISSIONER: Right, and together with that, well not together with that but a few days later there is also the letter that you had written through the Registrar of the

Constitutional Court to interested parties to inform them of what was happening and if they require information regarding that they can contact the registrar I believe, yes.

JUDGE CAMERON: Yes, I think that's right Mr Chair because once my nomination became possible, I hadn't yet been nominated when that letter wrote but ...[indistinct] had been and I think there was a quick scurrying to get forms and I was asked for a statement and I wanted to give it in Afrikaans and I wanted to get it into good Afrikaans so a lot  
10 of that was happening at that time, but I thought let's put everything on the table, let's not rely only Gelyke Kanse's goodwill and good faith, but let's make a full disclosure, let them see everything that has preceded.

I honestly forgot that I wrote to the Rector so when I made my – I don't know why that doesn't appear, I did a Gmail search and that email of the 21<sup>st</sup> of August I'm quite surprised that not just my memory but my Gmails left me in the lurch, but I said let's just get this on a formal footing so that if Gelyke Kanse now wants to retract or reconsider  
20 that's why I put the words in the registrar's letter, examine and consider.

COMMISSIONER: Yes.

JUDGE CAMERON: ...[Indistinct] this is final, I haven't been nominated, the election hasn't taken place, there is lots of time for you to change your mind if you want to, have

a look first.

COMMISSIONER: Yes so it wasn't just an empty letter after the fact, it was in fact a letter which if anybody who had an interest wished to obtain the information the time was there.

JUDGE CAMERON: Yes. And for them to make a genuine fresh decision should they be so minded.

COMMISSIONER: Because nominations had not yet taken place.

10 JUDGE CAMERON: I think those nominations were ...[intervenes]

COMMISSIONER: The formal, ja.

JUDGE CAMERON: Ja, ja, I think the closing date was in the first week of September.

COMMISSIONER: Yes it was.

JUDGE CAMERON: And the ...[indistinct] was a month later, so you know there was still plenty of time.

COMMISSIONER: Yes, there was sufficient time for action if you wish on whoever's part in the circumstances,  
20 but as I understand the position there was no response to that letter, only subsequent to the judgment being delivered in Gelyke Kanse.

JUDGE CAMERON: Exactly yes, exactly, the day after judgment was delivered Mr Danie Rossouw wrote to the Registrar demanding the tendered items and the Registrar

said that ...[indistinct] you know the judgment has been delivered ...[indistinct]. I then asked the Registrateur to make it available anyway.

COMMISSIONER: I saw that correspondence yes, and she then eventually made it available.

JUDGE CAMERON: Yes, there's a print note to that, I see you say eventually Mr Chair.

COMMISSIONER: Yes, well ...

JUDGE CAMERON: Yes.

10 COMMISSIONER: It appears from the correspondence that there was different advice given at some stage as to whether or not it should be disclosed.

JUDGE CAMERON: I was displeased by the different advice because I thought this is not a game for – this is not – anyway, that is enough Mr Chair unless you want me to go further.

COMMISSIONER: Ja, no, no, I get the rift through the correspondence yes. Justice if I could just ask you the following, the complaint in this matter is laid by a Dr  
20 Schreiber who wrote a letter formulating the complaint in which he initially, I said this morning to Advocate Meiring that it was a bit of a blunder bust approach taken by the complainant but what I gathered from it was on the one hand that he – the allegation that he was making was that there was evidence of bias as such, real bias if you wish,

but also that his letter was on two legs, the second leg being not evidence of real bias as such but the reasonable apprehension that the reasonable man or woman would now form regarding the conduct of the relevant parties.

In his evidence here he disavowed the first leg, he said he accepts that there is no basis for a finding on any evidence that there was actual bias in the sense, so we should put it crudely in the sense of a *quid pro quo* in other words you receiving the nomination and in turn that they're  
10 favourable or judgment of sorts would follow, so the remaining leg then is the question of the reasonable perception which as I understand the law not only does the person who forms the perception have to be reasonable but the perception as such must be based on reasonable grounds.

JUDGE CAMERON: Yes.

COMMISSIONER: So seeing that this is more of a *verkennende gesprek* than a court case if I could ask you what is your view on that and I am not asking you for legal  
20 advice but having regard to the reasonable person in the streets of Stellenbosch looking back upon the way in which this happened are you perturbed that the conduct could have amounted to something in the nature of the perception or that it could have created a perception of bias or not?

JUDGE CAMERON: Mr Chair thank you for offering me that

opportunity, it is not something that I would have ventured an opinion upon if you hadn't invited me, but as the ...[indistinct] judgment holds it has got to be a reasonable apprehensible perception based on correct facts and can I just say by way of background Mr Chair that Wits had to find a chancellor this year and I was a Professor at Wits, I come back to this aggregate there, and I was Chairman of Council of ...[indistinct] I was approached by many people this year, many members of council, many students, 10 vocational members and staff members of Wits to become Chancellor. Wits has got a different deal, it is an open election by all accepting powers at Wits, ...[indistinct] members, it's not the closed ...[indistinct] from Stellenbosch, but I declined that for racial and gender reasons. I said the time is now right for a black woman, but I think Mr Chair that if I accepted I would have had, no one would have had estimated my chances in an open vote at Wits as one I could become Chancellor, so the second thing that I want to add now and I am sure you would have asked 20 me ...[indistinct] Professor de Villiers was headhunted from his job at UCT because he came back from North Carolina to UCT for a very, very nice ...[indistinct] clinical job at UCT.

Before he was headhunted Mr Le Roux called me and he said please would you make yourself available to

become rector. Now I hope that present Rector de Villiers doesn't see this in case he takes umbrage but I said to Machiel Le Roux for reasons I gave him that I was not available, so I say that by way of background Mr Chair that it would not seem remotely inappropriate to me or out of the blue or you know *goeie hemel waar kom hierdie vandaan*, I don't know how to express it.

COMMISSIONER: Yes.

JUDGE CAMERON: Within a predictable approach, I am an  
10 alumnus of this University, I am an honorary graduate of it, I am a person in the public eye like you are Mr Chair, you know we both hold judicial office, so it did not seem to me at all out of any ordinary run of events that I should be considered and approached to become chancellor, I didn't anticipate it, I didn't seek it but it certainly didn't seem so I think Mr Chair to answer your question, and I am sorry for the ...[indistinct] but I would say that anyone properly informed would think – would not see this as seeking to create a special bond or an inducement or to meddle in  
20 litigation, that was certainly not how I saw it, not even remotely, it didn't cross my mind that this could be – can have any tinge of impropriety to it, but of course what crossed my mind is not the same as what your ultimate determination might be and I respect that.

COMMISSIONER: Yes, thank you, thank you Justice.



Ja, is there anything else that you feel we should know about having regard to the lead up of the events maybe something in the aftermath that we don't know about?

JUDGE CAMERON: I don't think so Chair, I might just say by way of background that I had met the rector only, I think only twice before, and I hope my memory isn't leaving me in the lurch, I met him at a ...[indistinct] at the Law School, just after the had taken office, and I had never met him before but he was the younger brother of a very dearly  
10 beloved ...[indistinct] colleague of mine at Stellenbosch, who had died, his older sister Fran had died ...[intervenes]

COMMISSIONER: Yes Fran.

JUDGE CAMERON: That's right and I had a great deal of grief about Fran's death so we exchanged some words at this formal lecture and then the next occasion was at my omni-degree conferral where I wasn't at his table, my partner and I sat at Chancellor Rupert's table and I don't even think that the rector and I had any conversation at all, so to my recollection those were the only two times that we  
20 spoke and then when he asked me to become, to consider nomination, so you know this – against that background I found no surprise or impropriety remotely when he approached me. I can't think of anything since then Mr Chair, you know I – my own understanding of the judgment, both Judge Froneman and myself and even the Chief

Justice there made a suggestion which is about privately funded bursaries ...[indistinct] publicly contested because MEC Manyasa Lesupi averred that any such venture would be racist, so ...[indistinct] and both of us I thought were very considerate towards Gelyke Kanse and I say that ...[indistinct] but in the exercise of our judicial functions we realised that what Gelyke Kanse's goals and aspirations are, are valuable for our country and that's how I see them.

I understand their indignation on this ...[intervenes]

- 10 I don't wish to patronise them by saying I understand but I have only respect for what they do, and ja, that is all I wish to add, unless you have further questions.

COMMISSIONER: Yes, no, no thank you. I was just thinking too if one now especially if one looks at the fact where you then say I want Heunis to give us an answer as far as this is concerned before I will carry on, if one takes a puny judge on a civil trial and I in fact alluded to the examples that I personally had where I discovered that the witness, the expert witness for the one side was in fact an  
20 old school friend of mine and now being in that position you now asked the question now *nou wat nou*, how do we carry on with the trial, or what's going to happen, what I did was I called in counsel, I said these are the facts, you've got to convey it to your clients and come back to me and tell me, because I don't have a difficulty in hearing the matter.

Now that doesn't really differ from what you have done to be quite honest, approach the other side, and say these are the facts would you give us your blessing so to speak to go ahead, or would you agree with that comparison?

JUDGE CAMERON: The analogy is exact Mr Chair and may I say that my main previous experience of potential conflict was a very big one and if you don't mind my just recounting it.

10 COMMISSIONER: Yes certainly.

JUDGE CAMERON: In the Supreme Court of Appeal the President at the time was Judge Craig Howie and when the gay marriage case came to the Appeal Court he called me in and he said I want you to sit on this case, so I said to him I was an activist that laid the ground in various ways for constitutional, I was deeply involved in the activist movement that set out, there was a ten point agenda and so what we did is I wrote to both parties and there was a conference at which I set out a ten point plan for lesbian  
20 and gay equality in South Africa. I attached the slides, I said that the registrar wrote a letter very much on the same theme, Judge Cameron holds that the follow be brought to the parties attention, that he was an activist in ...[indistinct] and both parties, it was a ...[indistinct] president I remember the Minister of Home Affairs was Minister

Buthulezi, I think he wrote a personal letter in the ...[indistinct] to say that we have no objection and this is also borne out by Bernard, the ABSA Bank ...[intervenes]

COMMISSIONER: The ABSA Bank one yes.

JUDGE CAMERON: Yes, so I – my own conduct was guided by the previous you know people said well Cameron was a gay activist, why did he sit on the gay marriage case, I would say well I sat with full disclosure and with full knowledge on the part of both parties and if they didn't have  
10 the knowledge they had the means of knowledge, which was the case here, so Mr Chair with all due respect I think the example you give is exactly on all fours.

COMMISSIONER: Thank you, anything else Justice?

JUDGE CAMERON: No.

COMMISSIONER: Mr Cariem is there anything else that we have – I am just asking Mr Cariem, yes Justice Cameron Mr Cariem has just drawn my attention to a letter that we received later, it's in fact a letter that was addressed to Attorneys West and Rossouw by the Chief Justice. It's  
20 dated the 29<sup>th</sup> of October 2019, it only came into possession of West and Rossouw at a later stage I believe,. I don't know whether you're aware of this letter, but the Chief Justice says here, it's a short letter:

"This is a response to your letter concerning communication from Justice Cameron to the parties.

The procedure to be followed whenever a Judge finds himself or herself in a potential conflict of interest situation were complied with in this matter."

With kind regards, etcetera, are you aware that this letter was sent or whether it was at your request or not?

JUDGE CAMERON: Mr Chair I hadn't seen the letter but the Chief Justice and his spokesperson, Mr Nati Mbuwe, contacted me about it, I was aware that the Chief Justice ...[indistinct] putting it on the secretary's table or in his  
10 computer, but I certainly had insight in the letter and it was discussed between the Chief Justice and me.

COMMISSIONER: Oh, okay, because as far as I understand your evidence you were satisfied that potential conflict of interest situation was in fact resolved as we've discussed.

JUDGE CAMERON: Precisely sir.

COMMISSIONER: Thank you Mr Cariem. Yes, well that is it, we can go off air now.

END OF INTERVIEW