

IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION)
(This document should be kept in the Court file)

DIRECTION(S) ISSUED IN TERMS OF PRACTICE RULE 12 (a)(i) OF THE
RULES OF PRACTICE

CASE No. 185/2020

DATE: 31 January 2020

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Before the Honourable Madam Justice Strech

In the matter between:

The University of Fort Hare



APPLICANT

And

The UFH Students Representative Council

RESPONDENT

Having considered the certificate of urgency placed before me in the abovementioned matter, I hereby issue the following direction(s) with regard to the hearing and further conduct of the matter:

make an order in terms
of the amended notice of
motion annexed
thereto.

BY ORDER

A large, stylized handwritten signature in black ink, appearing to be 'I.T. Stretch J.'.

I.T. Stretch J.

SIGNATURE

IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION, GRAHAMSTOWN)

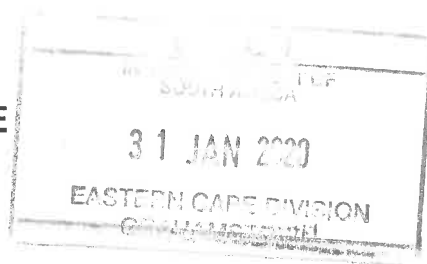
CASE NO.

185/2020

In the matter between :

THE UNIVERSITY OF FORT HARE

and



Applicant

THE UFH STUDENTS' REPRESENTATIVE COUNCIL	First Respondent
LWANDILE MGEDEZI	Second Respondent
MISCHACK MUGABE	Third Respondent
ZUKO NDABAMBI	Fourth Respondent
JAMES NQABENI	Fifth Respondent
LUFEFE SOPAZI	Sixth Respondent
LIHLE NDABAMBI	Seventh Respondent
ZENATHI MBENYA	Eighth Respondent
SETHU MDEKAZI	Ninth Respondent
NELILE MBOTHO	Tenth Respondent
BABONGILE MOTO	Eleventh Respondent
MIHLA HANISE	Twelfth Respondent
YANGA MNIKINA	Thirteenth Respondent

THE OTHER PROTESTORS UNKNOWN TO THE
APPLICANT WHO ARE ENGAGED IN UNLAWFUL
ACTIVITIES THAT INFRINGE THE RIGHTS,
INTERESTS AND SAFETY OF THE APPLICANT AND
THE APPLICANT'S COMMUNITY

Fourteenth to Further
Respondents

CERTIFICATE OR URGENCY

I, the undersigned, **SHAUGHAN HARTLEY COLE**, an admitted Advocate of the above Honourable Court do hereby certify that I am of the respectful opinion that this matter should be heard as a matter of urgency.

1. I have been provided with the founding affidavit of the Vice Chancellor of the Applicant, Professor Buhlungu, which is a draft affidavit that was awaiting modest factual information to come to hand before signature by the deponent.
2. I have been provided with signed statements from the Security Manager of the East London Campus and the Security Co-Ordinator of the Alice Campus, the content of which has been incorporated into the affidavit of the Vice Chancellor, to confirm the correctness of the factual allegations made.

3. At the time of drafting this Certificate of Urgency no Notice of Motion had been prepared, but the content of the intended Notice of Motion is evident from the content of the draft statements made available to me.
4. In this matter the Applicant University requires an urgent interdict to restrain identified Respondents, and many other students who have made common cause with them from unlawfully disrupting and disturbing the registration process of students registering at the University.
5. The disruption and disturbance has taken the form of interfering with students at the registration venue, and encouraging and calling upon others and inciting others to act in a similar way. The disruption of registration has its origins in demands made by the Student Representative Council members that all students must be allowed to register and secondly that all students must have access to their academic results and obtain their graduation certificates. Although the University is quite content to enter into mature debate on the issues, the Respondents have taken it upon themselves to disrupt

the affairs on the Campus, which disruption has now reached a level where property and safety of persons is severely threatened.

6. The founding affidavit discloses that the Respondents have entered into examination halls where supplementary examinations were being conducted, and have caused the supplementary examinations to be cancelled. On other occasions students have been intimidated with threats that they would be beaten if they did not leave the examination venues. Violence has broken out with staff and students being pursued and chairs being thrown. As a result examinations have been suspended and registration has been totally disrupted. These events are taking place both in Alice and on the East London Campus of the Applicant. Certain of the Respondents have been gathering with sticks and stones and have been intimidating more students to engage in this activity, suggesting they were "sell outs" if they did not. Two students have been injured and one security guard has been injured. The Vice Chancellor has authorised staff to leave the Campus on account of their personal safety risk, and motor vehicles have been moved to more secure venues. Many photographs of stones being thrown and collected on the Campus are available, together with photographs of burning

tyres, and tyres secured by Security Police before they could be set alight.

7. The University Management has attempted to engage on a sensible level with the Respondents but to no avail. It is evident that the unlawful activities commenced approximately ten days ago and have continued to escalate despite the efforts of the University to stem the tide. The application was prepared as speedily as possible after it was realised that there was no way of putting an end to the unlawful activities without invoking the assistance of this Court.
8. In the light of the urgency of the matter it is not been possible to effect service by the Sheriff of this application on any of the Respondents and it will only be possible to serve the papers together with a copy of the Order.
9. The Applicant seeks no more than to prevent illegal activity on the part of the Respondents and there can be no prejudice to the Respondents whatsoever if they are prevented from their actions of intimidation, stone throwing, violence and potential arson.

10. The requirements of an urgent interdict in the form of a clear right, the absence of an alternative remedy and actual harm committed and reasonable apprehension of further harm, together with a balance of convenience in favour of the Applicant, have clearly been established.
11. In the circumstances the Honourable Duty Judge is requested to allocate a time for the hearing of this matter at the very earliest opportunity.



S H COLE

Chambers

GRAHAMSTOWN

31st January 2020

IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION, GRAHAMSTOWN)

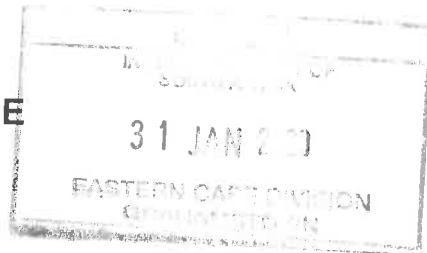
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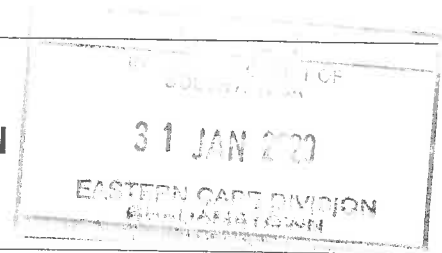
YANGA MNIKINA

Thirteenth Respondent

THE OTHER PROTESTORS UNKNOWN TO THE
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Fourteenth to Further
 Respondents

NOTICE OF MOTION



BE PLEASED TO TAKE NOTICE that application will be made on Friday the 31st of January 2020 at a time to be allocated by the Honourable Duty Judge, as a matter of urgency, for an Order in the following terms :

1. That the rules relating to forms and service be dispensed with and that this application be heard as one of urgency in terms of the provisions of Rule 6 (12) of the Rules of Court.
2. That a rule nisi do hereby issue calling upon the Respondents to show cause, if any on ^{Tuesday 25th} ~~Thursday the 27th~~ of February 2020 at 09h30 or so soon thereafter as the matter may be heard why :
 - 2.1 the Respondents, and any person acting under their direction and with a common purpose, should not be interdicted and

restrained from unlawfully disrupting and disturbing the registration of students at the East London and Fort Hare Campuses of the Applicant;

- 2.2 the Respondents, or any persons acting on their instructions and making common purpose with them, should not be interdicted and restrained from interfering with or obstructing the normal business of the Applicant at its East London and Alice Campuses, or conspiring with, encouraging or calling for or inciting any person to act as aforesaid;
- 2.3 the Respondents, or any persons acting on their instructions and making common purpose with them, should not be interdicted and restrained from intimidating fellow students or from disrupting examinations;
- 2.4 the Respondents, or any persons acting on their instructions and making common purpose with them, should not be interdicted and restrained from in any way assaulting any person at the Applicant's East London Campus or the Applicant's Alice Campus, or threatening to assault any such

person, or abusing such persons (students or staff) in any way whatsoever;

2.5 ~~that~~ the Respondents, or any one under their instruction or making common purpose with them should not be interdicted and restrained from throwing stones or carrying weapons of any nature on the Campus of the Applicant in East London and in Alice;

2.6 ~~why~~ the Respondents, or any one under their instruction or making common purpose with them should not be interdicted and restrained from gathering within 100 metres of any building of the Applicant on the Campus of the Applicant in East London or Alice, save for the purpose of peacefully attending to the legitimate objectives of the University program;

2.7 the Respondents, jointly and severally the one paying the other to be absolved should not be ordered to pay the costs of this application.

3. That the Orders in paragraphs 2.1 to 2.6 *supra* operate as interim interdicts with immediate effect pending the finalisation of this application on the return day, or the extended return day.
4. That service of this Order be effected :
 - 4.1 by personal service on the Respondents;
 - 4.2 affixing a copy of this application and Order on the noticeboard of the Student Representative Council office.
5. That the members of the South African Police Services are authorised to take such action as may lawfully be permitted to be taken in the event of any of the Respondents refusing to comply with this Order, save that this Order shall not preclude or limit members of the South African Police Services from exercising any power which he or she may have in terms of any law.

BE PLEASED TO TAKE FURTHER NOTICE that the affidavit of the Vice Chancellor and Principal of the Applicant, Professor Sakhela Buhlungu, together with annexures thereto will be used in support of this application.

KINDLY set the matter down for urgent hearing accordingly.

DATED at GRAHAMSTOWN this 31st day of JANUARY 2020.



MNGANGATHO ATTORNEYS
Applicant's Attorneys
High Street
GRAHAMSTOWN

TO : The Registrar of the above
 Honourable Court

AND TO : THE RESPONDENTS

Ym 1

**PROPERTIES & SERVICES DEPARTMENT:
Protection Services (East London)**

PABX 7396 Fax: +27 086 7714 085
Tel: +27 (43) 7547396

| Email: ymakabane@ufh.ac.za |



University of Fort Hare
Together in Excellence

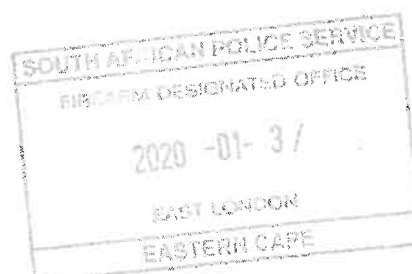
31 January 2020

STATEMENT BY YANGA MAKABANE

Re-events surrounding the students protest activities from 20 to 31 January 2020

I, Yanga Makabane, Acting Security Manager at Fort Hare East London state that:

1. On Saturday 18 January 2020, I received a call from my Director, Mr Mbude about the possible disruption of the registration by students and he instructed me to draw a security plan and re-enforce security to make sure that disruption does not occur.
2. I organized my in-house security personnel and re-enforced by sourcing riot control Security Company to curb the disruption.
3. On Monday 20 January 2020, the registration started but was stopped for about 4 hrs after the SRC students demanded that it be stopped because they have an urgent mass meeting.
4. Myself, Dr Masha, Registrar, Mr Mbude & Dean of students & Mhla Hanise (SRC Premier) meet next to Itec and urged Mr Hanise to allow the registration to continue considering that parents came to register their children. His response was he cannot unilaterally decide so he needs to consult other SRC members.
5. The students meet in front of Main building thereafter, the Dean of Students clarified the misinformation that people are not allowed to register and told everybody to register and the registration went well the whole day.
6. On Thursday 23 January 2020, There was a supplementary exam at Old Library building where a group of students disrupted the exam and after consultation with Dr Masha and accounting lecturers, the exam was cancelled because the protesters were making a lot of noise therefore rendering the environment not conducive for exam.
7. On Friday 24 January 2020, at around 9am a group of protesters mostly wearing EFFSC and PASMA came to try and disturb the registration and



STATEMENT BY DR ROSE KANYI MASHA

I, Dr Rose Kanyi Masha, Deputy Registrar: Academic Administration, University of Fort Hare, state under oath that:

1. as per the schedule prepared and implemented by the division of which I am head, registration of students for the 2020 academic year began on 20 January 2020.
2. I confirm that the registration process was disrupted and continues to be disrupted by protestors, some of which are identifiable SRC members, ordinary students, and others who are unknown to me.
3. below is a record of what I observed:

RECORD OF EXAMS AND REGISTRATION DISRUPTION, JAN 2020

DATE	NARRATIVE	IDENTIFIED STUDENTS
20/01	4 hour disruption by students in ELCO, Registration offices, Baobab Lab (8am-12noon). SRC members came to ask students to come out and attend an urgent Mass meeting. Njabulo Zuma (UFH Registrar), Mr Gqeba, Mr Mbude and Mr Makabane (all UFH employees) called Mihla out next to ITEC to speak to him, and he said he cannot decide on suspension of the strike alone.	MIHLA, SRC PRESIDENT, Alice Premier
	All SRC members came to my office around 12:30 and I called the Registrar so that they can engage with him. He persuaded them to rather wait for the 2pm meeting.	Yanga, SRC, Premiers
21/01	A group of protestors came to the main building after having gone to disrupt at ELCO. The Registrar and I left Prof Vithal's meeting (Deputy Vice-Chancellor: Academic Affairs). Registration carried on in ABC but was suspended in ELCO and Baobab Lab	Large group of protestors
22/01	Disruptions at Elco and Baobab lab	MIHLA and an unidentified student wearing EFF t-shirt
23/01	At 8am, a group of students were singing right at the door of the Blue Glass, where examinations were set to be written at 9am. Students already there were forced to leave the venue. Mr Makabane and I met the Exam staff and Accounting lecturers to decide on what to do. Lecturers proposed cancellation of exams because Accounting students need quiet for them to write well. I pointed out that all students need quiet when writing, and we need to make a general decision for all students. As the singing got louder, students from the Exam venue exited one by one because it was noisy and the song lyrics were <u>insinuating that they will be beaten</u> . This session was cancelled	Group of students MIHLA

	SRC went to disrupt at the Baobab Lab and Elco. I asked Mihla if Management is aware of what he is doing, and he said yes. I was asking this in the sense that the Dean of students has to know when they need to call a Mass meeting, and by default, the Registrar.	
24/01	<p>Around 9am, Mihla and another unidentified person came to the Elco when I was there and asked the students where were in line waiting to register to go to write a memorandum. The students refused. I called Mihla outside and tried to reason with him. He said they are poor and have no money, and I cannot expect him to ask poor students to register.</p> <p>Students resisted but left anyway. Staff also left. A few hours later, students came back, but I was now in my office. The next minute, I hear screams and students and staff running from ELCO. When I asked, they said SRC came and threw chairs at them. Registration was suspended.</p> <p>I went down to Baobab Lab and witnessed the SRC chasing staff and students and/or people who came to register out. They swore at Mr Kunene, a lecturer from Sociology when he asked that he at least help the person who was next to him.</p>	Mihla and another individual wearing an EFF t-shirt (he has a beard)
27/01	<p>EAST LONDON: SRC came to take people who came to register from venues and queues around 11am. Afternoon exams were suspended for fear of disruption.</p> <p>SRC went from office to office asking staff to leave. They went to the Registration offices and swore at staff who was leaning against the door. They also went to the ABC Hall (whose security personnel ran once they heard the singing crowd, leaving Admissions staff and students vulnerable). Registration was suspended.</p> <p>ALICE: Registration was not scheduled here because this was a day meant for setting up.</p>	Mihla and the same individual as of 24/01/20 wearing a EFF t-shirt together with a girl going by the name of Mugabe, together with a crowd of about 50 protestors
28/01	<p>EAST LONDON: Afternoon Exams Suspension due to Dr Johl's email that it is not safe.</p> <p>ALICE: At the Sports complex, there was a group of protesting students who came and sang and chased out staff, they did the same at the Great Hall, so there was no registration in Alice. I dispatched some staff to go back to assist in EL, but when they got there, the SRC disrupted all registration.</p>	Group of students.
29/01	<p>EAST LONDON: No incident</p> <p>ALICE: Around 10am, in the Great Hall, there was singing and intimidation of students who were walking into the Great Hall. A crowd of about 200 students had gathered outside the Great Hall, and they had sticks and stones. Once we walked in, the crowd sang and went to mobilize more students from the residence. We saw them go past the window and they waved their sticks at us and said they are coming back and will deal with amagundwane ie sellouts. Inside were my staff and those from Management & Commerce, whose students</p>	<p>At the Great Hall, the group was led by the SRC President</p> <p>At Sports complex, the</p>

	<p>were meant to have registered. The crowd came back in bigger numbers after about 20 minutes and moved closer to the doors of the Great Hall, and that is when the security fired rubber bullets. I watched this from the glass door of the venue, which also was shot at around the time that the student got shot. There was a student who was standing next to the doors who was shot. The door that I was standing next to was also shot. I evacuated staff from there around 12.</p> <p>Around 11am, all private security left the Sports complex, leaving staff vulnerable, and this is when toy-toying students got a chance to enter and chase staff out, in the presence of UFM SECURITY. These students were armed with sticks and stones.</p>	group was led by Mgedezi
30/01	<p>According to my staff, around 10am, the 200 plus crowd were charging towards the Great Hall when the private security shot at them. The protestors were throwing stones at the windows. They had told the staff that they will beat them up for selling out. They said this while my staff were entering the Great Hall. I got security to evacuate staff from there around 11:30</p> <p>Around 10am, another group of students were intimidating staff working at the Brown auditorium. This staff member s are responsible for printing registration forms.</p> <p>At the same time, all private security also left the Sports complex to join the fight at the Great Hall, again leaving the staff vulnerable. Toy-toying protestors again entered armed with wooden and metal sticks and stones and chased staff away. Today, they actually threatened staff.</p>	Group led by the SRC President

Signed:

Dr Rose Kanyi Masha

31 January 2020

STATEMENT BY MFUNDO PALISORe: Events surrounding registration disruption by Src led prospective returning students

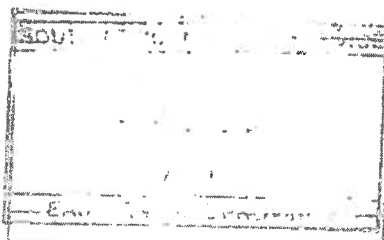
I, Mfundo Paliso Acting Security Coordinator (Alice Campus), state that:

1. On Tuesday 28 January 2020, I was tasked with ensuring that the registration process in the Alice Campus goes on without any disruptions.
2. I encountered a group of about 100 prospective returning students singing in front of one of the registration venues (Sports Complex), this group was led by the Student Representative Council members.
3. I confirm that I saw James Nqabeni, Lihle Ndabambi, Mbenya, Mdekazi and Lwandile Mgedezi other Src members leading a group of students on Tuesday, 28/01/2020 intimidating and turning away those who wanted to register.
4. They left the Sports Complex and moved towards the Great Hall where they again threatened those who wanted to register. From there they moved to the Main Gate blocking the gate and locking it after they had vandalized our padlocks,
5. On the 29/01/2020 all necessary precautions were put in order for the registration to commence but again Src led group went from venue to venue where they would intimidate and threaten any person who was waiting to register. From there they started to throw stones at the private security personnel hired to ensure smooth running of the registration. I can confirm that James Nqabeni, Mbenya, Mdekazi, Lihle Ndabambi and other members whose names I do not know.
6. On the 30/01/2020, widespread intimidation of those who wished to register took place in front of the Great Hall with James Nqabeni, Lihle Ndabambi at the forefront. There was also a woman whose name I do not know but have her photo. On the orders of James Nqabeni and Lihle Ndabambi, students moved from in front of the Great Hall and went towards the men's residences where they blocked every person coming to register, being insulted and pelted with stones. The disruptive group then started to engage the private security company and threw stones at the Great hall breaking windows and tampering with the electricity supply of the venue.

Statement by Mfundo Paliso

Acting Security Coordinator

Alice Campus



EK SERTIFISEER DAT NIERDIE DOKUMENT 'N WARE AFDRUK (AFSKRYF) IS VAN
 DIE OORSPRONKLIKE DOKUMENT WAT AAN MY VIR WAARNEMING VOORGELE
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 BRING IS NIE.

I CERTIFY THAT THIS DOCUMENT IS A TRUE REPRODUCTION (COPY) OF THE
 ORIGINAL DOCUMENT WHICH WAS HANDLED TO ME FOR AUTHENTICATION. I
 FURTHER CERTIFY THAT FROM MY OBSERVATIONS AN AMENDMENT OR A
 CHANGE HAS NOT BEEN MADE TO THE ORIGINAL DOCUMENT.

MASSNOMMER
 FORCE NUMBER 5813507-7
 NAME IN DRUKSKRIF
 NAME IN PRINT R. Mfundo Paliso

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