

# 'MISHANDLED CASE' Infant's death unsolved

Kamini Padayachee

DURBAN: A Durban magistrate has found while no one could be held responsible for the death of baby Noah Shipman there were glaring problems with how the matter was handled.

Magistrate Irfan Khalil ordered his judgment be sent to the police and Health Professions Council of South Africa.

Eight-month-old Noah was declared dead on arrival at Kingsway Hospital last May after he was found "blue around his mouth" in his cot at the Seaside Play Centre in eMantlontol.

He also ordered his judgment be sent to the Social Welfare department's provincial head for further action as the play centre's deemed registration, in terms of the Children's Act, had expired at the time of Noah's death.

The Shipman family, who were in court yesterday, said they were upset the cause of Noah's death had not been found. Speaking outside court, Noah's grandmother Clare O'Ns said the case was awful for the family who just wanted to know the truth.

Khalil in his judgment this week said no one could be held responsible for the death of Noah, but said the case had several worrying aspects.

He said the pathologist who handled the post mortem had initially said Noah had died of natural causes, but about three months later he changed his mind and said the cause of death was asphyxia consistent with asphyxiation.

The pathologist claimed he had hurriedly signed the initial affidavit which said the death was due to natural causes in order to speed up the burial.

Khalil said it was "unacceptable" that a professional, who had a critical task to perform, had "so easily compromised his professional independence".

The investigating officer did not know how to administer the oath when statements were taken and simply signed as a commissioner of oaths.

He also said no reasons

Noah was found blue around his mouth in his cot

were advanced for a five-month delay before vital statements were taken and it appeared they were taken only after the family complained.

No exhibits from the cot were collected to be analysed, which the court said was vital when dealing with cot deaths.

Dealing with the play centre, Khalil said there were "various contradictions and vagueness between staff members regarding what happened".

According to the centre, Noah had been in the care of Rejoice Gwala, who was a cleaner at the centre, because the usual caregiver was coming to work later that day.

At some point, Gwala was relieved by an assistant to a caregiver, Courtney Luther, who testified that she discovered Noah was blue around his mouth and not moving when she tried to wake him.

Their lawyer, Tshapo Sebola of the law firm Makhele Seriti Makhume Matlala Inc, said since Sepedi is one of the 11 official languages of this country - it was thus his

clients' right to have summons issued in their language.

"It is permissible to do this and, as far as I know, it has not been done before in this court. Our indigenous languages need to be recognised," Sebola told the Cape Times's sister paper the Pretoria News yesterday.

But Sebola and his team of the presiding Judge Bill Prinsloo in the high court in

Pretoria.

However, the judge did not need to deal with the language dilemma as one of the parties to the divorce was ill and the matter had to be postponed.

The judge did not comment or react as the case was called and he merely looked at the file.

Language rights activist lawyer Cernaels Lourens, who has scored several language victories over the years, said

it would be preferable if such a matter was allocated to a judge who speaks the particular language in which the legal documents have been issued.

"I fully agree that a person is entitled to be served by the courts in his or her mother tongue. I in fact welcome it."

Lourens said the courts had a duty to recognise African languages in legal proceedings.

While the most common

ly-used language in courts was English, Lourens said he knew about a judgment delivered in the past by Western Cape Judge President John Hlophe in Khosa.

Former acting judge Francois Boles agreed that it was everyone's constitutional right to have their case heard in the language of their choice.

He said while it might not always be practical, it was still a right.



**DYNAMIC PAIRING** Ludwig's Roses farm owner Ludwig Taschner, left, and JC Le Roux representative Kavar Gangiah celebrate the opening of the Ludwig's Roses 45th Spring Festival. For this year, Ludwig's has teamed up with the House of JC Le Roux under the theme of "roses and champagne". Picture: THOBILE MATHONSI

## Couple demands divorce papers to be served in Sepedi

Zelda Venter

A DIVORCE summons issued in their language.

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## Gauteng court agrees to postpone O'Sullivan case until October

Lindi Masinga

African News Agency

JOHANNESBURG: Private forensic investigator Paul O'Sullivan, who stands accused of breaching SA immigration laws, yesterday asked the Kempton Park Magistrate's Court to relax his bail conditions if his case could not go ahead so that he could travel to the UK.

O'Sullivan was arrested in April when he tried to leave

the country using his Irish passport and return with his South African passport, and faces charges of violating the Immigration Act.

However, O'Sullivan's case could not proceed because state prosecutor Jabulani Mlotshwa raised a query regarding another case in which the accused is seeking an interdict to stop authorities from investigating allegations that he committed other crimes.

In that matter the forensic

investigator alleges that police probes into the alleged crimes were "politically motivated".

The prosecutor told the court that because he was named in the matter it affected the present case.

Mlotshwa told that court that he was served with a 30-page document from the high court in Pretoria stating that there was an application for an interdict made against him by O'Sullivan.

He read a summary of the

document, which said that he and eight other people were temporarily interdicted from participating in any criminal investigations involving O'Sullivan, pending the verdict from the court.

The prosecutor said he could not deal with any matter against O'Sullivan until he had spoken to the national director of prosecutions to get directions on a way forward.

"The allegations are serious and very slanderous... therefore I'm unable to proceed with the current matter," Mlotshwa said.

"If I do anything against O'Sullivan I'll be in contempt," Mlotshwa told the court that he had spoken to advocate Barry Roux, of O'Sullivan, who told him that there was an error in the documents.

The prosecutor asked the court if the matter could be postponed until November 15, when the high court would determine whether O'Sulli-

van's application for an interdict had any merit.

Roux instead asked the court to postpone the matter to October 20.

He also requested that if the State wasn't ready to proceed by then, the court could instead hear his client's application to have his bail conditions relaxed to allow him to travel to London, UK.

Magistrate Wynand Nel concurred and postponed the matter to October 20.

## Questions over recordings of two murder scenes

Karishma Dipa

JOHANNESBURG: Even as the unarmed man tried to crawl away from his attacker, the gunman still shot him several times at close range.

He was left to die in the street as motorists and passers-by tried unsuccessfully to save his life.

Sunday night's attack was captured in the second dramatic piece of footage to have emerged this week, showing a man being murdered in the Johannesburg CBD.

Yesterday, the Cape Times's sister paper The Star reported

on a security guard's murder. He was stabbed to death on Tuesday night after trying to stop youngsters from stealing items from a Newtown mosque.

The two killings have been uploaded to YouTube and shared several times on other social media platforms. The footage of Sunday night's incident also shows how police officers in a marked vehicle drove past the scene, viewed the body and continued on their way.

Police spokesperson Richard Munyai would not comment on the officers'

inaction, but said a murder case was opened. "No arrests have been made, and the motive is unknown."

In the video footage uploaded on YouTube on Tuesday, vehicles were seen stopping at a traffic light at the corner of Commissioner and Crown streets. A man climbs out of a taxi and walks across to the pavement on the right side of the road.

The passenger in a bakkie climbs out of the vehicle further up Commissioner Street. The armed taxi commuter heads towards him and fires about three rounds. The vic-

tim tries to get away and stumbles. The attacker's firearm jams for a moment, but then he fires three more bullets. One appears to hit the victim in the head. After this, the attacker flees.

A continuation of the footage shows a man, believed to be the victim, lying in the street motionless as motorists and pedestrians attend to him.

Johannesburg metro police spokesperson Wayne Minnaar said his CCTV cameras did not capture incidents because they were mostly situated in the city centre.

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## Macozoma to take Sanral reins

African News Agency

The cabinet has approved the appointment of Sikhumbuzo Macozoma as chief executive of the SA Roads Agency Limited (Sanral), the parastatal announced yesterday.

Macozoma will replace Nazir Alli, who has been at the helm of Sanral since it was founded 18 years ago. Alli is retiring.

"Mr Macozoma brings strong professional credentials and an impressive track record of leadership and service in the industry. Sanral is fortunate to have found someone of his calibre and experience," said Sanral board chairperson Rohan Mernin in a statement.

Mernin said he was confident Macozoma's appointment would be "welcomed within the broader engineering sector, the construction indus-

try and the investor community".

Macozoma holds a Master's degree in civil engineering.

His past jobs include his position as managing director of the Johannesburg Roads Agency before moving to the E-rolling company, where he served a short stint as chief executive.

The Sanral board said his previous posts made him "a well-rounded executive who is best placed to lead Sanral into the future".

The board also paid tribute to Alli. "Nazir Alli is a visionary who truly understands the crucial role of roads to connect people to places and keep the wheels of the South African economy turning," said Mernin.

"We wish him well in his future endeavours and know that Sanral will in future be able to draw on his experience and knowledge."

## KALK BAY AND ST JAMES SRA NPC

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### NOTICE OF ANNUAL GENERAL MEETING

The Kalk Bay and St James SRA NPC will hold its Annual General Meeting (AGM) as follows: Date: 24 October 2016 Time: 20:00 Venue: Community Centre, Main Road, Kalk Bay

All stakeholders are invited to a review of the year's activities and planning for 2017/16.

Resolutions presented at the AGM may only be voted on by bona fide members of the company. This membership is available free of charge to all owners of properties in our SRA area, but they must be registered before 10 October 2016.

For further information regarding AGM documentation and how to apply to register send an e-mail to info@kalkbaystjamesara.org or phone the Manager at 078 605 1172 or visit our web site www.kalkbaystjamesara.org

**False Bay Echo**  
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**Lack of action**

Philip Danford,  
Silverglades

The letter "Traffic control in a mess" (Echo September 1) refers.

We locals in the "South" concur with Peter Smulik's remarks about the unacceptable situation with traffic flow, particularly south of Muizenberg.

As for the attitude of mayoral committee member Brett Herron, if it is reflective of the mayor's office's attitude towards the people, then it is little wonder that the South Peninsula has ongoing traffic troubles.

The fact that the main road upgrade has been such a costly pain to all can only be attributed to Mayco's inability to have arranged alternatives to working only daylight hours from only one side of the upgrade areas at a time. Apparently the homeowners on the route objected to all other alternative working arrangements which is a reality.

However, the some 20 000 motorists per day have had no say. Not only has this been an expensive upgrade to the fiscus, the unseen

cost of motorists stuck in the stop and go queues is vital to all planning.

Imagine the following scenario:  
R200 per hour of lost productivity by stranded motorists.

R200 X 20 000 = R4 000 000.  
R4 000 000 X 260 (actual work days) = R1 040 000 000 per year.

R1 04bn X 7 years = R7.28bn

This horrific figure above is the lost productivity to the South African economy and does not address local business losses.

Imagine that this figure would pay most of the cost for a tunnel to be built. Now due also to the incomplete Boyes Drive upgrades, the costs of the City's indecisiveness came home to roost. So, because Mayco was unable to arrange alternative operating hours with contractors etc, together with the above dithering, their submission to the wishes of local homeowners enroute from Muizenberg to Clovelly has caused large proportions of the huge productivity losses to occur.

Adding insult to injury, the traffic chaos at Kommetjie Road four-way intersection is adding to this unacceptable

situation. Any further delays in correcting the latter problem is unconscionable.

Mayco or whosoever is responsible in local government simply cannot sit wringing their hands or indeed washing them off the problems and leave things as they are. Any further daily delays in rectifying these important issues would be almost criminal.

More motorists using the local roads is a fact and every effort must be made to alleviate this distressing situation. In any event, if our local economy is going to grow, more motorists will be a fact of life.

Cape Town's Transport department is duty bound to vigorously address these vexing matters instead of bemoaning the facts as they have done in the past.

Clearly their attitudes regarding the motorists being a nuisance to them must change immediately. The current scenario with traffic flow in the south is due to their indecisiveness and the consequent lack of action in implementing what they know is vital to the local economy (for example Southern Ring-road from Kirstenhof etc).

**Weekend weather**

[www.weather.co.za](http://www.weather.co.za) and [www.staha.co.za](http://www.staha.co.za)

**Friday**  
Min: 8°C  
Max: 20°C  
Hi: 2.51am: 3.02pm  
Lo: 8.52am: 9.15pm

**Saturday**  
Min: 10°C  
Max: 22°C  
Hi: 3.22am: 3.30pm  
Lo: 9.19am: 9.42pm

**Sunday**  
Min: 11°C  
Max: 26°C  
Hi: 3.50am: 3.58pm  
Lo: 09.46am: 10.08pm



PICTURE: SAM PEARCE

■ On Heritage Day, Saturday September 24, the sun shone on the 12th eMzantsiCarnival – Hilltopia. It was the first time the annual celebration of shared Far South culture has taken place in Red Hill. Circus performers from ActionArte Foundation joined the parade through the settlement and afterwards delighted the audience from Red Hill, Scarborough, Masi and Ocean View with their acrobatics as part of a stage show of local talent.

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**What's On**

**Walks**  
On Saturday October 1 a hike will take place from Blind Gully. Hikers will hike to the Apostles Path and continue to the top of Platteklip Gorge and take the cable car down to the cars. If rain or strong winds occur the hike will be cancelled. Hikers with a good fitness level is required. It is not for the faint-hearted as the route is exposed. Costs are R20 cash for a guest fee for non-members. To book or for more information, contact Freddy via WhatsApp on 072 268 1241 or email on [fmmachinery@mweb.co.za](mailto:fmmachinery@mweb.co.za)

Off My Trolley column could not be printed this week due to space constraints.

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For further information regarding AGM documentation and how to apply to register send an e-mail to

**Rachel's Wishes**  
Reach for the stars