



NELSON MANDELA
FOUNDATION

Living the Legacy

PERSONAL and ASSOCIATED PAPERS – JUDGE THUMBA PILLAY COLLECTION

TEXTUAL RECORDS

INCLUSIVE DATES: 1959 –1978

BULK DATES: 1977-1978

EXTEND: 7 files stored in 2 archival boxes

ACQUISITION: Donation of Judge Thumba Pillay

ACCESS: restricted

LANGUAGE(S): English

PHOTOGRAPHS: None

VISUAL MATERIALS: None

AUDIO MATERIALS: None

PRINTED MATERIALS: yes

COPYRIGHT & PERMISSIONS: Nelson Mandela Centre of Memory

RECORD GROUP: Nelson Mandela Personal Papers and Nelson Mandela Associated Papers

SERIES: NMPP & NMAP 2010/9 Judge Thumba Pillay Collection

History

Judge Thumba Pillay has been politically active since the 1950s and was a founding member of the UDF in Mitchell's Plain. He practiced as an attorney since 1962. He acted as an attorney in many trials and court applications involving members of the ANC, the NIC and the UDF. He was contacted by Mac Maharaj in 1976/7, whom he had known as a political activist since 1954. Maharaj handed him the handwritten manuscripts of the letters addressed to his firm Seedat, Pillay & Company by Madiba and Ahmed Kathrada. For security reasons Judge Thumba Pillay had a family member address an empty envelope to him.

Scope and Content Note

The initial donation consisted of two letters smuggled from Robben Island by Mac Maharaj and handed over to the legal firm of Pillay Seedat & Co. as well as an original envelope addressed to the legal firm.

The letters are written by Nelson Mandela and Ahmed Kathrada, both of them wishing to appoint the firm to act on their behalf in legal proceedings against the Department of Prisons. Since the authorities refused them to contact their attorneys, they had to use this 'illegal' way to seek legal representation. An envelope, used for security reasons, addressed to the law firm is included.

The second donation of materials was made by Judge Thumba Pillay on 27 October 2010 consisting of documents and correspondence relating to the case of Mandela vs Minister of Prisons from his legal files, covering the period 1976-1978. The second donation consists of correspondence between several law firms and prison authorities as well as research documents.

Most letters and documents are carbon/copies. Some documents and letters have a handwritten letter on top of the first page of the document; this letter has been reflected behind the content description in between brackets.

A memorandum from Judge Pillay to the NMF detailing the events is enclosed with the accession form.

BOX 1 File 1 -3

File 1 3 items

Nelson Mandela's letter is ten pages, size 9x18.5 cm, in very tiny handwriting. Mandela seeks the legal services of the firm to act on his behalf with the unfair treatment of prisoners on Robben Island. The letter summarizes Mandela's letter to the Commissioner of Prisons of July 1976 outlining cases of abuse of authority etc. by the Commanding Officer and his staff. Ahmed Kathrada's letter is two pages, size 9.5x8 cm, in very tiny handwriting. He also wants to start legal proceedings against the Department of Prisons relating to various aspects of this treatment in jail, especially the severe restrictions of his correspondence and visitors rights. An envelope used for security reasons, pretending that the two letters were posted to the legal firm.

File 2 37 items

Correspondence Where documents are numbered by hand, the number is entered behind the description	
December 1976	Transcript and copy of Kathrada's smuggled letter to Seedat, Pillay & Co
January 1977	Transcript and copy of Mandela's smuggled letter to Seedat, Pillay & Co
21 January 1977	Mandela to Frank, Bernadt & Joffe regarding his Charge Sheet of 20 January, request to instruct an advocate and suggesting witnesses. "B"
18 March 1977	Frank, Bernadt & Joffe to the Commanding Officer of Robben Island regarding his discussions with the public prosecutor Sgt Bierenbroodspot on the availability of his advocate and arrangements for their visit to the Island. "C"
28 March 1977	Frank, Bernadt & Joffe to the Presiding Office of the Officer's Court regarding the opposition of the Public Prosecutor to the application of a postponement of the case. "D"
3 May 1977	Frank, Bernadt & Joffe to the Officer Commanding regarding the problems and events surrounding the proposed re-convening of the Court and the statement that the trial cannot proceed until the matter is resolved. "E"
9 May 1977	Frank, Bernadt & Joffe to the Commissioner of Prisons with, on Mandela's instructions, his complaints about breaches of professional during his meetings with

	his legal representative. The firm submits that the restrictions are incorrect. "F"
21 July 1977	The Acting Commissioner of Prisons to Frank, Bernadt & Joffe with the permission to consult with their client on the Island without any breaches."G"
23 November 1977	Frank, Bernadt & Joffe to the Officer Commanding the withdrawal of the charges against Mandela; the instruction to hand over his file of papers after his court appearance; the unlawful removal of the file; instruction to the Officer Commanding to return the file and not use the content; the non-delivery of their letters to Mandela and the refusal to give Mandela's details to the SA Prisoners Education Trust on the request of Mssrs Ismail Ayob & Associates. "I"
2 December 1977	The Officer Commanding to Frank, Bernadt & Joffe regarding the withdrawal of the charges against Mandela and their services no longer required and his refusal to correspond regarding issues raised in the letter above. "J"
17 February 1978	Simanowitz & Brown to Seedat, Pillay, Seedat & Co regarding their consultation with their client Mac Maharaj in which he confirmed the handwriting of Mandela. Attached are transcripts of Mandela's letters to the Commanding Officer and the Commissioner of Prisons from 12 July 1976 exposing the prison conditions?
24 February 1978	Frank, Bernadt & Joffe to the Commissioner of Prisons referring to earlier correspondence, the attitude of the Officer Commanding and not wishing to move the Court for relief. "K"
23 March 1978	The General Commissioner of Prisons to Frank, Bernadt & Joffe regarding the removal of document from Mandela and letters not given to him. Notification that Mandela's study privilege has been withdrawn. "L"
19 April 1978	Seedat, Pillay, Seedat & Co to Simanowitz & Brown regarding their instruction of Sidney Kentridge and request for funds.
8 May 1978	Simanowitz & Brown to Seedat, Pillay, Seedat & Co thanking them for the letters received and available funds.
16 May 1978	Seedat, Pillay, Seedat & Co to Simanowitz & Brown regarding further need of consultation.
30 May 1978	Frank, Bernadt & Joffe to Seedat, Pillay, Seedat & Co regarding the return of documents.

12 June 1978	Simanowitz & Brown to Seedat, Pillay, Seedat & Co regarding banker's draft.
13 June 1978	Seedat, Pillay, Seedat & Co to Frank, Bernadt & Joffe informing them that they are taking up the matter.
13 June 1978	Seedat, Pillay, Seedat & Co to Simanowitz & Brown regarding the opinion of the Johannesburg Council.
27 June 1978	Simanowitz & Brown to Seedat, Pillay, Seedat & Co regarding funds.
17 July 1978	Seedat, Pillay, Seedat & Co to Mr. H.E.Mall regarding enclosed cheque.
17 July 1978	Seedat, Pillay, Seedat & Co to Mr. S. Kentridge regarding enclosed cheque.
17 July 1978	Seedat, Pillay, Seedat & Co to Simanowitz & Brown regarding funds and awaiting further instructions.
9 October 1978	Simanowitz & Brown to Seedat, Pillay, Seedat & Co regarding their request to Mr. H. Bernadt to arrange and see Mandela and to liaise with them.
17 October 1978	Seedat, Pillay, Seedat & Co to Simanowitz & Brown with thanks for letter above and undertaking to keep them informed.
20 November 1978	Frank, Bernadt & Joffe to the Commissioner of Prisons disagreeing to the withdrawal of documents from Mandela and requesting permit to visit him. "M"
27 March 1979	Frank, Bernadt & Joffe to Seedat, Pillay, Seedat & Co informing them of Counsel's opinion and requesting their input.
4 April 1979	Seedat, Pillay, Seedat & Co to Frank, Bernadt & Joffe regarding problem of proceeding with the application without placing Mandela at risk; reluctant to say more. Judgement in the case of Goldberg & Co attached for similarities.
4 April 1979	Seedat, Pillay, Seedat & Co to Simanowitz & Brown informing them of liaison with Frank, Bernadt & Joffe as well as balance of funds.
10 April 1979	Simanowitz & Brown to Seedat, Pillay, Seedat & Co regarding financial matters.
24 April 1979	Seedat, Pillay, Seedat & Co to Simanowitz & Brown regarding financial matters.
24 April 1979	Seedat, Pillay, Seedat & Co to Frank, Bernadt & Joffe regarding copy letter of Simanowitz & Brown and enclosed cheque.

1 May 1979	Frank, Bernadt & Joffe to Seedat, Pillay, Seedat & Co regarding 4 enclosures, including Counsel's opinion
1 May 1979	Frank, Bernadt & Joffe to Simanowitz & Brown updating them on their contact with Seedat, Pillay, Seedat & Co, meeting with Mandela and the way forward. Copy of summary of interview with Mandela attached.
2 May 1979	Simanowitz & Brown to Seedat, Pillay, Seedat & Co. Thank you letter

File 3 23 items

Memorandums and documents: 5 items	
January or February 1977	Charge sheet Prisons Department in the Officer's Court at Robben Island Prison with Mandela being accused of contravening prison regulations. "A"
17 November 1977	Transcript of points raised by Mandela pertaining to events surrounding his case including the demand to hand over his case documents, request to burn the documents and the promise to return them. "H"
19 April 1978	Handwritten memorandum (on notepad paper from the Natal Mercury, 3 pages as well as two copies of the transcription) from Seedat, Pillay, Seedat & Co to Counsel regarding their instruction by Mac Maharaj through Simanowitz & Brown and asking advice from Counsel on the matter and prospects of success in court as well as the conditions of interviewing Mandela. Possible problem for delivering documents to someone outside prison by Mandela is highlighted. Attached is a copy of the document 'Expose of Robben Island Prison Conditions – letters written by Mandela to the Commissioner of Prisons and to the Commanding Officer.
11 December 1978	Summarised statement minuted from Mandela at Robben Island Prison regarding not receiving correspondence from his legal representatives and others; his letters not being received and visits refused. Examples are given. "N"
22 March	Statement of case for opinion from Frank, Bernadt & Joffe with an overview of the

1979	events as informed by Mandela.
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Office Records: 18 items	
31 may 1978	Fees rendered note
31 June 1978	Fees rendered note
20 June ?8	Cash receipt
1 May 1979	Cash receipt
4 July 1978	Nedbank card division statement with credit card voucher
1 August 1978	Nedbank card division statement with hotel invoice
Undated	Certificate of posting South African post office
27 February 1978	Note with instructions acknowledged
August 1977- May 1978	3 tickets and one boarding pass B Pillay
April-May 1978	4 Invoices/reservation confirmations from the travel agent Al Kajee
1977 and 1978	Two legal folders in which some of the documents were contained. Handwritten list with actions undertaken

BOX 2 FILE 4 -7

File 4 4 items

Research documents	
31 December	Government Gazette with Regulations in terms of the Prisons Act, 1959, as amended.

1965	Two copies. One was contained in a legal file
23 June 1977	Government Gazette with Amendment of the Prison Regulations
1956-1975	Statutes of the Republic of South Africa: Prisons Act and Amendments

File 5 1 item

Research documents continued	
1977	Supreme Court of South Africa (Transvaal Division) documents of Case number M776/77: in the matter between Denis Goldberg and others And The Minister of Prisons/Commissioner of Prisons/Officer Commanding, Pretoria Prison Bounded copy with the following documents: Notice of Motion Affirmations Prisoner's Handbook

File 6 2 items

Research documents continued	
1977	Supreme Court of South Africa (Transvaal Division) documents of Case number M776/77: in the matter between Denis Goldberg and others And The Minister of Prisons/Commissioner of Prisons/Officer Commanding, Pretoria Prison Respondents' Replying Affidavits First to ninth Applicant's Answering Affirmations

File 7 9 items

Research documents continued - 3 items	
1977	Supreme Court of South Africa (Transvaal Division) documents of Case number M776/77: in the matter between Denis Goldberg and others And

	<p>The Minister of Prisons/Commissioner of Prisons/Officer Commanding, Pretoria Prison</p> <p>Applicant's Supplementary Answering Affirmations</p> <p>Heads of Argument to be presented on behalf of the Applicants</p> <p>Judgement</p>
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Press cuttings - 6 items	
4 August 1977	Natal Mercury – Prison Plea refusal set aside
4 August 1977	Natal Mercury – 9 prisoners want fewer restrictions
5 August 1977	Rand Daily Mail – Not for 'Political's'
5 August 1977	Rand Daily Mail – Death in detention
21 March 1978	Rand Daily Mail – Kruger Appeal on Robben Island 9
17 May 1978	Rand Daily Mail – Rights of the jailed are few - counsel