

Replay on

R e PRI

for Sarfu vs Mandela

CARMEL RICKARD

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THE lengthy, acrimonious and political-
ly controversial court case between the
South African Rugby Football Union and
President Nelson Mandela could end up

back in the Pretoria High Court Jto be -
| heard from scratch by another judge.

Thatâ\200\231s one of the options which will

be put to the Constitutional Court byâ\200\231

Mandelaâ\200\231s legal team when the appeal is

â\200\234| heard, starting on May 4.

Mandela is challenging the outcome

'} of the case, initiated by the then boss of

the rigby union, Louis Luyt in which
Sarfu contested â\200\230Mandelaâ\200\231s decision to
set up an inquiry'into: 's affairs.
Judge William de Villiers, who heard
the case, found that the inquiry was
wrongly established. He had harsh
words concerning Mandela; the Minister
of Sport and Recreation, Steve Tshwete;

- | and the director-general of that depart-
â\200\234â\200\234 ment, Mthobi Tyamzashe.

Mandelaâ\200\231s lawyers claim the judgeâ\200\231s
order cannot take effect until it has been
confirmed by the Constitutional Court.

-w-\ The Presidentâ\200\231s legal team has now

lodged a 410-page summary of the
argument they will present. It reveals
* they have combed the case records to
demonstrate their claim that the deci-
sion to set up the inquiry was properly

e made and that the judge was biased.

The lawyers have suggested several

outcomes One is for the Constitutional

Court to decide whether they can find in ||

favour of Mandela despite any bias. If so,
that would be the end of the matter. If

not, the matter should be referred back |

to the High Court and another judge.

Mandela's lawyers will argue that |,
Judge de Villiers approached the Pres- ||
ident as though he were just another | witness in an ordinary case. They will -

. say the court took no account of the
-political context, or of the indignity to:

which he was subjected in the hearing.
According to them, Mandela emerged

from a long jail sentence as an inter- |

national icon of reconciliation. The

Sarfu case was one in which he was ||

brought to court by rugby officials identified with the old order. It was therefore
a politically controversial issue, involving
administrators accused of trying to
maintain the status quo which was the
product of a racist past.

In this context, Mandela was ordered |

to be cross-examined. This suggested

that Mandela's earlier written evidence |'

could not be believed, even when there
was nothing to contradict him. It was
made, at the insistence of a litigant who
symbolised the old order, by a judge of
the old order who was reputed to have
been one of its ardent supporters.
Their argument is that the cross-
examination was prolonged, repetitive

"and irrelevant, and it was understand-

able if Mandela expressed indignation.
But his behaviour could never be said to
have shown a lack of honesty and candour,
as the judgment suggested.

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â\200\234e (\R3,8-million allocation to Sterk-

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Saving artefacts â\200\224
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Filched items from museums and art galleries in South Africa fetch good prices at auctions in Europe â\200\224 and sophisticated thieves have been at work in the city.

by

VON
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RT theft is big business
Aâ\200\224â\200\224 globally the trade in

stolen art and artefacts
is second only to the drugs
trade as an illegal moneyspin-
ner. And South Africa is
increasingly being drawn into
the problem.

It is the big thefts of famous
paintings from major galleries
that hit the world headlines.
We've all read about them â\200\224 a
daring thief evades the high-
tech security and vanishes,
along with a Rembrandt or
Van Gogh. But those are the
exception. Most theft is of
smaller, more portable and
less easily identifiable items.
And with African art sought
after in the rest of the world,
South Africa is becoming a
target and a conduit for pieces
stolen in the rest of Africa.

In 1997, artefacts from the
Natal Museumâ\200\231s collections
became news when they were
found being offered for sale in
Howick. Police investigated but
charges against the suspects
were dropped. With hindsight
and internal investigation,

museum director Jason Londt is now sure he knows how the theft happened, though proving it will be another matter.

â\200\234We had visits to the collection some years ago by art and antique dealers and they were allowed access to photograph pieces which we hold in storage. We now believe that some of these guys came in and took

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2 \ fontein Caves, west of Johannes- |

e-b burg, to support a bid to have the ~caves declared a World Heritage Site. â\202~Y The funds will be used to prepare a detailed conservation management plan in support of the World Heritage Site application to Unesco. A final decision on its acceptance as a bl World Heritage site will be MR announced in December. i

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out objects, probably in their camera bags.â\200\235

Londt believes the collectors tried to implicate members of his staff in the theft as a smokescreen to protect themselves when the police closed in. Londt admits that, because the collectors were known to staff, they were possibly not supervised as closely as they should have been. And, because the collettions are so big, thefts can go unnoticed for a long time. When the museum staff did a complete stocktaking at the time of the incident in 1997, they discovered that about 10 items were missing. All but two are now back in the museum â\200\224 although some are officially

still police evidence. For their safety, they are in a cupboard in the climate-controlled surroundings of the museum and the police have the key. Still lost are two valuable and very rare brass Zulu armbands. If 10 of them are known to be in collections, it's a lot, says Londt. We had seven of them.

If the armbands ever turn up again, the museum will be able to identify them as it has photographs. But in many cases, the museum and other institutions do not and Londt says the museum has just acquired a digital camera to record the most valuable pieces. Two of the items that the police recovered, from a container in England, were Zulu sticks. We think they are ours, says Londt. But do you know how many carved sticks there are? Without a photograph, it's impossible to be absolutely sure they are the ones taken from here.

Tatham Art-Gallery director Brendan Bell also admits that his collection has lost some items though none in the last year. The gallery does an annual stocktaking and then reports to the TLC on the state of the collection.

Three pieces are missing. One is a little watercolour by R. R. Roberts which vanished in 1993. The second is a sculpture which disappeared

in transit while being returned from an exhibition and the third is a Zulu dancing mace which went missing when gallery staff were putting up a display. Bell says stocktaking is vital for any institution and is determined to ensure that the, entire collection is recorded photographically as an extra safeguard.

Efforts to combat theft and illicit artefact trade in South Africa are recent. The first workshop on the problem was organised in November 1996 by Gillian Berrington then

director of Local History Museum in Durban.

â\200\230Still lost are two
very rare brass Zulu
arbd. !

â\200\234I organised it as a result of
a theft of medals from the
museum. You go through a
mixture of disbelief, anxiety
and embarrassment, particu-
larly when you realise things
have not gone missing as the
result of a break-in. It had to
be an inside job.â\200\235

One alarming piece of infor-
mation to come out of the
workshop was the value of the
illegal trade. This is confirmed
by figures from Captain
Bernadine du Preez of the
police. She is the countryâ\200\231s
â\200\234art policewomanâ\200\235, the official
title of her office being â\200\234Cul-
tural Historic investigationsâ\200\235.
It is a part of the Endangered
Species Unit, as stolen art and
illegal ivory are often smug-
gled together. Asked about the
value of art stolen in South
Africa, Du Preez said that in
just three of the case dockets
on her desk, it is about
RS,6 million. And, of course,
some items would be price-
less, unique and irreplaceable.

Du Preez began work in
April last year. Her first step
was to establish a database by
contacting museums and gal-
leries and asking for informa-
tion about thefts or losses.
From there, she could start to
see if any pattern emerged.

â\200\234Two things have come to
light,â\200\235 she says. â\200\234Items which
are ethnic â\200\224 snuff boxes, Zulu
beads â\200\224 are being stolen and
smuggled and also items
which have bearing on the
Anglo-Boer War, such as
medals, swords and uniforms.â\200\235

Her findings suggest that
most items are being taken
abroad. This is born out by
Berning who says that of the
pieces from the theft at the
Local History Museum that
were traced, 80% were located
in the south of England, cen-
tre of the worldâ\200\231s art and
antique market.

â\200\234Often auction houses,

where these things turn up,
deal in good faith, with people
who bought in good faith,â\200\235
says Berning. It was when she
began to try to backtrack the
medals and reached the South
African police and customs
that she hit a problem. At that
stage there was no expertise
and not much interest. So
Berning is delighted with the
appointment of Du Preez, even
though she is working alone

Du Preez has made a dis-
covery of considerable con-
cern to museum curators. The
would-be smuggler identifies
someone within a museum or
gallery, contacts-them and
gives descriptions of the items

he wants. The contact will

then steal the items.

Museums have to trust their
staff but, with the value of and
demand for art and artefacts
rising each year, it is probably
time for the gloves to come off
and stringent measures to be
put in place â\200\224 regular stock-
takings, strict record keeping
and policing of collections â\200\224
to prevent South Africaâ\200\231s her-
itage from being smuggled out
of the country.

It cannot all be left to offi-
cial channels. Du Preez points
out that â\200\234the priority of the
SAPS is not to find stolen cul-
tural objects or objects dâ\200\231art.
With lives being lost daily ...
art is at the bottom of the list.â\200\235

She praises the assistance of
her colleagues but needs the
co-operation of the public and
galleries and institutions, and
asks that anyone with informa-
tion contacts her at (012)
803 9900/7 or 082 808 7097.

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