

Echo of OJ case in corruption drama

WHEN you are caught in quicksand, the general rule is to keep very, very still. But lawyers for Deputy President Jacob Zuma have adopted the very opposite tactic, going to court for the disclosure of documents even before charges are brought. What is the explanation for this surprising tactic?

This apparent twist in strategy reflects Zuma's unusual position of being associated with someone charged with bribery but not being charged himself.

He is also in the unusual position of having to fight on a public front to shore-up his political position, and also head off potential future legal charges, the nature of which is as yet unclear. It is hard not to sympathise with the pure oddity of his position.

In some respects, Zuma's position contains many of the characteristics of the famous OJ Simpson trial, which dominated international media coverage for a few months in 1998. In a sense, Simpson was the victim of that terrible journalistic movable feast, the "news value".

In the minds of the media, very little else of any great "news value" import seemed to be happening at the time. So, like it or not, his case became a cause célèbre and his name became internationally recognised.

But the OJ Simpson case was a great talking point around the world because it included a range of touchstone qualities: fame, race, and all the twists of courtroom drama.

Likewise, the "Zuma saga" has captured public imagination in SA in a way that increases the demands on his legal team, and forces them to fight not only in the court room but in the unfamiliar terrain of media relations and public opinion.

Zuma himself is nothing like OJ Simpson, but his situation is comparable partly because several touchstone ingredients exist in his case too, including his high political office, a sense of potential political drama and a similar prospect of an extended courtroom drama. The man who is comparable to OJ Simpson is not Zuma but the man actually charged in

the case, Durban businessman Schabir Shaik. His colourful address to journalists after being charged in which he cited Martin Luther King and sought to characterise his defence as a "David and Goliath" battle was vintage OJ Simpson and had all the hallmarks of great media savvy.

It is this kind of media savvy that the normally reticent Zuma is going to have to develop quickly if he is to maintain his position in an increasingly fluid political environment.

The decision to press the Scorpions for documents suggests the legal team intends grabbing the initiative as quickly as possible. Despite not being charged, the legal team decided to go to court to seek certain documents from the Scorpions files.

There are risks to this strategy of trying to wriggle out of the quicksand, points out MD Richard Young. One possible risk is that it will force out into the open more potentially incriminating information than already exists and there is already quite a bit out there. But the team is seeking a specific document that they seem to believe the Scorpions do not have. Forcing the Scorpions to admit they do not have it will raise the possibility it does not exist, and significantly decrease the political pressure on Zuma.

The document is the written version of the encrypted fax sent by Alain Thetard, then head of the local branch of French arms firm Thomson CSF (now Thales), to his immediate bosses. A type-written version of the document, the one actually sent, is in the possession of the Scorpions, and the Scorpions have in fact supplied Zuma's lawyers with a copy of this document, and a translation.

But earlier court documents state that Thetard wrote the original by hand, and this version was then passed on, presumably to his secretary, who typed it up and sent it.

The fax is critical because it links Zuma to the corruption charges brought against Shaik. In it Zuma is alleged to have requested, in terms of a prearranged secret code, R500000 a year in exchange for political support and lobbying. Naturally, if Zuma or Shaik demonstrate that no evidence exists that Thetard did in fact write the note, a cornerstone of the case against Shaik and the potential case against Zuma will have been kicked out.

Even raising doubt about the existence of the original version of the fax could be sufficient to cripple the Scorpions' case in this respect, since Shaik must be found guilty according to the more demanding evidentiary test, "beyond reasonable doubt". And more importantly, it would play well politically and enable Zuma to claim any potential case is not only circumstantial, but also weak in other ways.

Shaik's case, however, does not only rest on this issue, and includes allegations of other legal transgressions, some in company law and some relating to the movement of money.

But it is the connection between Shaik and Zuma that Zuma's lawyers will first attack. Everything points to a long hot summer.

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<http://www.bday.co.za/bday/content/direct/1,3523,1424905-6078-0,00.html>