

MJ Hood & Associates

A T T O R N E Y S

01 June 2022

Our Ref: M Hood/rm /F0341

DD300522 / DR310522 / DT 310522

**THE HONOURABLE MINISTER OF POLICE
MR BHEKE CELE MP
PER EMAIL:**

Dear Sir

**RE: FIDELITY SECURITY SERVICES
CONSTITUTIONAL COURT APPEAL CCT NO. 195/21**

1. As you are aware, the writer acted on behalf of Fidelity Security Services in the Constitutional Court matter under case number CCT No. 195/21.
2. A copy of the Judgment is **attached** for you and your legal team to consider.
3. The Constitutional Court rejected the position that you, in your capacity as Minister of Police, adopted that if a licence expires there is no option but to surrender the firearm to the South African Police Services whereafter it must be destroyed.
4. The Constitutional Court drew a distinction between possession and ownership and indicated that ownership is one of our cornerstone or fundamental constitutional rights, and a firearm

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owner cannot be deprived of ownership by virtue of the SA Hunters judgment.

5. As a result of the incorrect interpretation preferred by you and your office, many persons have involuntarily surrendered firearms for destruction quite simply, because they had no choice and in doing so, they were compelled to sign documentation agreeing to the destruction of their firearms.
6. This, in retrospect, is clearly incorrect in the light of the recent Constitutional Court decision.
7. **Please would you give an undertaking to the writer that you, within ten days, instruct all police stations not to destroy firearms that had been surrendered for destruction until such time as it has been ascertained from each individual owner whether they now want to apply for a new licence in accordance with the Fidelity Constitutional Court decision.**
8. Please bear in mind that this letter is addressed to you as the political head of the South African Police Services and the responsible member in cabinet. The Registrar of Firearms is, however, the National Commissioner of the South African Police Services and we urge you to communicate and cooperate with him in respect of what is detailed in this communication.
9. It is also necessary for you to give instructions to amend the Enhanced Firearm Registration System to unblock firearms with expired licences and to allow people to apply for new licences.

10. The system needs to be reprogrammed in order that an existing licence holder can apply for a new licence for the same firearm where they are reflected as the licence holder and the applicant. Your current system does not allow this.
11. Whilst you are in the process of considering what is necessary in order to achieve what the Constitutional Court judgment requires, we would also urge you to consider amending or reprogramming the system in order to allow that a person with a green licence, can migrate to a white licence.
12. If the system had been changed to allow people to transition their green licences to white licences, the impediment posed by the South African Hunters and Game Conservation Association court order would have been substantially reduced.
13. It is illogical to the writer and many other legally qualified people why the State Attorney has not advised you to do this. It is apparent that the attitude adopted by you and your legal advisors, has mitigated against a long-term solution of the SA Hunters court order impasse.
14. The writer hopes that you will read this communication and act upon its contents in a reasonable manner and that you will consult with stakeholders outside government in order to comply with the Fidelity judgment.

Yours faithfully,



Martin Hood
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Encl.