
AFFIDAVIT

I, the undersigned

N. D.

declare under oath as follows:

1. I am an adult female, resident at [REDACTED], Khayelitsha. I am self-employed as the owner of a spaza shop, which I operate from my home. I am 37 years old.
2. The facts herein fall within my personal knowledge, unless the context indicates otherwise, and are true and correct.
3. I have been staying in Khayelitsha since 1992. I moved there from the Eastern Cape, because I was joining my husband after we married in 1992. I have lived at my current address in [REDACTED] since 1997.
4. I am still married to my husband, [REDACTED]. I have three girls with my husband. My youngest is 20 years old, the second child is 16 years old, and the third child is 11 years old. We all live together at my current address. We live in a house.

N. D.

SM

5. My husband has been verbally and physically abusing me for 16 years. He beats me, shouts at me and forces me to have sex with him.
6. I obtained an interim protection order in terms of the Domestic Violence Act against my husband in October 2012. In January 2013 that order was made final in the Khayelitsha magistrates court. I explained to the court that my husband beats me in front of my children, and forces me to have sex with him on a regular basis.
7. After getting my final protection order, I tried on three occasions to get the police at the Harare police station to come and help me at my home when my husband was abusive and violating the protection order. But they only took my details over the phone, and never sent a police van or officers to the house. They would only arrive the following day, when it was already too late. I was very scared those times when they failed to arrive, because my husband was again trying to force to have sex with him and shouting at me, and thought he would rape me any minute. After the last time, I decided never to call the Harare station again because they say they are coming but they never do. I decided that I would in future to call 112 instead.
8. On 12 April 2013, after 22:00 that night, my husband and I got into an argument when we were in bed. He wanted to have sex with me again, but I did not want to have sex that night. He started to physically force me into sex by pulling up my pajama top, and fondling my breasts. I kept refusing, and he got more physically aggressive. He said that because he is my husband he must have sex with me. He shouted at me about the protection order that I had obtained, and told me that I

U
SMA

was a bad wife because I took him to court and wanted him to be arrested. He then pinned me on my back, but I tried to fight back. He bit me on my shoulder. I then grabbed his penis in order to hurt him so that he would get off of me. It worked, and he got off, but he was very angry. He said that if I want to have him arrested I can call the police.

9. I then grabbed my cell phone, which was on my side table by the bed, and immediately called the police. I called 112, and a woman answered the phone. She asked what had happened, and I said that my husband was physically abusing me. She could hear my husband shouting in anger in the background. She asked if he was drinking, and if he was smoking. I said he was not drinking, and he also shouted at me that he was not drinking. She confirmed that she could hear him, and told me that she was sending the police to me.
10. My husband told me after the call that no-one from the police would come, and even if they did he was not willing to ride in a van if they arrested him. He said he would go to the police station himself. He took the house keys and the car keys, and left. He locked me and the children inside the house.
11. After ten minutes the police arrived at my house. They were in uniform, and they arrived in a police van. They were from Harare station. Two officers came – one woman and one man. I could not open the door for the police because I was locked in. I told them through the burglar bars that I did not have a key, and that my husband had left with the key, and that he had said he was going to the police station, but I could not be sure. I told them that I have a protection order against my husband.

12. The police officers told me that I should try to exit the house through the garage so that I could come with them to the police station to give them a statement. They told me to bring a copy of my protection order so that they could see it and see what kind of protection order it was.
13. I put on some clothes, and I took a copy of my protection order and went to the garage. There I exited the premises and got into the police van and went with the police officers to the station.
14. At the station I showed the police officers my protection order. The two officers who collected me from the house took my statement. They did not take my statement in private. We were at the counter at the station with all other members of the public standing around, and I also had to stand. They did not give me a copy of my statement. I did get a CAS number via sms at a later time.
15. At one point I told the police officers that I was dizzy and that I felt very hot. I asked if I could sit. The female officer said I should sit down on a waiting chair. This chair was not at the counter, so there was quite a distance between myself and the officer when I sat down. The officer said that maybe I felt dizzy because I had been bitten by my husband.
16. After taking the statement the officers said we must go to the Khayelitsha hospital. I waited in reception for them to take me. While I was waiting for them to take me to the hospital, my husband came into the station.

SM
HD

17. I looked around for the officers to call them and show them my husband had walked in. I didn't want to alert my husband to my presence, so I made an urgent hand signal to the officers and pointed at my husband. The one officer asked me if it was him, and I said yes.
18. Another police officer behind the counter asked my husband what he wants, because he'd already been in the station that evening. My husband responded that he had been there previously that night, but that he had now come back because I had injured him. He said he wanted a paper to go to the hospital. The police officer did not understand. The officer explained that if he was not laying a complaint, he should go to a doctor and go and stay in another house if he and I were fighting.
19. The two officers that had assisted me then asked my husband if he had the house keys. He said that he did, and they were in his car. The male officer went to his car and fetched the keys.
20. The two officers then took me to the Thuthuzela Care Centre in a police van. There a doctor gave me pain tablets, and told me to wait for the warrant officer who was responsible for my protection order. His name is [REDACTED].
21. That night, [REDACTED] arrested my husband.
22. On 15 April 2013 my husband was released on bail of R500, on condition that he not returns to our house. The case was postponed to 30 May 2013. I was not told why the case to be postponed. The prosecutor did not talk to me at all, and did not

ask me how I felt about my husband being given bail, or if I felt that he should not get bail.

23. On 30 May 2013, the case was again postponed to 30 July 2013. Again I was not told why it was postponed, and the prosecutor did not talk to me.
24. On 28 July 2013, [REDACTED] came to my house and took a statement from my daughter who is 16 years old. He asked her that day if she wants to testify in court, and she said yes, because she had seen and heard a lot of the abuse of my husband.
25. On 30 July 2013 I was in court for the case. It was again postponed to 27 September 2013. I was again not told why there was a postponement. At this point no one had called me or my daughter to testify.
26. A week before 27 September 2013, I got a call from a lady at the Thuthuzela Care Centre. She confirmed with me that my next court date was 27 September 2013, but told me that I should not go to court unless the court sent me a letter to say that I must come.
27. I did not go to the 27 September 2013 court date, because I never received a letter from the court asking me to be there. So I stayed home on that day.
28. Later that same day my husband came home at about 11:00, with his cousin's sister. I was shocked because I thought the court had told him to stay away from the house. His cousin's sister came to me in the house and told me there is no

more case, the case is finished, and my husband had got his bail money back. I was very upset, and said I would appeal.

29. I then went up to my husband, and he also told me that the case was over. He said he wanted to thank me for withdrawing the case against him. I was shocked and confused because I had never withdrawn the case.
30. My husband then asked me if he could come home, but his cousin's sister convinced him to give me some time to think because I did not want the case to be over. But my husband simply moved back into our house on 28 September 2013.
31. I tried to call [REDACTED] on the following Monday, but his phone was off all day and on voice mail. I wanted to ask him what happened to my case and why it was over. I finally got him on whatsapp. I sent him a message there, apologizing for whatsapping him, but I wanted to know what happened for my case. He replied that he was on leave, but that he would get in touch with me when he was back. He said that he was also shocked that the case had been withdrawn.
32. I did not hear from him again, but I called him on his second day back at work. He said he was in a meeting and could not talk to me then.
33. I decided to go to the court to try and find out what happened to my case. I tried to ask someone to help me, but none of the people could tell me exactly who to talk to or where to go. I tried the senior prosecutor, but I waited for two hours with no assistance.

34. I then went to Rape Crisis for assistance, and they got in touch with [REDACTED] on my behalf. [REDACTED] at Rape Crisis then asked me to come in for a meeting with her. At that meeting she told me that they had met with [REDACTED], and he told them that the prosecutor had dropped my case. They told me the reason was that the police officer who arrested my husband; had not signed his name on all the right papers, and so there is no record of who arrested my husband.
35. I felt very helpless, and traumatized. I do not understand what happened to my case. My husband is back at home and I am very scared of him. I tried to protect myself with a protection order, but that has not worked. I do not understand how the police and the court have allowed this case to be dismissed, and for my husband to just move back into my house, just because of a lack of a signature on a form. They have my statement and my daughter's statement.
36. With the help of Rape Crisis, who wrote a letter to the court, my case is now being reconsidered. But I am not hopeful.

[REDACTED]
N. D.

I certify that:

1. The Deponent acknowledged to me that:
 - 1.1 She knows and understands the contents of this declaration;
 - 1.2 She has no objection to taking the prescribed oath;
 - 1.3 She considers the prescribed oath to be binding on her conscience.

2. The Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God".

The Deponent signed this declaration in my presence at **CAPE TOWN** on this ^{14th} day of *November* **2013**.

S. MacDonald

COMMISSIONER OF OATHS

Sandie MacDonald
MACDONALD ATTORNEYS
5th Floor, Constitution House
124 Adderley Street, CAPE TOWN, RSA
Commissioner of Oaths
Practising Attorney