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AFFIDAVIT

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I, the undersigned

D.S.

do hereby make oath and state that:

**BACKGROUND**

1. I am an unemployed adult male, born on 27 June 1963, currently residing at the Central Methodist Mission, Johannesburg (the "Church") situated at Pritchard Street, Johannesburg.
2. Except where the context indicates otherwise, the facts stated in this affidavit are within my personal knowledge and, to the best of my knowledge and belief, are both true and correct.
3. I am the fourth applicant in this application. I make this application:
  - 3.1. in my own interest, as a person who was subjected to unlawful arrest on 3 July 2009 and charged with "loitering";

AS

3.2. in the interest of the people who, like me, live at and around the Central Methodist Mission ("the Church") and face the risk of further unlawful police action; and

3.3. in the public interest

in terms of section 38(a), (c) and (d) of the Constitution.

4. I support the relief sought in the notice of motion to which this affidavit is attached.
5. I have requested that only my initials are used to identify me because, as will become clear from what follows, I fled my home country of Zimbabwe fearing for my life. I fear that should those who wish me harm discover my identity and whereabouts, there would be severe consequences for myself and for my family back home.
6. I was born in Zambia, but my family left for Zimbabwe when I was 2 years old. I have two brothers and a sister in Zimbabwe and a daughter in Canada. I spent most of my life in Harare and Bulawayo.
7. I completed my O level at Founders High School in Zimbabwe in 1980, and began working as a machine operator at Zeco Engineering in 1981.
8. I worked at Zeco for 2 years and left for an apprenticeship as a boilermaker, qualifying in 1986. After this I worked mostly for mining companies as a surface

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and underground boilermaker. I left the last company I worked for, Spirit Engineering, in February 2009.

9. I came to South Africa to seek refuge. I was forced to leave Zimbabwe because I was working for the MDC by reporting activities of the ZANU-PF Youth Movement. In 2005 I was arrested for the first time and detained for two weeks when the ruling party had discovered that I was working for the MDC. I was beaten and tortured by ZANU-PF members to find out what I knew about their operations. They ultimately released me, warning me not to continue.
10. I was arrested again during the Zimbabwe elections in 2008, and was detained, tortured and beaten. After this experience, I was told by someone in ZANU-PF that the next time I was arrested I was going to disappear forever.
11. I was afraid for my safety and decided to come to South Africa. I came because I had faith in the South African government and the democratic values of the country.
12. I arrived in South Africa on 28 March 2009, having come by truck across the border. I was dropped off in central Johannesburg at Park Station, and slept on the pavement outside the station because I had no money. I have applied for asylum and obtained an asylum-seeker permit ("permit"). That permit expires on 4 January 2010.

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13. In April 2009 I met Michael Naidoo, who told me about the Church. When I went to see if I could live there I learned it was too crowded inside, so I slept outside on the pavement of Kerk Street. I have not yet been able to find permanent employment or another place to sleep. After the events of 3 July 2009, the Church opened the Sanctuary to allow those of us sleeping outside to sleep in the Church. That is where I sleep at the moment.

14. I survive by receiving meals at the Church. I used to do some casual work, as I am a qualified boilermaker, and before the arrests I had some tools I used. I find it difficult to find employment because I do not have transport to attend interviews. I do not have a cell phone after the raid so I cannot be notified if jobs become available and because it is difficult to present myself as a professional person in interviews. Also when I need to apply for jobs I sometimes use the phone at the church but this is not always possible as the Bishop is not always around to let me use the phone.

### 3 JULY 2009 ARRESTS

15. On Friday, 3 July 2009 at 2:00 a.m. I was asleep on the pavement of Kerk Street, where I usually sleep. There were a few other people sleeping nearby. Michael Naidoo was one of the people next to me. I was woken abruptly by someone who slapped my ear, and by the sounds of people shouting. I was startled and thought that I was being robbed and attacked by some thugs on the street.

*[Handwritten signature]*  
DS

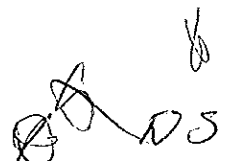
16. When I looked up I noticed that the police were there and they were tapping people with their feet, trying to wake them up. I knew that they were police because they were in uniforms. The police officers told us to wake up and leave our bags behind. Some people were trying to put their shoes on and get dressed, but they were stopped by police officers and assaulted for taking their time.

17. I noticed Michael Naidoo was also forced to get up and get into a police van. I was lucky that I had my shoes on and I quietly went with the police officer and left my bag behind. I was afraid to disobey the instruction because I saw how they assaulted people that refused to go with them.

18. The JMPD officer who had woken me up had not identified himself to me, nor did he inform me that I was being arrested. I was not shown a warrant of arrest.

19. I was forced to sit in front of the Church with others until the police vans arrived. When we were there we were forced to get in one at a time. I heard an officer yell, "*You get into the van*". I was not sure whom they were referring to, so when I did not respond one officer slapped me and hauled me into the van, which was overcrowded.

20. We were driven to the Johannesburg Central Police Station (the "Police Station").



### AT THE POLICE STATION

21. When we arrived at the police station, at 2:30 a.m., we were taken to the parkade area and were made to wait outside on the floor. We were made to sit in rows and anyone sitting out of line was beaten. A group of approximately 80 of us, mostly men except for one woman, were led inside the police station and taken to a room on the first floor.
22. We were made to sit in the corridor as the officers called us individually to process us. Some people needing medical attention became restless, but their requests were ignored. Amongst them was a pregnant lady. Some people asked to use the phone to call their lawyers but they were assaulted.
23. As I was waiting in line to sign the forms, the police officers screamed at us to sign the paper containing our rights and threatened us with electric 'zappers' if we did not sign. I did not want to be assaulted so I signed the form. I was then told that I was being charged with loitering.
24. The officers finished processing us at about 6:00 a.m on Saturday. I was put in a dirty cell with 60 other men. We were given blankets but these were filthy and had lice. There was one toilet in the cell but it did not have toilet paper. There was also a tap but no cups were given to us to enable us to drink the water. People in my cell were moved to other cells, and eventually there were 40 of us left.

*Handwritten signature/initials*

25. The whole of Saturday I did not receive any food. The officer kept promising us that he would bring us food but he did not. He also did not offer any explanation as to why we were not being fed.

26. We were eventually given 2 slices of bread on Sunday morning, Sunday evening, and on Monday morning. I was released on Monday afternoon.

27. After I was released I went back to the Church and received medical treatment for my ear from Bianca Tolboom of Médecins Sans Frontières (MSF).


#### EFFECT OF THE 3 JULY 2009 ARRESTS

28. Ever since I was arrested I feel angry and saddened. The arrests have frustrated me deeply. Today I ask myself whether it was really worth fighting for the political liberation of the people in my country when, now, my own liberty has been compromised. I have nothing left since I left Zimbabwe, and even my dignity has been trodden upon.

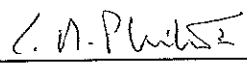
29. During the arrest I lost all my possessions, including clothes, a jacket, blankets, a Nokia 3110 cell phone and all my boilermaker tools. The tools that were lost were: a combination set of 130 spanners, a 40 pc socket set, a 4 pound hammer, a 10m tape measurer, 3 steel rulers (1m, 600mm and 300mm), 6 clamp sets, a line spirit level and a chalk line. The total value of the items was approximately R2650.

26/07/09

30. The loss of my tools has been the most debilitating, as it impedes my ability to earn a living.

  
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DEPONENT

THUS DONE AND SWORN TO BEFORE ME at JOHANNESBURG on this the 2 day of October 2009 by the deponent who acknowledges that she/he knows and understands the contents of this affidavit and has no objection to taking the prescribed oath and regards same as binding on his/her conscience.

  
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COMMISSIONER OF OATHS

**SOLON NICOLAS PHITIDIS**  
5<sup>th</sup> FLOOR, BRAAM FISCHER HOUSE  
25 RISSIK STREET, JOHANNESBURG 2001  
COMMISSIONER of OATHS EX OFFICIO  
PRACTISING ATTORNEY  
REPUBLIC of SOUTH AFRICA

