

NEWSBREAK

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MALEMA JUDGEMENT

Out of the ANC – and into a League of his own

*Julius Malema's suspension & removal as ANC youth league president stops his anti-Zuma campaign dead. Expect massive collateral damage to his backers. **Karima Brown** assesses the implications*

JULIUS MALEMA'S FIVE-YEAR suspension from the ruling **African National Congress** (ANC) and removal as president of its youth league is the defining moment of the ANC's 99th year.

It not only brings Malema's career to a grinding halt (and with it the challenge he has led against a second term for Jacob Zuma); it also delivers massive collateral damage to those in the ANC who have encouraged and supported him in mounting his challenge.

His spokesperson, **Floyd Shivambu** was suspended for three years.

The decisions of the ANC National Disciplinary Committee (NDC) terminate his role as kingmaker at the ANC's centenary conference at Mangaung in December 2012. For

ANCYL - who's who in the dock

Julius Malema (president)	
Sanction	<ul style="list-style-type: none"> • Removed as youth league president • 5-year suspension (plus a further 2 years – his 2010 suspended sentence triggered by his conviction on a similar offence). Sentences run concurrently.
Ronald Lamola (deputy president)	
Sanction	<ul style="list-style-type: none"> • 2-year suspension (implementation suspended for 3 years)
Sindiso Magaqa (secretary general)	
Sanction	<ul style="list-style-type: none"> • 2-year suspension (implementation suspended for 3 years) + 18-month suspension (implementation suspended for 3 years)
Kenetswe Mosenogi (deputy)	
Sanction	<ul style="list-style-type: none"> • 2-year suspension (implementation suspended for 3 years)
Pule Mabe (treasurer general)	
Sanction	<ul style="list-style-type: none"> • 2-year suspension (implementation suspended for 3 years)
Floyd Shivambu (spokesperson)	
Sanction	<ul style="list-style-type: none"> • Removed as youth league spokesperson • 3-year suspension

his backers, it crushes the hope of ousting and replacing Zuma and his ANC leadership team at the conference.

Even a near-certain appeal against the NDC, under **Derek Hannekom**, will not provide a reprieve of what can only be described as a political death sentence: Malema has a suspended sentence for earlier bringing the ANC into disrepute, activating if he was found guilty of a similar offence within three years. The NDC finding automatically activates his suspension.

He will therefore remain suspended during an appeal, which would be made to the National Disciplinary Committee of Appeal (NDCA) under businessman and former ANC secretary general **Cyril Ramaphosa** – and pending a potential review by the ANC national executive committee (NEC), which Malema has indicated he will request.

He is out of the great game in the crucial months ahead of Mangaung.

His appeal prospects are, in any event, limited. The NEC does not have the power under the ANC constitution to overturn either an NDC or NDCA decision. Its only authority is to refer the matter back to the NDC, and to appoint a committee to assist the NDC to review it. And there is no guarantee that the NEC will be persuaded by Malema to do so: Zuma comfortably won the NEC debate on the need to instil discipline in the party. The ANC's recent history on disciplinary matters also weighs against Malema's prospects – when the party allows matters to go as far as disciplinary procedure, its track record is one of allowing due

process to run its course. The cases of former ANC chief whip **Mbulelo Goniwe** and **Bantu Holomisa** are instructive. Both went before the NDC, appealed its findings to the NDCA and threw themselves on the mercy of the NEC. Both were ultimately expelled.

His legal team's argument that the youth league is an autonomous body, and that he should therefore retain his presidency even if he loses membership of the ANC itself, does not align with the ANC constitution's clear position that the youth league derives its existence from the ANC: expulsion from one automatically means expulsion from the other. As a former/suspended member of the mother body he will, in any event, not be able to serve on the ANC NEC – one of the key responsibilities of the youth league president.

On his return, Malema will not resume the youth league presidency: suspension ends his term and requires his replacement – probably by an interim, acting president until the next youth league elective conference, in 2014. The Malema era of the ANC youth league is thus over.

Malema's power and political leverage has been at the interface of business and politics – in his ability to access resources as president of the youth league and command support in exchange for delivering patronage. Suspension removes his proximity to political power, fatally affecting his ability to barter patronage for influence.

The impracticality of holding on to patronage outside of the ruling party and its networks has been graphically demonstrated in the past two years by the flow of Congress of the People (Cope) leaders to the ANC in the last two years.

Suspended from the ANC, Malema now faces the real possibility that he will be criminally charged in the next few weeks over to his business dealings in Limpopo (*see Vol 29 No 23*).

But a criminal trial on its own, while damaging, would not necessarily put Malema out of action in the ANC where he needs to be to realise his role as kingmaker. Malema and his allies recognised this – hence their desperation to retain his party membership and attempts to broker a wrist-slapping sentence by the NDC.

Malema, most vocal of Zuma's ANC opponents, had staked his political future on his ability to make good on the promise to wrest the party from Zuma and install his deputy **Kgalema Motlanthe** as ANC president at the party's 53rd elective conference.

The NDC decision marks the beginning of the end for those who hoped to benefit from this challenge.

Sports Minister **Fikile Mbalula** stands to lose the most. His dream of becoming the ANC's youngest secretary general in its 100-year history came to an abrupt end at 10 o'clock today (10 November 2011). Mbalula's ticket to Mangaung has been bought on credit by Malema and his youth league allies, who had publicly pledged to replace current ANC secretary general **Gwede Mantashe** with Mbalula.

Outside the league Mbalula has yet to convince the majority of provinces that he is the best candidate to take over as ANC secretary. His bid for a seat in the ANC's top six, framed as the answer to the need for young blood in the party, will be a hard sell as several of his peers in the provinces see themselves as possible candidates for the post.

Mbalula was fast-tracked into the ANC straight from the youth league and did not serve in any leadership position in any province. Malema's suspension will effectively terminate his campaign – particularly with a new, and inevitably cautious, youth league leadership.

Human Settlements Minister **Tokyo Sexwale** and ANC treasurer general **Mathews Phosa**, both central to Malema's anti-Zuma campaign, will also be out in the cold.

Phosa defended Malema in his first disciplinary hearing, when the NDC imposed his first, suspended, suspension. He has relied heavily on the league in his rank-outsider's bid for the ANC presidency (or deputy presidency).

Sexwale, the most overtly ambitious of Zuma's rivals, initially publicly supported a second Zuma term. His testimony on Malema's behalf before the NDC this time around definitively placed him in opposition to Zuma, as a pretender to the ANC throne.

Sexwale has for several years privately put financial resources at the youth league's disposal and acted as patron for many of its activities – among them the conference which saw Malema elected unopposed.

Neither Phosa nor Sexwale have significant support in the ANC rank-and-file and neither has deep roots in his home province – vital for advancement, given the power of provincial voting blocs. By aligning themselves to the youth league, both men bought a ready-made powerbase and access to the ANC grassroots structures which will nominate the voting delegates to Mangaung.

The prospect of losing this access with Malema's departure is behind their increasingly urgent attempts in the past three weeks to characterise action against Malema as potentially dangerous for the ANC. Sexwale's testimony warned of a divided ANC, and the threat of Malema outside the ANC but still able to command support among South Africa's marginalised youth. The reality of Malema's modestly supported "economic freedom" march to Pretoria (see **Vol 29 No 26**) vividly contradicted this.

Phosa suggested that the NDC did not need to be harsh in its handling of Malema – his punishment would come from state law enforcement agencies investigating his business activities.

Their arguments are influenced by their recognition that their link to the youth league via Malema is what keeps them in the succession race. Without him neither has much prospect.

For Zuma the NDC puts a second term strongly in prospect. With solid backing in the big voting blocs in KwaZulu-Natal and the Eastern Cape, Zuma's advantage can only grow.

Youth League

The youth league's NEC meets on Saturday (12 November 2011) to discuss the implications of the loss of its president and spokesperson – and the two-year suspended sentences hanging over its four most senior, surviving officials.

Constitutionally, deputy president **Ronald Lamola** can act as president, avoiding the need for a special elective conference.

Although the league leadership was virtually hand-picked by Malema and worked tightly as a team, the relatively tough sentences – and the suspended sentences

hanging over the heads of the survivors – will have a moderating effect on the league and its leadership. From outside, Malema and Shivambu are unlikely to be able to leverage widespread enthusiasm for mass protests like those at the start of the disciplinary hearings.

And, in the competitive political environment of the youth league, no-one will be willing to keep Malema's seat warm for five years.

He will complete his sentence too old for league membership, and be obliged to resume his ANC involvement in 2016 as an ordinary branch member. If he hopes to regain the dizzy (and lucrative) political heights he occupied as league president, he will have to elbow his way past more established activists at branch, then regional, then provincial level.

Despite his protestations that he is a "child of the ANC", Malema may not have the appetite – particularly given the uncertainty over criminal investigations into his business affairs. ♦