



Case Alert

14 March 2023

MOTORIST CHALLENGES ILLEGAL AND EXTORTIONATE CLAMPDOWN OF VEHICLES

A HARARE motorist has demanded a refund of an extortionate fine, which he was levied by **City Parking**, for an alleged traffic offence.

City Parking officials on Wednesday 8 March 2023 clamped a Toyota Corolla vehicle belonging to **Gladman Bandama**, a Harare motorist, who had parked his vehicle outside Central Vehicle Registry (CVR) offices in central Harare and had paid for a parking ticket for the duration of one hour.

When Bandama came emerged out of CVR offices after being away for one hour and fifteen minutes, he found his vehicle clamped and a notice issued in terms of the Harare (Clamping and Tow Away) By-laws affixed on his vehicle.

Bandama tendered to pay parking fees for a duration of an additional one hour but the City Parking marshal turned down his request and insisted that he should pay a fine amounting to US\$132, which comprised of a prescribed penalty in the sum of US\$50, clamp charge in the sum of US\$65 and value-added tax of US\$17.

The City Parking notice further stated that if the fine was not paid in a period of two hours, Bandama's vehicle would be impounded and towed away.

As Bandama dreaded the vagaries and extra costs of having his vehicle towed away, he duly paid the US\$132 fine.

Now, Bandama has engaged **Tinashe Chinopfukutwa** of **Zimbabwe Lawyers for Human Rights**, who on Friday 10 March 2023, demanded that City Parking should reimburse him the US\$132, which he paid to the company's parking marshals within 48 hours.

Chinopfukutwa warned City Parking that in the event that they do not comply with Bandama's demand, he would institute legal proceedings against them as the company's conduct in clamping the Harare motorist's vehicle, receiving his fine and making him to pay for clamp charges is unlawful.

The human rights lawyer charged that in terms of section 4(4) of the Harare (Clamping and Tow Away) By laws, clamp charges are only chargeable when a vehicle has been moved to a secure compound.

He said there is no legal provision for payment of clamp charges when the vehicle has not been moved to a secure compound hence the payment of a fine amounting to US\$65 by Bandama has no legal basis and was therefore unlawful.

Chinopfukutwa stated that in terms of section 5 of the Municipal Traffic Laws Enforcement Act, payments of penalties must be made to the Town Clerk of City of Harare or an officer of the City of Harare and that there is no provision for delegation of the City of Harare's powers to receive payments of fines to a third party, which in this case is City Parking.

Consequently, the human rights lawyer said it is unlawful for City Parking to levy and receive fines and penalties on behalf of City of Harare as it does not have any legal authority to enforce traffic by-laws on behalf of the local authority.

Furthermore, Chinopfukutwa stated that in terms of section 4(2) as read with section 8 of the Municipal Traffic Laws Enforcement Act, Bandama was entitled to a four-day grace period within which he was permitted to pay the fine and not the two hours period specified in the City Parking notice to his client which, in all fairness is extortionate.

ENDS

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