



MINISTER  
JUSTICE AND CORRECTIONAL SERVICES  
REPUBLIC OF SOUTH AFRICA

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Ms N Mapisa-Nqakula, MP  
The Honourable Speaker of the National Assembly  
Parliament of the Republic of South Africa  
PO Box 15  
CAPE TOWN  
8000

Dear Honourable Speaker

**UPLIFTMENT OF PROVISIONAL SUSPENSION FROM OFFICE: MS K BODLANI,  
REGIONAL MAGISTRATE, EMLAZI, KZN**

Parliament confirmed the provisional suspension of Ms K Bodlani from her office as a Regional Magistrate, Emlazi in Kwazulu- Natal. ( The National Council of Provinces passed a resolution in this regard on 17 September 2020 and the National Assembly passed a resolution on 19 March 2021.)

I have received a recommendation from the Magistrates Commission that the provisional suspension of Ms Bodlani from office be uplifted on certain conditions and that Parliament be approached to consider uplifting the suspension. The Magistrates Commission submitted a summary of the reasons for the suspension and the recommendation for it to be uplifted.

1. Ms Bodlani was suspended after a judicial quality assurance assessment of her work revealed serious irregularities and shortcomings, resulting in a substantial number of cases to be sent on special review in terms of section 304(4) of the Criminal Procedure Act, (Act 51 of 1977) as several incompetent sentences were imposed by her. The reviewing judges raised serious questions as to her suitability for judicial office.

2. Ms Bodlani, in addition, has been charged with misconduct in that she *inter alia* composed and sent out e-mail messages which contained racial remarks and allegations of racism and/or favouritism against the then acting Regional Court President, KwaZulu Natal and a colleague, which included derogatory and insulting comments about them; further that she made derogatory and/or sexist and/or gratuitous remarks and/or displayed prejudicial conduct towards an accused and that she refused to comply with instructions from the then acting Regional Court President to furnish her with court records of cases and her reasons, which records were earmarked for special review.
3. The Acting Regional Court President, KwaZulu Natal, on 29 March 2023 addressed an email to the Commission requesting that Ms Bodlani's provisional suspension be lifted in order for her to attend to the reconstruction of a court record relating to a case over which she presided. The accused in the matter filed an appeal in the KwaZulu Natal Division of the High Court. Having read the record of appeal in *Clement Mbuso Ndlovu versus The State* AR No: 158/19, the High Court on 06 May 2022, made *inter alia* the following order:
  - "1. *The appeal is hereby adjourned sine die.*
  4. *The Court a quo must reconvene with a view to reconstruct the record pertaining to the outstanding evidence with reference to the presiding officer's notes.*
  5. *The Magistrate must record the responses and attitude of the prosecutor and the appellant to the evidence recorded in the notes which must be read into the record and a typed a copy attached to the reconstruction proceedings.*
  8. *The reconstruction must be done jointly, in open court, by the magistrate, the prosecutor, the accused (appellant), with a proper record of the reconstruction proceedings being kept.*
  10. *The reconstructed record (5 copies) is to be returned to the Registrar, High Court, Pietermaritzburg not later than (3) months from the date of this order."*

**(High Court Order)**

- 4 The Magistrates Commission recommended that Ms Bodlani's suspension from office be lifted in terms of section 3(3) (g)(i) of the Magistrates Act, 1993, in order to comply with the High Court order, and pending the conclusion of the inquiry into her fitness to hold office, on the following conditions :
- a) Ms Bodlani only deals with the reconstruction of the record of Emlazi Region Court case, the State versus Clement Mbuso Ndlovu, case number RC 249/13 to comply with the order of the High Court;
  - b) she be instructed to attend thereto as a matter of urgency;
  - c) she must not conduct herself in a manner that compromises the integrity of the judiciary and brings the administration of justice into disrepute;
  - d) she not be assigned any other cases to deal with; and
  - e) the acting Regional Court President, KZN provide regular reports to the Commission on whether Ms Bodlani is abiding by the conditions of the liftment of her provisional suspension and the progress on the reconstruction of the court record as required by the High Court.'
5. The Magistrates Commission indicated that it has been advised that Ms Bodlani has no outstanding part heard matters.

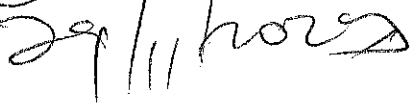
**(Letter from the Magistrates Commission and the Court Order attached.)**

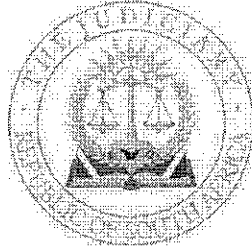
Parliament, in 2013, uplifted the suspension of Mr PS Hole a former Regional Magistrate in Kimberly, to complete part heard matters on certain conditions following a recommendation by Legal South Africa and the National Prosecuting Authority, as well as an application by Childline in the High Court.

I support the recommendation of the Magistrates Commission.



**MR RO LAMOLA, MP**  
**MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**  
DATE:





**MAGISTRATES COMMISSION  
FOR THE  
REPUBLIC OF SOUTH AFRICA**

P. O. Box 9096, PRETORIA, 0001 • Centre Walk Building, co Pretorius and Thabo Sehume Streets, PRETORIA • Tel (012) 325 3951, Fax (012) 325 3957

[  
The Honourable Mr RO Lamola, MP  
The Minister of Justice and  
Constitutional Development  
Private Bag X276  
Pretoria  
0001

] Reference: 6/5/5/2 – 28  
and 39/2018

Enquiries: Mr J Meijer

Date: 23 August 2023

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Dear Minister

**LIFTMENT OF PROVISIONAL SUSPENSION FROM OFFICE: MS K  
BODLANI, REGIONAL MAGISTRATE, EMLAZI, KZN**

1. The purpose of this letter is to appraise you of the circumstances which moved the Magistrates Commission (the Commission) to resolve to recommend to the Minister to lift Ms Bodlani's provisional suspension from office in terms of section 13(3)(g) of the Magistrates Act, No 90 of 1993 (the Act).

2. The Minister, acting on the advice of the Commission, provisionally suspended Ms Bodlani from office on 21 July 2020, pending the outcome of an investigation into her fitness to hold the office of magistrate, which provisional suspension was confirmed by Parliament.

3. A judicial quality assurance assessment of Ms Bodlani's work revealed serious irregularities and shortcomings, resulting in a substantial number of her cases to be sent on special review in terms of section 304(4) of the Criminal Procedure Act, (Act 51 of 1977) as several incompetent sentences were

imposed by her. The reviewing judges raised serious questions as to her suitability for judicial office.

4. Ms Bodlani has, in addition, been charged with misconduct in that she *inter alia* composed and sent out e-mail messages which contained racial remarks and allegations of racism and/or favouritism against the then acting Regional court President, KwaZulu Natal and a colleague, which included derogatory and insulting comments about them; further that she made derogatory and/or sexist and/or gratuitous remarks and/or displayed prejudicial conduct towards an accused and that she refused to comply with instructions from the then acting Regional Court President to furnish her with court records of cases and her reasons, which records were earmarked for special review.

5. Following the provisional suspension from office, the now acting regional Court President, KwaZulu Natal, on 29 March 2023 addressed an email to the Commission requesting that Ms Bodlani's provisional suspension be lifted in order for her to attend to the reconstruction of a court record relating to a case over which she presided. The accused in the matter filed an appeal in the KwaZulu Natal Division of the High Court.

6. Having read the record of appeal in Clement Mbuso Ndlovu versus The State AR No: 158/19, the High Court on 06 May 2022 made *inter alia* the following order:

*"1. The appeal is hereby adjourned sine die.*

*4. The Court a quo must reconvene with a view to reconstruct the record pertaining to the outstanding evidence with reference to the presiding officer's notes.*

*5. The Magistrate must record the responses and attitude of the prosecutor and the appellant to the evidence recorded in the notes which must be read into the record and a typed a copy attached to the reconstruction proceedings.*

*8. The reconstruction must be done jointly, in open court, by the magistrate, the prosecutor, the accused (appellant), with a proper record of the reconstruction proceedings being kept.*

10. *The reconstructed record (5 copies) is to be returned to the Registrar, High Court, Pietermaritzburg not later than (3) months from the date of this order.* (High Court Order)

7. The Commission has been advised that Ms Bodlani has no part heard matters outstanding.

8. Having regard to the High Court order, the Commission recommends that Ms Bodlani's provisional suspension from office be lifted, pending the conclusion of the inquiry into her fitness to hold office, on the following conditions, namely that:

a) Ms Bodlani only deals with the reconstruction of the record of Emlazi Regional Court case, the State versus Clement Mbuso Ndlovu, case number RC 249/13 to comply with the order of the High Court;

b) she be instructed to attend thereto as a matter of urgency;

c) she must not conduct herself in a manner that compromises the integrity of the judiciary and brings the administration of justice into disrepute;

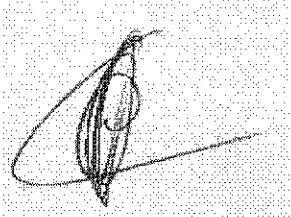
d) she not be assigned any other cases to deal with; and

e) the acting Regional Court President, KZN provide regular reports to the Commission on whether Ms Bodlani is abiding by the conditions of the liftment of her provisional suspension and the progress on the reconstruction of the court record as required by the High Court.

9. Parliament may, in terms of section 3(3)(g)(i) of the Act, at any stage pending the conclusion of a misconduct inquiry, pass a resolution to set aside the provisional suspension from office of the magistrate concerned.

10. It is therefore recommended that you advise Parliament to lift the provisional suspension from office of Ms Bodlani, on the conditions as set out in paragraph 8 above, in order for her to comply with the High Court's order.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AP LEDWABA', written over a grey dotted background.

**AP LEDWABA**

**CHAIRPERSON: MAGISTRATES COMMISSION**



IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU NATAL DIVISION  
Pietermaritzburg

CRIMINAL APPEAL

AR NO.: 158/19  
Case No.: RC 249/13

AT PIETERMARITZBURG, ON THIS 6<sup>TH</sup> DAY OF MAY 2022

BEFORE the Honourable Acting Judge President Madondo (In Chambers)

In the matter of:

CLEMENT MBUSO NDLOVU

Versus

THE STATE

RESPONDENT

HAVING READ the record in the above appeal, and HAVING HEARD (Counsel for) the Appellants and Counsel on behalf of the State,

THE COURT ORDERED THAT:

1. The appeal is hereby adjourned *sine die*.
2. The record be and is hereby referred to the Clerk of the Criminal Court for the completion of the record.
3. The record is defective in the following respects:
  - (a) Further recordings of the 06<sup>th</sup> of March as well as the accused's evidence-in-chief have not been transcribed.
4. The Court *ad quo* must reconvene with a view to reconstruct the record pertaining to the outstanding evidence with reference to the presiding officer's notes.
5. The Magistrate must record the responses and attitude of the prosecutor and the appellant to the evidence recorded in the notes which must be read into the record and a typed copy attached to the reconstruction proceedings.
6. The record of the proceedings of the reconstruction must be properly certified.
7. Further to the foregoing, in the absence of the recording, the Clerk of the Criminal Court must complete the record in accordance with the guidelines laid down in:

(a) *S v Whitney* 1975 (3) SA 453 (N)

(b) *S v Zondi* 2003 (2) SACR 227 (W)

(c) *S v Zenzile* 2009 (2) SACR 407 (WCC)

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(d) S v Gora and Another 2010 (1) SACR 159 (WCC)

8. The reconstruction must be done jointly, in open court, by the magistrate, the prosecutor, the accused (appellant), with a proper record of the reconstruction proceedings being kept.
9. The Trial Magistrate, Clerk of the Court, Appellant and the Prosecutor be and are hereby directed to furnish affidavits which are to accompany the reconstructed record setting out precisely what steps were taken to reconstruct the record and their satisfaction with the reconstructed record. The Appellant must be granted such assistance as is required in this process.
10. The reconstructed record (5 copies) is to be returned to the Registrar, High Court, Pietermaritzburg not later than (3) months from the date of this order.

R J JOSTE  
REGISTRAR OF THE HIGH COURT  
The Magistrate  
Emlazi

Registered Post

1. Your Appeal No.: 04/18 refers.
2. Your copies of the record including the original record are returned herewith.

R J JOSTE  
REGISTRAR

Copy to :

Legal Aid : Durban

And to :

Director of Public Prosecutions  
PIETERMARITZBURG

2022-05-09

