



MINISTER
JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA

Private Bag X276, PRETORIA, 0001 • SALU Building, 316 Thabo Sehume Street, PRETORIA • Tel: (012) 406 4669 • Fax: (012) 406 4680
Private Bag X256, CAPE TOWN, 8000 • 120 Plein Street, CAPE TOWN • Tel: (021) 467 1700 • Fax: (021) 467 1730

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

Email: speaker@parliament.gov.za

Dear Speaker

**REPORT TO BE TABLED IN PARLIAMENT IN TERMS OF SECTION 13(4)(B) OF THE
MAGISTRATES ACT, 1993 (ACT 90 OF 1993) REGARDING THE REMOVAL FROM OFFICE ON
ACCOUNT OF CONTINUED ILL-HEALTH: MR MR K MAHARAJ, ADDITIONAL MAGISTRATE AT
CALEDON**

I have in terms of section 13(4)(a)(ii) of the Magistrates Act, 1993 (Act No 90 of 1993) suspended from office with immediate effect, Mr K Maharaj: Additional Magistrate, Caledon pending Parliament's decision to restore or not to restore him to the Office of Magistrate.

I hereby submit the attached report of the Magistrates Commission for tabling in terms of section 13(4)(b) of the Act.

Yours respectfully

MR RO LAMOLA, MP
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Date: 01/12/2023



REPORT IN TERMS OF SECTION 13(4)(b) OF THE MAGISTRATES ACT, 90 OF 1993: SUSPENSION/REMOVAL FROM OFFICE DUE TO CONTINUED ILL-HEALTH: MR K MAHARAJ, ADDITIONAL MAGISTRATE, CALEDON

1. PURPOSE

The purpose of this report is to inform Parliament of the suspension from office of Mr K Maharaj, an Additional Magistrate at Caledon, pending consideration by Parliament of a recommendation by the Magistrates Commission for his removal from office as a Magistrate due to his continued ill-health in terms of section 13(4)(a)(ii) of the Magistrates Act, 1993 (Act 90 of 1993, hereinafter the Act).

2. BACKGROUND

2.1 Mr Maharaj was appointed as an aspirant magistrate with effect from 01 February 2018. I permanently appointed him on 24 February 2020 as Additional Magistrate at Caledon.

2.2 On 02 March 2020, within two weeks after his permanent appointment, he had a stroke whilst presiding in court which was reportedly caused by atrial fibrillation in his anterior thalamic area.

2.3 This resulted in him being booked off sick from 02 March 2020 to date. His leave record shows that he has exhausted all his sick leave with pay, with half pay and without pay, all his vacation leave and his capped leave.

3. DISCUSSION

3.1 The acting Chief Magistrate, Wynberg (WC) immediately reported the matter to the Commission. The matter served before the Commission's Ethics Committee for consideration at its meeting held on 05 May 2021. Having considered a

Neuropsychological Assessment Report compiled by Dr Kirsty Carter, a Neuropsychologist, dated 21 August 2020 and a report dated 19 April 2021 from Dr Frans Lubbe, a Neurologist, the Committee ordered that an investigation in terms of regulation 29(1) of the Regulations for Judicial Officers in the Lower Courts, 1994 ("the Regulations") be held regarding the removal of Mr Maharaj from office on account of continued ill-health.

(Report 21 August 2020 Dr K Carter; Report 19 April 2021 Dr FJ Lubbe)

3.2 The Commission duly informed Mr Maharaj of its intended investigation in terms of regulation 29(2) of the Regulations in writing on 24 November 2021. Mr Maharaj however refused to accept personal delivery of this notice. He advised that the date of his appointment as magistrate in the letter was incorrect.

3.3 The Commission's revised letter dated 04 May 2023 was served on Mr Maharaj on 08 May 2023. He was once again notified of the Commission's decision to conduct an investigation in terms of regulation 29(3) of the Regulations regarding his removal from office on account of continued ill-health and was, in compliance with regulation 29(3) of the Regulations requested to submit a medical report from a registered medical practitioner of his choice to the Commission on or before 20 May 2023 wherein the following aspects should be addressed:

- a) the nature and severity of illness;
- b) whether the illness is temporary or permanent in nature;
- c) the extent and seriousness of illness;
- d) the prognosis and prospect of recovery, and
- e) whether the illness will exceed the statutory entitled sick leave.

3.4 He was furthermore afforded the opportunity, in terms of the rules of administrative justice, to comment on the matter and to state a case in response with specific reference to whether his illness is not as serious as to justify his removal from office or to suggest alternatives thereto.

(Letter dated 04 May 2023; proof of service dated 08 May 2023)

3.5 Mr Maharaj complied with the request and submitted an updated report from Dr Frans Lubbe, dated 13 May 2023. Dr Lubbe in his response confirms that Mr Maharaj is his patient and that he is known to him since 27 May 2020. He reports that Mr Maharaj had a stroke on 02 March 2020, and that, after three years of treatment:

- a) Mr Maharaj still presents with significant neuropsychological difficulties making it very difficult for him to function appropriately in all aspects of his life, including his work;
- b) his memory difficulties are severe;
- c) the stroke developed a marked frontal lobe syndrome, featuring apathy, short term memory impairment and a loss of ability to understand what he reads;
- d) his illness is serious and has profound implications in his life, marriage and family life;
- e) Mr Maharaj's condition is of a permanent nature, and
- f) there is no prospect of recovery.

(Report: Dr Lubbe, 13 May 2023)

3.6 Based on the contents of the medical reports submitted to the Commission, the Executive Committee formed the opinion that Mr Maharaj does not have the capacity to carry out his duties of office in an efficient manner due to his continued ill-health. The Commission on 14 September 2023 furnished Mr Maharaj with a written exposition of its opinion that he does not have the capacity to carry out his duties of office in an efficient manner and the reasons therefore, and in terms of regulation 29(6)(a)(ii) of the Regulations, forwarded to Mr Maharaj the medical reports and any other relevant documents which may not have been in his possession.

**(Letter 14
September 2023)**

3.7 Mr Maharaj was in terms of regulation 29(6)(b) of the Regulations, furthermore, afforded the opportunity to submit to the Chairperson of the Commission his written comments regarding this opinion.

3.8 In his email dated 20 September 2023, Mr Maharaj in response agrees that he is unable to continue his functions as a judicial officer.

(Email dated 20 September 2023)

3.9 The Commission's Executive Committee at its meeting held on 01 November 2023, in compliance with regulation 29(7)(a) of the Regulations, considered the medical reports, together with Mr Maharaj's comments dated 20 September 2023 and is of the opinion that Mr Maharaj should be removed from office due to continued ill-health, as contemplated in section 13(4)(a)(ii) of the Act read with regulation 29(7)(b) of the Regulations.

3.10 The Magistrates Commission therefore recommends to Parliament that Mr K Maharaj, an additional magistrate at Caledon, be removed from office due to continued ill-health.

4. AUTHORITY TO SUSPEND

4.1 If the Magistrates Commissions, in terms of section 13(4)(a) of the Act recommend that a magistrate be removed from office, *inter alia* on account of continued ill-health, the Minister of Justice and Correctional Services, must suspend that magistrate from office or, if the magistrate has been provisionally suspended from office, confirm the suspension.

4.2 A report in which such suspension and the reasons therefore are made known, must, in terms of section 13(4)(b) of the Act, be tabled in Parliament by the Minister within fourteen (14) days of such suspension, if Parliament is then in session, or, if Parliament is not then in session, within fourteen (14) days after the commencement of its next ensuing session.

4.3 Parliament must then in terms of section 13(4)(c) of the Act, as soon as is reasonably possible, pass a resolution as to whether or not the restoration of his/her

office of the Magistrate so suspended is recommended.

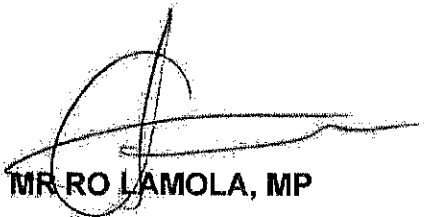
4.4 After a resolution has been passed by Parliament as contemplated in paragraph 4.3, the Minister shall restore the Magistrate concerned to his/her office or remove him/her from office, as the case may be.

5. CONCLUSION

5.1 In light of the Magistrates Commission's recommendation that Mr Maharaj be removed from office as contemplated in section 13(4)(a)(ii) of the Magistrates Act, No 90 of 1993, I suspended Mr K Maharaj, an additional magistrate at Caledon from office with immediate effect, pending Parliament's decision to restore or not to restore him to the Office of Magistrate.

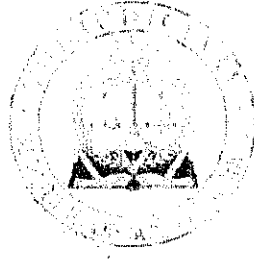
5.2 This report is submitted for consideration by Parliament in terms of section 13(4)(b) of the Magistrates Act, No 90 of 1993.

Given under my hand at..... *Pretoria* on this..... *1st* day of *December* ~~November~~ 2023.



MR RO LAMOLA, MP

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES



Received 6/11/23
R

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

PO Box 9096, PRETORIA, 0001 • Centre Walk Building, c/o Pretorius and Thabo Sehume Streets, PRETORIA • Tel (012) 325 3951, Fax (012) 325 3957

The Honourable Mr R Lamola, MP
The Minister of justice and Correctional Services
Private Bag X 276
**PRETORIA
0001**

Enquiries: J Finger
Ref No: 6/5/52 - 03/2021
Date: 01 November 2023

Dear Minister

**REMOVAL FROM OFFICE DUE TO CONTINUED ILL-HEALTH: MR K MAHARAJ,
ADDITIONAL MAGISTRATE, CALEDON**

1. The purpose of this letter is to appraise you of the circumstances which moved the Executive Committee of the Magistrates Commission ("EXCO") to recommend to Parliament that Mr K Maharaj, an additional magistrate at Caledon (Western Cape) be removed from office due to his continued ill-health in terms of section 13(4)(a)(ii) of the Magistrates Act, No 90 of 1993 ("the Act").
2. Mr Maharaj was appointment as an aspirant magistrate with effect from 01 February 2018. The Minister permanently appointed him on 24 February 2020 as additional magistrate at Caledon.
3. On 02 March 2020, within two weeks after his permanent appointment, he had a stroke whilst presiding in court which was reportedly caused by atrial fibrillation in his anterior thalamic area.

4. This resulted in him being booked off sick from 02 March 2020 to date. His leave record shows that he has exhausted all his sick leave with pay, with half pay and without pay, all his vacation leave and his capped leave.
5. The acting Chief Magistrate, Wynberg (WC) immediately reported the matter to the Commission. The matter served before the Commission's Ethics Committee for consideration at its meeting held on 05 May 2021. Having considered a Neuropsychological Assessment Report compiled by Dr Kirsty Carter, a Neuropsychologists, dated 21 August 2020 and a report dated 19 April 2021 from Dr Frans Lubbe, a Neurologists, the Committee ordered that an investigation in terms of regulation 29(1) of the Regulations for Judicial Officers in the Lower Courts, 1994 ("the Regulations") be held regarding the removal of Mr Maharaj from office on account of continued ill-health.
- (Report 21 August 2020 Dr K Carter; Report 19 April 2021 Dr FJ Lubbe)**
6. The Commission duly informed Mr Maharaj of its intended investigation in terms of regulation 29(2) of the Regulations in writing on 24 November 2021. Mr Maharaj however refused to accept personal delivery of this notice. He advised that the date of his appointment as magistrate in the letter was incorrect. The Commission had a revised letter, dated 04 May 2023 served on Mr Maharaj on 08 May 2023. He was once again notified of the Commission's order to conduct an investigation in terms of regulation 29(3) of the Regulations regarding his removal from office on account of continued ill-health and was, in compliance with regulation 29(3) of the Regulations requested to submit a medical report from a registered medical practitioner of his choice to the Commission on or before 20 May 2023 wherein the following aspects should be addressed:
- a) the nature and severity of illness;
 - b) whether the illness is temporary or permanent in nature;
 - c) the extent and seriousness of illness;
 - d) the prognosis and prospect of recovery, and
 - e) whether the illness will exceed the statutory entitled sick leave.
7. He was furthermore afforded the opportunity, in terms of the rules of administrative justice, to comment on the matter and to state a case in response with specific reference to

whether his illness is not as serious as to justify his removal from office or to suggest alternatives thereto. **(Letter dated 04 May 2023; proof of service dated 08 May 2023)**

8. Mr Maharaj complied with the request and submitted an updated report from Dr Frans Lubbe, dated 13 May 2023. Dr Lubbe in his response confirms that Mr Maharaj is his patient and that he is known to him since 27 May 2020. He reports that Mr Maharaj had a stroke on 02 March 2020, and that, after three years of treatment:

- a) Mr Maharaj still presents with significant neuropsychological difficulties making it very difficult for him to function appropriately in all aspects of his life, including his work;
- b) his memory difficulties are severe;
- c) the stroke developed a marked frontal lobe syndrome, featuring apathy, short term memory impairment and a loss of ability to understand what he reads;
- d) his illness is serious and has profound implications in his life, marriage and family life;
- e) Mr Maharaj's condition is of a permanent nature, and
- f) there is no prospect of recovery. **(Report: Dr Lubbe, 13 May 2023)**

9. Based on the contents of the medical reports submitted to the Commission, EXCO formed the opinion that Mr Maharaj does not have the capacity to carry out his duties of office in an efficient manner due to his continued ill-health. The Commission on 14 September 2023 furnished Mr Maharaj with a written exposition of its opinion that he does not have the capacity to carry out his duties of office in an efficient manner and the reasons therefore, and in terms of regulation 29(6)(a)(ii) of the Regulations, forwarded to Mr Maharaj the medical reports and any other relevant documents which may not have been in his possession. **(Letter 14 September 2023)**

10. Mr Maharaj was in terms of regulation 29(6)(b) of the Regulations, furthermore afforded the opportunity to submit to the Chairperson of the Commission his written comments regarding this opinion.

11. In his email dated 20 September 2023, Mr Maharaj in response agrees that he is unable to continue his functions as a judicial officer. **(Email dated 20 September 2023)**

12. At its meeting held on 01 November 2023 EXCO, in compliance with regulation 29(7)(a) of the Regulations, considered the medical reports, together with Mr Maharaj's comments dated 20 September 2023. EXCO is of the opinion that Mr Maharaj should be removed from office due to continued ill-health, as contemplated in section 13(4)(a)(ii) of the Act read with regulation 29(7)(b) of the Regulations.

13. The Executive Committee of the Magistrates Commission therefore recommends to Parliament that Mr K Maharaj, an additional magistrate at Caledon, be removed from office due to continued ill-health.

14. If the Commission in terms of section 13(4)(a) "*recommends that a magistrate be removed from office-*

(i).....;

(ii) *on account of continued ill-health;*

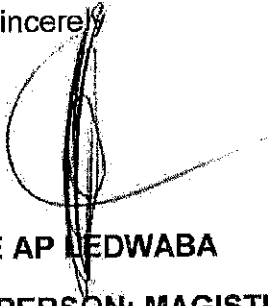
the Minister must suspend that magistrate from office, or if the magistrate is at that stage provisionally suspended from office, confirm the suspension".

15. A report in which the suspension in terms of section 13(4)(a) of a magistrate and the reasons therefore are made known, must be tabled in Parliament within 14 days of such suspension.

16. A draft report to be tabled in Parliament in this regard, is attached for your assistance.

(Draft Report)

Yours sincerely



JUDGE AP LEDWABA

CHAIRPERSON: MAGISTRATES COMMISSION

Report: 21 August 2020
Dr Carter

NEUROPSYCHOLOGIST
Kirsty Carter

M.Ed Educational Psychology (cum laude) WITS, MA Clinical Neuropsychology (with distinction) UCT
HPCSA No: PS 0116750, Practice No: 086 003 0446874
Cell: 082 905 5775 Email: carter.kirsty@gmail.com

NEUROPSYCHOLOGICAL ASSESSMENT REPORT
PRIVATE AND CONFIDENTIAL

Patient:	Mr Krishna Maharaj	Sex:	Male
Date of Birth:	15/08/1968	Date of Assessment:	21/08/2020
Referring Doctor:	Dr F Lubbe		

Thank you for referring this 52-year-old, right-handed patient with a query about his current cognitive functioning. Mr Maharaj has been a successful magistrate. He has worked for legal-aid and has run his own practice. Mr Maharaj is an intelligent, well-spoken and well-read individual. He lives with his wife, Sarika. They have two daughters.

Background and history of presenting complaint

Mr Maharaj was referred for a full neuropsychological assessment because he suffered a left, anterior thalamic stroke in late February 2020 (approximately 5-6 months ago). His MRI also revealed adjacent cystic encephalomalacia in keeping with chronic recurrent insults to this region and indication of some white matter disease. His risk factors include managing his blood pressure and he was shown to have atrial fibrillation. He has a significant family history of myocardial infarction and both his mother and brother passed away from a heart attack at relatively young age.

Mr Maharaj reported that at the time of his stroke, he was in court and was feeling very hot. He started to miss details about the case being presented and he frequently asked for others to repeat themselves. In addition, Mr Maharaj reported that he had slurred speech and he thinks he 'blacked out' for a moment. He did not experience any unilateral weakness, but he did feel that his entire body was weak.

During the next three months, following this event, Mr Maharaj had a feeling of being 'dazed' and in a fog. He reported that he was not fully cognizant of his surroundings and he spent a great deal of time sleeping. In addition, his vision was blurry. Although he has improved since this time, Mr Maharaj is feeling extremely frustrated at his inability to function as he had been able prior to his stroke. He reported that his mood is fluctuating, causing increased irritability, and he has been unable to return to work.

Mr Maharaj reported experiencing occasional nighttime confusions. He also reported having word-finding difficulties and frequently using the wrong words (paraphasias). He has frequent headaches, described as an 'empty space' at the back of his head. He also feels off-balance and unsteady on his feet when he stands up. Mr Maharaj used to be someone who enjoyed his time spent reading, however, he has found it difficult to get himself to read since his stroke.

Given Mr Maharaj's background history, neuropsychological testing was focused on those functions and corresponding areas supplied primarily by the posterior circulation.

Neuropsychological Assessment:

Presentation

Mr Maharaj completed his assessment in one session as he had driven himself to Cape Town from Hermanus. He was oriented to person, time and place. Mr Maharaj was co-operative and understandably frustrated by his current condition. Most importantly, it was evident that Mr Maharaj presented with frequent fluctuations in his level of cortical activation, most typical to thalamic lesions*. In addition, Mr Maharaj presented with hypophonia and withering/disintegrating speech.

*Unfortunately, this type of presentation does interfere with the validity of test scaled scores as, for example, Mr Maharaj showed varying levels of performance on the same task. However, observations of functioning are most valuable in this assessment.

Attention and Working Memory

Mr Maharaj was able to do a digit span forwards of 6-digits consistently. He was also able to do 7-digits forwards, although inconsistently. He was then able to do a digit span backwards of 4-digits consistently. Mr Maharaj was then able to correctly sequence 4 digits, although inconsistently. On the Digit Span subtest of the Wechsler Adult Intelligence Scale 4th UK Edition (WAIS-IV) he achieved an overall scaled score of 8 (average range). This score is lower than would be expected of Mr Maharaj prior to his stroke. Observation of his performance indicated that his attention was clearly fluctuating on tasks within this subtest.

Language Testing

A full language assessment was conducted. Comprehension, Production and Repetition were evaluated over multiple domains:

1. Comprehension:

Mr Maharaj did not present with any observable comprehension difficulties during the assessment session. He was able to comprehend complex task instructions, even when instructions were presented at a fast pace.

2. Production:

Naming & Verbal Production: On a confrontational naming task consisting of 16 line-drawing images, Mr Maharaj was able to immediately and correctly identify all 16 of the images. Mr Maharaj did not present with any word finding difficulties or anomia on this task.

Writing: On a free writing task, Mr Maharaj was able to write appropriately, without any difficulty or errors.

Reading: Mr Maharaj was able to read a text aloud with ease and appropriate prosody of speech.

3. Repetition & Copy:

Mr Maharaj was largely able to repeat lengthy sentences without error. However, he made one paraphasia on oral repetition – he said 'beautiful' when the word to repeat was 'wonderful'. Mr Maharaj did not notice this error. Furthermore, Mr Maharaj was able to accurately copy written text without error.

Overall, Mr Maharaj did not demonstrate language difficulties across multiple domains (speaking, reading and writing). He also did not have difficulties with comprehension, and he was able to copy language with accuracy. Therefore, at present, there appears to be no evidence for an aphasia. Mr Maharaj does present with withering speech and hypophonia of speech. He also reported multiple instances of word-finding difficulties and paraphasias.

Agnosia

Mr Maharaj was able to accurately copy line-drawing images. He was also able to recognize a number of line drawings. In addition, he has no difficulty with the familiarity of faces and places. He did not present with a visual agnosia.

Apraxia

On testing Mr Maharaj did not demonstrate an ideo-motor apraxia or a limb-kinetic apraxia. He also did not have indication of an oral apraxia.

Memory

Audio-verbal memory was initially assessed using Rey Auditory Verbal Learning Test (RAVLT). However, it became apparent that 15 words was too many for Mr Maharaj to remember. Therefore, he was given 8 words to recall after numerous learning trials. After a brief period of distraction and delay, Mr Maharaj was able to recall 2 of the 8 words. When presented with the target words amidst distractor words, Mr Maharaj was able to recognize all 8 of the words he had learned. However, his performance was not without fluctuations in level of arousal and therefore moments of poor recall and poor recognition.

Audio-verbal memory was further assessed using the Babcock story. On this task a short story was read twice and Mr Maharaj was asked to give an immediate recall of the story and then he was asked to give another recall after a short delay. Mr Maharaj's immediate recall trials contained some essential elements of the story but did not include details such as dates and numbers. Similarly, Mr Maharaj's recall of the story after a delay outlined the main premise and obvious elements of the story but was lacking in any detail. However, and importantly, Mr Maharaj was able to provide accurate details about the story when he was prompted with questions or multiple-choice options. It was clear that Mr Maharaj had successfully encoded the information, but he required 'triggers' in order to assist his memory retrieval.

In order to assess memory without the confounding influence of demands on executive functioning, a simple task of memory for 4 objects was administered. Over 4 learning trials Mr Maharaj was able to immediately recall all of the objects every time they were removed from sight. After a brief distraction delay, Mr Maharaj was able to recall 3 of the objects and he could easily recall the last object on multiple choice prompting.

The Rey Complex Figure was also used as a test of incidental visual memory (he achieved a raw score of 36 out of 36 on the copy). Mr Maharaj's immediate recall and his delayed recall were somewhat sparse. Mr Maharaj showed below adequate incidental memory performance.

A visuo-spatial memory task from the Weschler Memory Scale (WMS) was informally administered. Mr Maharaj was required to copy and commit to memory, 6 geometric images. After a brief period of delay, he was able to accurately recall 2 of the 6 images and he was able to partially recall a further 2 images. However, when provided with multiple choice prompts, Mr Maharaj was able to accurately recognize and select the correct image every time.

Overall Mr Maharaj's performance on the memory tasks showed that he is capable of encoding and retaining new information (both audio-verbal and visuo-spatial). However, Mr Maharaj demonstrated significant difficulties with memory retrieval and this deficit is more pronounced for audio-verbal information. Although there was not strong evidence for a confabulatory component to Mr Maharaj's presentation, it is most likely that his memory impairment is diencephalic in nature, characterized by a retrieval deficit.

Executive Functioning

Generativity:

On the Verbal Fluency Test from the Dells-Kaplan Executive Function System (DKEFS) Mr Maharaj demonstrated average verbal generativity and fluency on the phonemic component of the task. He achieved a low average performance on the semantic generativity task, and he showed adequate ability on the generativity task involving category switching. In addition, Mr Maharaj was able to perform within the high average range on a test of non-verbal generativity (Design Fluency Test).

Due to Mr Maharaj's fluctuating performance during this task and oscillating levels of cortical activation, he also presented with fluctuating generativity ability.

DKEFS Verbal Fluency Test Trial	Scaled Score	Range
Phonemic (letter) Generativity	9	Average
Semantic (category) Generativity	6	Low Average
Category Switching	Total Correct: 9 Switching Accuracy: 10	Average Average
DKEFS Design Fluency Test Trial		
Condition 1 Filled Dots	12	High Average

Inhibition and Switching:

The Colour Word Interference Test from the DKEFS was used to test cognitive inhibition and switching. Mr Maharaj demonstrated difficulty on both the inhibition trial and the inhibition/switching trial. His overall performance showed that he did have difficulty with cognitive inhibition and cognitive switching even when he was working at an appropriate level of cortical arousal.

DKEFS Colour Word Interference Test Trial	Completion Time Scaled Score (Range)	Total Errors Scaled Score (Range)
Colour Naming	6 (Low Average)	
Word Reading	6 (Low Average)	
Inhibition	5 (Borderline)	1 (Extremely Low)
Inhibition/Switching	9 (Average)	1 (Extremely Low)

Abstraction ability:

The Similarities subtest from the WAIS-IV was used to demonstrate abstraction abilities by drawing Similarities. Mr Maharaj did not have significant difficulty on this task and was able to form abstractions and categorize abstract information appropriately. However, he achieved a scaled score of 8 (average range) which is likely to be significantly lower than his premorbid level of ability. It was certainly noted on this task that oscillating levels of cortical arousal were interfering with Mr Maharaj's ability to apply abstract thought as he appeared to occasionally forget the requirement of the task. When he could remember what he was required to do, Mr Maharaj was able to provide insightful answers in keeping with his premorbid expectations.

Problem Solving:

On a brief task of Problem Solving, Mr Maharaj demonstrated appropriate ability for understanding and solving problems. He was able to work through a problem and analyze his answer in relation to the initial question at an adequate pace and his performance was likely in keeping with his premorbid ability.

Processing Speed:

The Coding and Symbol Search subtests from the *Wechsler Adult Intelligence Scale 4th UK Edition (WAIS-IV)* were used to test detailed scanning, checking and processing speed abilities. Mr Maharaj demonstrated a slowed working pace on both these subtests. These scores are indicative of lowered cognitive processing speed on pencil-paper tasks. In addition, Mr Maharaj's lowered score on the Symbol Search task was also due to errors and poor attention to detail.

WAIS-IV Subtests	Scaled Score	Range
Coding	6	Low Average
Symbol Search	4	Borderline

Complexity, Planning, Problem Solving, and Visual Processing:

Mr Maharaj did not have difficulty copying the Rey Complex Figure. His approach showed adequate planning and he did not battle with the complexity or with the visuo-spatial arrangement of the task. Mr Maharaj did not demonstrate a constructional apraxia.

In order to further assess Mr Maharaj's visuo-spatial ability, the Block Design subtest from the *WAIS-IV* was administered. Mr Maharaj managed to replicate patterns on this task showing adequate ability for visuo-spatial perception and construction. He achieved a scaled score in the average range (scaled score of 8). Again, it was noted that Mr Maharaj's performance fluctuated throughout this task – he battled on easy items and then found advanced items to be easy.

Planning, Problem Solving and Rule Breaking Behaviour:

The D-KEFS Tower Test was administered in order to examine Mr Maharaj's executive functioning, in terms of planning, problem solving and rule breaking behaviour (inhibition). Furthermore, the test was employed in order to gauge frustration tolerance. On this task Mr Maharaj demonstrated adequate planning abilities and good frustration tolerance. His overall score for planning and problem-solving ability was in the average range (Total Achievement Score). Mr Maharaj showed perseverance on this task even when the problems became challenging. It was noted that he did make rule breaking errors and therefore he battled to adequately engage in self-monitoring of his behaviour.

DKEF Tower Test Measure	Scale Score	Range
<u>Total Achievement Score</u>	11	Average

Scanning, Sequencing and Set shifting:

The Trail Making Test from the *DKEFS* was used to test scanning, sequencing and set shifting abilities. Mr Maharaj's speed was adequate on all of the test conditions. Mr Maharaj did not demonstrate significant difficulty with scanning, sequencing and set shifting on this task.

DKEFS Trail Making Test	Scale Score for Time	Type of Error Made	Cumulative Percentage Rank by Age Group
Condition 1 Visual Scanning	8 (Average)	Omission Errors	100 th
		Commission Errors	100 th
Condition 2 Number Sequencing	12 (High Average)	Sequencing Errors	100 th
		Set Loss Errors	100 th
Condition 3 Letter Sequencing	11 (Average)	Sequencing Errors	100 th
		Set Loss Errors	100 th
Condition 4 Number-Letter Sequencing	9 (Average)	Sequencing Errors	34 th
		Set Loss Errors	100 th
		Total Errors Scale Score	10 (Average)
Condition 5 Motor Speed	9 (Average)		

Motor Fluency and Sequencing.

Mr Maharaj demonstrated significant difficulty with motor fluency and motor sequencing on both of his hands. This is often a hard motor sign that there is disruption of frontal lobe functioning.

Impression:

Most prominently, Mr Maharaj presents with the prototypical thalamic signs of fluctuating levels of cortical activation and cortical tone; withering speech and hypophonia of speech. In addition, Mr Maharaj presents with a significant diencephalic memory impairment characterized primarily by problems with memory retrieval (Mr Maharaj is able to encode memories and therefore his memory impairment is not hippocampal in nature). This presentation is in keeping with a left anterior thalamic stroke.

Due to the output of the thalamus to the frontal lobe there is usually some frontal lobe impairment evident on testing in thalamic patients. In the case of Mr Maharaj, there is evidence of difficulties with motor fluency and sequencing as well as executive dysfunction. Most significantly, Mr Maharaj showed difficulty with cognitive inhibition and cognitive switching and some difficulty with self-monitoring of his behaviours. Furthermore, he did not present with a specific aphasia but he does report word-finding difficulties and paraphasias, which are likely due to disruption in executive functioning.

In addition, there is a possible question about an underlying vascular degenerative process that would need to be considered and evaluated with time.

Conclusion and Recommendations

Mr Maharaj is still within the recovery period of his stroke and there is hope for further improvement with time. However, at present, it is very difficult for Mr Maharaj to function appropriately in all aspects of his life due to his frequent fluctuations in cortical activation. This presentation is likely to be enormously frustrating for Mr Maharaj as well as for those living with him. It would be helpful for family members to understand that he will sometimes appear normal and sometimes he will present with varying degrees of severity of his difficulties.

Mr Maharaj also presents with a severe memory impairment. It would be helpful for his family to understand that he is able to lay down new memories but that retrieving them is the difficulty. Mr Maharaj can trigger his memory by leaving cues for himself (for example reminders stuck to the fridge or bathroom mirror) and he is likely to be better able to remember information that is visual (something he has seen rather than heard).

Mr Maharaj is certainly not able to return to work at this time and reassessment at a time of maximum medical improvement (approximately one year from now) would be necessary in order to understand those aspects of his presentation that may be long-standing.

Thank you for this referral, please contact me if you have any questions or require further testing.



Kirsty Carter
Educational Psychologist & Neuropsychologist

Report: 19 April 2021
Dr Lubbe

Dr Frans J. Lubbe Inc.
M.B.Ch.B. M.MED. (NEUROL.) FC NEURO(SA)
NEUROLOGIST

100 Westcliff Rd
Westcliff
HERMANUS
7200

P.R.NO:2000881

Tel: 021 852 9025
franslubbe@netactive.co.za

Our ref:
SW17588
DL137

19.04.2021

Ayanda Soodi
Claims Assessor
Claims Department
PPS
memberservices@pps.co.za

RE: Krishna Maharaj (15.08.1968)

I refer to your letter dated 08.04.2021.

This patient had an anterior thalamic infarct on the left side.

ICD Codes are I63.1 and F01.3.

This was patient towards the end of February 2020 was working and started having patchy memory loss.

He was very forgetful, and people noticed it at work.

When he tried to fill up with petrol, he could not remember his PIN number.
He could not remember his telephone number or his date of birth.

It was about a week until he was seen by his G.P. who referred him to a physician, Dr de Clercq, who did an MRI of the brain that showed an acute anterior thalamic infarct on the left side.

He was then referred to Dr Middlemost (cardiologist) who detected atrial fibrillation and he was started on Eloquise 5mg twice a day. He was also started on Atorvastatin 40mg per day and was started on Praxum as a blood pressure tablet.

A repeat MRI scan showed cystic encephalomalacia of a previous lacunar infarct in the anterior thalamus.

MRI displayed a congenital absence of the anterior communicating and posterior communicating arteries which makes the absence posterior circulation (which supplies the thalamus) entirely dependent on the vertebral arteries.

Director: Dr Frans Jacobus Lubbe - Reg. No: 2006/003244/21

Dr Frans J. Lubbe Inc.

M.B.Ch.B., M.MED. (NEUROL.) FC NEURO(SA)
NEUROLOGIST

100 Westcliff Rd
Westcliff
HERMANUS
7200

P.R.NO:2000881

Tel: 021 852 9025
franslubbe@netactive.co.za

Our ref:
SW17388
DL137

After his stroke he developed severe problems with his short-term memory, lack of drive and personality change.

He cannot remember discussions he had a short while ago, it is impossible for him to remember his new PIN number, not always sure which day of the week it is. There is also some aggressiveness when he is in an unstable mood.

On his MMSE in August last year he scored 24/30 compared with 21/30 with previous visits.

I referred him to Dr Cathy Christie (Psychiatrist) for evaluation regarding depression.

He was also referred to Kristi Carter for a full neuropsychological assessment.

According to her the patient presents with the prototypical thalamic signs of fluctuating signs of levels of cortical activation and cortical tone, withering speech and hypophonia of speech.

He also presents with significant diencephalic memory impairment, characterized primarily by memory problems, memory retrieval.

His whole presentation is in keeping with a left anterior thalamic stroke.

She mentions that frontal lobe impairments often evident in testing of thalamic patients.

In Mr Maharaj there was evidence of difficulty with motor fluency and sequencing as well as executive functioning.

He showed difficulty with cognitive function and cognitive switching and some difficulty with self-monitoring of his behaviors.

He does report difficulty finding words and paraphasia's which are most likely due to the disruption in his executive functioning.

The suggestion is a repeat psychological assessment in one year's time.

He has to continue with his tablets for blood pressure, cholesterol and for atrial fibrillation.

Dr. Christie suggested that he attends an occupational therapist to help with his functioning.

Dr Frans J. Lubbe Inc.
M.B.Ch.B. M.MED. (NEUROL.) FC NEURO(SA)
NEUROLOGIST

100 Westcliff Rd
Westcliff
HERMANUS
7200

P.R.NO:2000681

Tel: 021 882 9025
franslubbe@netactive.co.za

Our ref:
SW17588
DL137

In March it was mentioned that his wife was thinking that he is getting worse.

Short-term memory was extremely poor. He sits and watches TV most of the day, especially documentaries, but afterwards cannot remember any details.

He has a lack of drive.

His concentration is so poor that he cannot read books that he loved to do before. He has the odd olfactory hallucination which could be reminiscent of, but no other symptoms reminiscent of epilepsy.

On his MMSE he still scored 23/30.

There has been an improvement in the patient's condition since March last year on cognitive level.

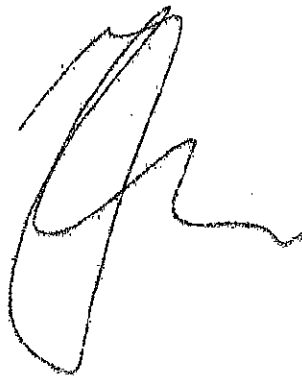
Physically he is doing relatively well.

The re-assessment in August of his cognitive functioning is very insightful.

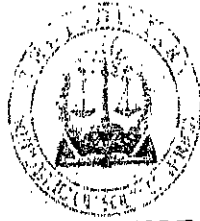
The prognosis is very guarded.

Sincerely

DR F J LUBBE



Letter: 04 May 2023



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

P. O. Box 9096, PRETORIA, 0001 • Centre Walk Building, 10 Pretorius and Thabo Sehume Streets, PRETORIA • Tel (012) 325 3951, Fax (012) 325 3937

Mr K Maharaj
1877 Monte Mare Complex
Berg Street
SANDBAAI
7200

Reference: 6/5/5/2-3/2021
Enquiries: Mr M Nieuwoudt
Date: 4 May 2023

Dear Mr Maharaj

**INVESTIGATION INTO REMOVAL FROM OFFICE ON ACCOUNT OF CONTINUED
ILL-HEALTH**

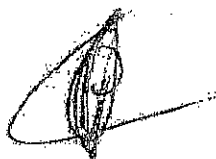
1. According to available records you were appointed as an aspirant magistrate on 01 February 2018 and you were permanently appointed as additional magistrate at Caledon on 24 February 2020. You were absent from office since 2 March 2020. Your applications for leave were captured in the leave records until 17 September 2020. On this date your normal sick leave, vacation leave and capped vacation leave ran out for that sick leave cycle.
2. Due to the fact that you are no longer fulfilling your obligations as judicial officer through your continued absenteeism from office, the resultant financial burden, the negative impact on court and case flow management, the effect on the morale of your colleagues and the administration of justice in general, the Ethics Committee of the Magistrates Commission (Commission) ordered on 5 April 2023 in terms of regulation 29(1) of the Regulations for Judicial Officers in Lower Courts, 1994 (the Regulations) that an investigation be conducted regarding your possible removal from office on account of continued ill-health.
3. Your attention in this regard is directed to regulation 29 of the Regulations and section 13 of the Magistrates Act, No. 90 of 1993.

4. You are therefore in terms of regulation 29(3) of the Regulations kindly requested to submit a medical report from a registered medical practitioner of your choice to this Office on or before 31 May 2023.

The medical report should *inter alia* address the following:

- The nature and severity of illness.
 - Whether the illness is temporary or permanent in nature.
 - The extent and seriousness of illness.
 - The prognosis and prospect of recovery.
 - Whether the illness will exceed the statutory entitled sick leave.
5. Your attention is furthermore directed to the provisions of regulation 29(4) of the Regulations which provides that, in addition to the medical report referred to above, the Commission may in future order that you subject yourself to a medical examination by a medical practitioner designated by the Commission, Regulation 29(5) of the Regulations determines that the costs of the latter medical examinations contemplated in subregulations (3) and (4) shall be paid by the State.
6. You are furthermore afforded the opportunity in terms of the rules of administrative justice to comment on the matter and to state a case in response with specific reference to whether your illness is not as serious as to justify your removal from office or to suggest alternatives thereto. Your comments, if any, should reach this office on or before 20 May 2023. You have the opportunity to be assisted by council in the process.
7. Your assistance in this regard is appreciated. Kindly acknowledge receipt hereof.

Yours faithfully



JUDGE A P LEDWABA
CHAIRPERSON: MAGISTRATES COMMISSION

3.

I hereby acknowledge receipt of the notice of the investigation into removal from office on account of continued ill-health on (date) _____.

Full names and surname

SIGNATURE

Mr J Loots
The Chief Magistrate
Magistrates' Court
WYNBERG

Dear Mr Loots

Kindly cause the attached letter to be served on Mr Maharaj against his signature.

Yours faithfully

A handwritten signature in black ink, appearing to be 'A P Ledwaba', with a large, sweeping flourish extending to the right.

JUDGE A P LEDWABA
CHAIRPERSON: MAGISTRATES COMMISSION

Proof of service:
08 May 2023

I the undersigned Juanita Lambert an adult female Magistrate at Caledon Magistrates Court Church Street Caledon hereby state as follows:

I confirm that Magistrate Krishna Maharaj attended my office with his wife on 8 May 2023.

I handed him a copy of the notice of the investigation to him.

He handed to his wife to read and then read it himself.

He then signed the acknowledgement of receipt attached.

I confirm that the content of this statement is correct.

Signed at Caledon on this 8th day of May 2023.


JM Lambert

Magistrate: Caledon

Private Bag X1, Caledon 7231

2023 -05- 0 8

THREE

3.

I hereby acknowledge receipt of the notice of the investigation into removal from office on account of continued ill-health on (date) 08/05/23

Full names and surname



SIGNATURE

Report: 13 May 2023
Dr Lubbe

Dr Frans J. Lubbe Inc.
M.B.Ch.B. M.MED. (NEUROL.) FC NEURO(SA)
NEUROLOGIST

100 Westoliff Rd
Westoliff
HERMANUS
7200

P.R.NO.2000881

Tel: 021 852 9025
franslubbe@netactive.co.za

Our ref:
SW17588

13.05.2023

Judge AP Ledwaba
Chairperson Magistrates Commission
Ref: 6/5/5/2-3/2021

RE: Krishna Maharej (15.08.1968)

The abovementioned patient is known to me since 27.05.2020.

He had a stroke on 02.03.2020 caused by atrial fibrillation in his anterior thalamic area. Unfortunately developed a marked frontal lobe syndrome as verified by cognitive testing by a neuropsychologist.

The final evaluation by the neuropsychologist on 07.03.2022 reported that he now went into a plateau.

She mentions that he still presents with a significant neuropsychological difficulties that make it very difficult for him to function appropriately in all aspects of his life, including work. He has frequent fluctuations in the cortical activation and his memory difficulties are severe.

The neuropsychologist report states, "It is strongly recommended that Mr. Maharej is permanently medically boarded from work".

Features of his frontal lobe syndrome is that of apathy, lack of drive, short-term memory impairment, loss of ability to understand what he reads.

The illness is of a permanent nature. The illness is serious and has profound implications in his life, marriage and family life. He was a highly function individual that is now severely disabled on a neurocognitive level. As mentioned, it was verified more than once on neuropsychometric evaluation.

He also became very depressed and recently his anti-depressants was changed. There is no prospect of recovery.

The illness will definitely exceed the statutory entitled sick leave because his condition is of permanent nature.

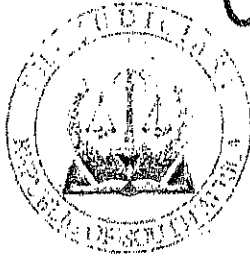
Sincerely

DR F J LUBBE

efrv



Director: Dr Frans Jacobus Lubbe - Reg. No: 2006/003244/21



(Letter: 14 September)
2023

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

PO Box 9096, PRETORIA, 0001 • Centre Walk Building, o/o Pretorius and Thabo Sehume Streets, PRETORIA • Tel (012) 325 3951, Fax (012) 325 3957

Mr K Maharaj
1877 Monte Mare Complex
Berg Street
SANDBAAI
7200

Enquiries: J Meijer
Ref No: 6/5/52- 03/2021
Date: 14 September 2023

Dear Mr Maharaj

**REMOVAL FROM OFFICE ON ACCOUNT OF CONTINUED ILL-HEALTH: MR K MAHARAJ,
ADDITIONAL MAGISTRATE, CALEDON**

1. The purpose of this letter is, in compliance with regulation 29(6)(a)(i) of the Regulations for Judicial Officers in the Lower Courts, 1994 (hereinafter "the Regulations") to furnish you with a written exposition of the Magistrates Commission's (hereinafter "the Commission") opinion that you do not have the capacity to carry out your duties of office in an efficient manner due to your continued ill-health and the reasons therefore.
2. It is common cause that you were appointed as an aspirant magistrate with effect from 01 February 2018 and that the Minister permanently appointed you on 24 February 2020 as an additional magistrate at Caledon.
3. It is further common cause that on 02 March 2020, within merely two weeks after your permanent appointment, you had a stroke whilst presiding in court, a fact which the Commission finds to be an extremely unfortunate incident occurring at the very beginning of your career as a judicial officer in the Lower Courts of South Africa.

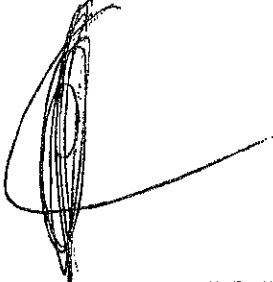
4. This however resulted in you being booked off sick from 02 March 2020 to date. Your leave record shows that you have exhausted all your sick leave, vacation leave and capped leave.
5. The acting Chief Magistrate, Wynberg (WC) reported the matter to the Commission. The matter served before the Commission's Ethics Committee for consideration at its meeting held on 05 May 2021. Having considered a Neuropsychological Assessment Report compiled by Dr Kirsty Carter, a Neuropsychologists and a report from Dr Frans Lubbe, a Neurologists, the Committee ordered that an investigation in terms of regulation 29(1) of the Regulations for Judicial Officers in the Lower Courts, 1994 (hereinafter "the Regulations") be held regarding your removal from office on account of continued ill-health.
6. You were accordingly informed of the Commission's intended investigation in terms of regulation 29(2) of the Regulations in writing in November 2021 and again in our letter dated 04 May 2023, which letter was served on you on 08 May 2023. You were informed of the Commission's order to conduct an investigation in terms of regulation 29(1) of the Regulations regarding your removal from office on account of continued ill-health and were, in compliance with regulation 29(3) of the Regulations requested to submit a medical report from a registered medical practitioner of your choice to the Commission on or before 20 May 2023, addressing the following aspects:
 - a) the nature and severity of illness;
 - b) whether the illness is temporary or permanent in nature;
 - c) the extent and seriousness of illness;
 - d) the prognosis and prospect of recovery, and
 - e) whether the illness will exceed the statutory entitled sick leave.

You were furthermore afforded the opportunity, in terms of the rules of administrative justice, to comment on the matter and to state a case in response with specific reference to whether your illness is not as serious as to justify your removal from office, or to suggest alternatives thereto. A copy of the Commission's letter dated 04 May 2023 is attached for your convenience.

7. We have noted that you complied with this request and that you caused an updated report from Dr Frans Lubbe, dated 13 May 2023, to be submitted to the Commission. Dr Lubbe confirms that you are his patient and that you are known to him since 27 May 2020. He reports that you had a stroke on 02 March 2020, and that, after three years of treatment:
- a) you still present with significant neuropsychological difficulties making it very difficult for you to function appropriately in all aspects of your life, including your work;
 - b) your memory difficulties are severe;
 - c) the stroke developed a marked frontal lobe syndrome, featuring apathy, short term memory impairment and a loss of ability to understand what you read;
 - d) your illness is serious and has profound implications in your life, marriage and family life;
 - e) your condition is of a permanent nature, and
 - f) there is no prospect of recovery.
8. The Commission, taking into account the fact that you are no longer fulfilling your obligations as judicial officer, the resultant financial burden, the effect on the morale of your colleagues and the administration of justice, and, after having considered the attached medical reports and the relevant information presented to it, is of the opinion that you do not have the capacity to carry out your duties of office in an efficient manner due to your continued ill-health.
9. Copies of Dr Carter's Assessment Report dated 21 August 2020 and Dr Lubbe's Medical Reports respectively dated 19 April 2021 and 13 May 2023 are attached for your attention in compliance with regulation 29(6)(a)(ii) of the Regulations.
10. You may in terms of regulation 29(6)(b) of the Regulations, within 10 working days after the date on which the Commission's opinion comes to your notice, submit to me as the Chairperson of the Magistrates Commission, your written comments regarding this opinion. Your written comments, if any, directed to me, must be forwarded to Mr MJ Finger, the Secretary of the Commission per email at JuFinger@justice.gov.za.

11. The Commission will consider the medical reports together with your comments as contemplated in regulation 29(6)(b) of the Regulations once your response has been received.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

AP LEDWABA

CHAIRPERSON: MAGISTRATES COMMISSION

(Email dated 20 September 2023)

Shikwambana David

From: Loots Johan
Sent: Tuesday, 26 September 2023 10:16
To: Meijer Johannes
Cc: Nieuwoudt Michael; Shikwambana David; Roos Natascha; Maleyana Shirley
Subject: LETTER DATED AND ANNEXURES DATED 14 SEPTEMBER 2023 TO MR K MAHARAJ, ADDITIONAL MAGISTRATE AT CALEDON: REMOVAL FROM OFFICE ON ACCOUNT OF CONTINUED ILL-HEALTH

Morning

Trailing email for your attention.

Regards

J. Loots
Chief Magistrate
Wynberg Magistrates Court (Acting)

From: Lambert Juanita <JLambert@justice.gov.za>
Sent: Wednesday, 20 September 2023 10:31
To: Loots Johan <JLoots@justice.gov.za>
Cc: Maqubu André <AMaqubu@justice.gov.za>
Subject: FW: FW: LETTER DATED AND ANNEXURES DATED 14 SEPTEMBER 2023 TO MR K MAHARAJ, ADDITIONAL MAGISTRATE AT CALEDON: REMOVAL FROM OFFICE ON ACCOUNT OF CONTINUED ILL-HEALTH

Good Morning Mr Loots
I have received the trailing email from Mr Maharaj.
It appears to be his response to the correspondence received on 18 September 2023.

Regards
Ms Lambert

From: Krishna Maharaj <krishnamaharaj24@gmail.com>
Sent: Wednesday, 20 September 2023 02:22
To: Lambert Juanita <JLambert@justice.gov.za>
Subject: Re: FW: LETTER DATED AND ANNEXURES DATED 14 SEPTEMBER 2023 TO MR K MAHARAJ, ADDITIONAL MAGISTRATE AT CALEDON: REMOVAL FROM OFFICE ON ACCOUNT OF CONTINUED ILL-HEALTH

Dear Mrs Lambert

I must agree that due to my prognosis it is clear that I am unable to continue my functions as a judicial officer. However, the employer cannot be excused from the condition and the situation I now find myself in. I can recall that the aircon in my court was not working when I suffered the stroke. I only hope that the department factors that fact into what it is doing so that I am not placed at a loss.

Please ask the commission to factor this fact into its planned action against me. That is all I am asking without fighting unnecessarily and I reserve my rights in that regard.

Many thanks

Krishna Maharaj

On Friday, September 15, 2023, Lambert Juanita <JLambert@justice.gov.za> wrote:

Good Afternoon Mr Maharaj

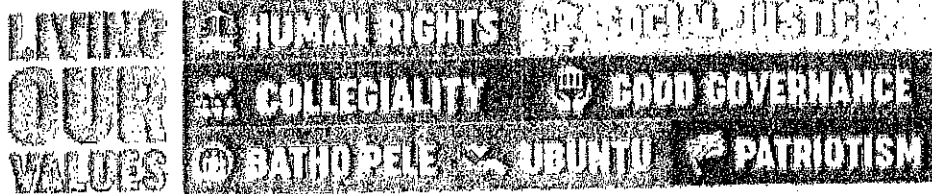
Trust you are well?

The Magistrates Commission has sent a correspondence for your attention.

Please let me know when you are able to collect it from my office.

Regards

Ms Lambert



Disclaimer

Privileged/Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the Department of Justice and Constitutional Development shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of the Department of Justice unless specifically stated otherwise.

