



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

COMMITTEES

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Report of the Select Committee on Security and Constitutional Development on the Lifting of the Provisional Suspension of Magistrate F K S Ntuli, an Additional Magistrate at Uitenhage, dated 22 October 2013:

The Select Committee on Security and Constitutional Development, having considered the report of the Minister of Justice and Constitutional Development on the lifting of the provisional suspension of Magistrate F K S Ntuli, reports as follows:

1. Background

The allegations against Mr Ntuli were as follows:

- 1.1 Mr Ntuli was arrested on Friday, 17 August 2012 on a charge of drunken driving. He was allegedly found by a Police Officer in town around 07h15, driving alone in a motor vehicle, which was moving from one lane to another. There was an indication that the driver was not in proper control of the motor vehicle.
- 1.2 Mr Ntuli was issued with a written warning to appear in Court at Uitenhage on 13 February 2013.
- 1.3 Mr Ntuli, on 20 March 2008, had a previous conviction of the same offence. During this period he was charged with misconduct, found guilty and on 8 July 2009 strongly reprimanded by the Presiding Officer to refrain from any similar misconduct in future.
- 1.4 At its meeting held on 29 and 30 November 2012, the Commission considered Mr Ntuli's responses dated 18 September and 3 October 2012 respectively and resolved to recommend that Mr Ntuli be provisionally suspended from office in terms of section 13(3) (a) of the Magistrate Act 90 of 1993, pending the investigation into his fitness to hold office.
- 1.5 The Commission was of the view that the existing evidence against Mr Ntuli was of such a serious nature as to make it inappropriate for him to perform the functions of a magistrate while the allegations were being investigated. The Commission indicated that it would be inappropriate for a judicial officer, who was appearing for a second time as an accused before a court of law on a charge of drunken driving, to continue to sit on the Bench.

1.6 On 21 May 2013, the Select Committee on Security and Constitutional Development concurred with the Minister's recommendation to Parliament and confirmed Mr Ntuli's provisional suspension.

2. Disciplinary process

2.1 The Commission reported it had commenced with the misconduct inquiry against Mr Ntuli on 20 May 2013. The inquiry concluded on 17 July 2013. The Presiding Officer found Mr Ntuli not guilty of the misconduct charge levelled against him.

2.2 The Commission was of the view that it could not justify the continuation of Mr Ntuli's provisional suspension from office and therefore recommended that the Minister lift Mr Ntuli's provisional suspension with immediate effect.

3. Recommendation by the Minister of Justice and Constitutional Development

3.1 The Minister concurred with the recommendation from the Magistrates Commission and recommended that since the basis for Mr Ntuli's provisional suspension had fallen away, that there was no reason to uphold his provisional suspension. The Minister lifted Mr Ntuli's provisional suspension on receipt of the Magistrates Commission's recommendation.

4. Recommendation

4.1 Having considered the Magistrate Commission's report and the Minister of Justice and Constitutional Development's recommendation, the Committee concurs with the Minister's decision to lift the provisional suspension of Magistrate F K S Ntuli and recommends that the National Council of Provinces confirms the lifting of the provisional suspension from the office of Magistrate of Magistrate F K S Ntuli.

Report to be considered.

The Honourable T M H Mofokeng, MP
Chairperson: Select Committee on Security and Constitutional Development