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**JUSTICE AND CORRECTIONAL SERVICES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION 2306**

**DATE OF QUESTION: 09 JUNE 2023**

**DATE OF SUBMISSION: 26 JUNE 2023**

**Mr A M Shaik Emam (NFP) to ask the Minister of Justice and Correctional Services:**

1. What is the latest development on the suspension of the KwaZulu-Natal Regional Court President, Mr Eric Nzimande;
2. what is the cause of the delay in the disciplinary hearing of the specified person, as he indicated in 2021 that the specified hearing would take three more months;
3. (a) by what date will the specified matter be resolved, as it is unacceptable that the person has been suspended with full pay for almost five years and (b) what total amount in salaries has the person received to date?

**NW2623E**

**REPLY:**

1. I have been informed by the Commission that the matter has still not been concluded and the hearing has still not commenced.
2. The cause of the delay can be attributed to a number of challenges. At its meeting held on 31 August 2018, the Magistrates Commission (‘’the Commission’’) resolved to charge Mr Nzimande with misconduct. He was personally served with a charge sheet on 04 September 2018.

On 05 October 2018, the Minister, on recommendation of the Commission, provisionally suspended Mr Nzimande from office. The provisional suspension was confirmed by both the National Assembly and the National Council of Provinces.

On 25 October 2018, Mr Nzimande responded to the allegations of misconduct against him, as fully set out in the charge sheet, and denied all the allegations against him.

The previous Chairperson of the Commission had an agreement with the former National Director of Public Prosecutions (NDPP) to release a Senior Advocate from his Office to assist the Commission in leading the evidence at the disciplinary hearing.

The Senior Advocate was released for that purpose and was appointed on 04 December 2018 as the Person Leading Evidence (PLE). He however retired and was not willing to provide further assistance as the PLE. The newly appointed NDPP was advised accordingly and requested to appoint someone pursuant to the agreement with her predecessor.

On 22 February 2019, after obtaining approval from the Heads of Courts to release the magistrates to preside over Mr Nzimande’s disciplinary hearing, the Commission appointed three (3) Regional Court Magistrates as Presiding Officers (POs).

On 24 January 2020, the NDPP responded and confirmed they would release another senior advocate to assist as a new PLE. The new PLE unfortunately withdrew on 22 February 2021.

Following his withdrawal, the Commission resolved not to approach the Office of the NDPP for assistance again, and further resolved to appoint two senior magistrates as PLEs. On 29 March 2021, a Regional Magistrate and a Senior Magistrate were so appointed.

On 04 June 2021, the Regional Magistrate requested to withdraw as PLE for the reason that he would be retiring in 2022 and the disciplinary hearing will not be finalized by the time he vacates office.

On 20 August 2021, the Senior Magistrate also requested to withdraw.

The Commission there-after resolved to appoint two private practitioners as PLE.

The Commission found it difficult to find a Presiding Officer within the ranks of magistrates owing to Mr Nzimande’s rank as Regional Court President and seniority. The Commission then resolved to appoint a retired Judge to preside over the disciplinary hearing as the Regulations for Judicial Officers in the Lower Courts, 1994, were amended on 29 October 2021 to also make it possible to appoint a judge for purposes of a misconduct hearing.

3(a) The appointment of a Judge to preside over the misconduct hearing will enable the Commission to proceed with the matter. It is, however, difficult to specify any date. I have been informed that the Commission will ensure that as soon as the Presiding Officer is appointed, that the hearing takes place without any further delay.

(b) The total remuneration paid to Mr Nzimande since his suspension is R6 308 874.38.