



## REPORT

### **UPLIFTMENT OF PROVISIONAL SUSPENSION OF A MAGISTRATE: MR W J M PRINSLOO, MAGISTRATE AT ERMELO**

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#### **1. PURPOSE**

The purpose of this report is to inform Parliament of a recent decision of the Minister for Justice and Constitutional Development to uplift the provisional suspension of a magistrate, Mr W J M Prinsloo from Ermelo.

#### **2. BACKGROUND**

2.1 The Minister, on the advice of the Magistrates Commission, provisionally suspended Mr Prinsloo from office with effect from 03 February 2010. The suspension was confirmed by both Houses of Parliament on 1 June 2010 and 4 June 2010 respectively.

2.2 The investigation instituted by the Commission confirmed that ten (10) complaints by a female clerk employed at the Ermelo Magistrate's Office, Ms S C van Wyk, were filed against Mr Prinsloo. It was alleged that Mr Prinsloo, during the period 18 April 2008 to 5 May 2008 on ten (10) different occasions conducted himself in an unbecoming and embarrassing manner towards Ms Van Wyk.

2.3 The misconduct inquiry against Mr Prinsloo commenced on 29 April 2010 and was concluded on 26 July 2010. Mr Prinsloo admitted guilt on the 10 charges of misconduct preferred against him. The Presiding Officer, after questioning him in terms of regulation 26(9) of the Regulations for Judicial

Officers in the Lower Courts, 1994 convicted Mr Prinsloo on all ten the charges.

- 2.4 In mitigation, Mr Prinsloo indicated that he had been incited/provoked by the complainant into reacting in the manner he did. The complainant testified at the inquiry at the request of the Presiding Officer. Thereafter Mr Prinsloo called 4 witnesses to support his allegation of provocation by the complainant.
- 2.5 After considering all the evidence placed before him in mitigation, the Presiding Officer found that Mr Prinsloo's misconduct, although serious, did not justify a sanction of removal from office. The Presiding Officer ordered that Mr Prinsloo be cautioned and reprimanded by the Chairperson of the Magistrates Commission, the Honourable Judge President B M Ngoepe and the Cluster Head within a month from the day of imposition of the sanction and further that Mr Prinsloo tendered a written apology to the complainant within seven (7) days of the reprimand. On 12 August 2010 Mr Prinsloo appeared before the Chairperson and the Cluster Head and he was formally cautioned and reprimanded. He subsequently also tendered a written apology to the complainant.

### **3. DISCUSSION**

- 3.1 At its meeting held on 26 August 2010, the Magistrates Commission noted the sanction imposed by the Presiding Officer.
- 3.2 The investigation/inquiry into Mr Prinsloo's fitness to hold office has been concluded. The Presiding Officer has not recommended removal from office as contemplated in section 13 of the Magistrates Act, No. 90 of 1993 and Mr Prinsloo's has been reprimanded and has apologized. In the circumstances his provisional suspension from office in terms of section 13(3)(a) of the Act is no longer justified. The complainant, at her own request, has also been

transferred to another office which is now closer to where her husband is working and living. Her transfer is not related to the incident.

4. **CONCLUSION**

- 4.1 Since the basis on which Mr Prinsloo was provisionally suspended fell away, there was no basis to uphold his provisional suspension. Accordingly, his provisional suspension was uplifted upon receipt of the Commission's recommendation.

Signed at *Capetown* on this *2<sup>nd</sup>* day of *November* 2010

*J. T. Raedebe*

J T RADEBE, MP

MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT