



REPORT

PROVISIONAL SUSPENSION FROM OFFICE OF A MAGISTRATE: MR F R RAMBAU, REGIONAL MAGISTRATE, POLOKWANE

1. PURPOSE

The purpose of this report is to inform Parliament on the provisional suspension from office of Mr F R Rambau, a regional magistrate at Polokwane pending the outcome of an investigation into his fitness to hold office as a magistrate, as required by section 13(3)(b) of the Magistrates Act, 1993 (Act no 90 of 1993).

2. BACKGROUND

2.1 Mr Rambau is a Regional Magistrate at Polokwane. On 8 February 2010 the Regional Court President of the Limpopo Province informed the Commission that on the afternoon of Friday, 5 February 2010, Regional Magistrate Rambau together with the prosecutor and an attorney were arrested for corruption. The arrest was the result of an authorized undercover operation and related to a criminal case before Mr Rambau. It is alleged that Mr Rambau, the prosecutor and the attorney together arranged the outcome of the trial by pre-determining the sentence for financial reward. The alleged conduct therefore directly related to the performance of Mr Rambau's official duties as judicial officer.

2.2 Mr Rambau and his two co-accused appeared in the Musina District Court on 8 February 2010 on charges of corruption. They were released on R10 000.00 bail each on certain conditions. Mr

Rambau was further prohibited to enter or visit any Magistrate's Office in the Thohoyandou Cluster.

- 2.3 The Regional Court President requested the Commission to consider provisionally suspending Mr Rambau from office in terms of section 13(3)(a) of the Act.

3. DISCUSSION

- 3.1 On 08 February 2010 the Ethics Division of the Magistrates Commission informed Mr Rambau in writing that the Commission contemplated recommending that he be provisionally suspended from office (with or without remuneration), pending the outcome of an investigation into his fitness to hold office. He was requested to show cause, in writing, why such a decision should not be taken.
- 3.2 At its meeting held on 26 August 2010, the Commission, having considered Mr. Rambau's response dated 10 February and 5 March 2010, resolved to advise the Minister to provisionally suspend Mr. Rambau from office in terms of section 13(3)(a) of the Act. The Commission is of the view that the charges against Mr. Rambau are of such a serious nature as to make it inappropriate for him to continue to perform the functions of a Magistrate while the allegations are being investigated. It would be inappropriate for a judicial officer, appearing as an accused before a court of law on charges of corruption, to still sit on the Bench.
- 3.3 The Commission holds the view that, without anticipating the outcome of the investigation into his fitness to hold the office of Magistrate, the alleged conduct by Mr. Rambau is of such a serious nature that it would justify his removal from office, should he be found guilty of the misconduct charges which are to be preferred against him.
- 3.4 The criminal case against Mr. Rambau was on the roll in the district court in Musina on 7 July 2010 and was transferred to the Regional

Court at Musina to 16 July 2010. On the latter date, the matter was further postponed to 29 July 2010, on which date a warrant of arrest was issued and by mutual agreement between the parties stayed until 11 October 2010. The matter has been set down for hearing for the period 11 to 13 October 2010.

4. AUTHORITY TO PROVISIONALLY SUSPEND

4.1 In terms of section 13(3)(a) of the Magistrates Act, No. 90 of 1993 the Minister, on the advice of the Magistrates Commission, may provisionally suspend a magistrate from office if –

(i) *"the Commission, after affording the magistrate a reasonable opportunity to be heard regarding the desirability of such provisional suspension, is satisfied that reliable evidence exists indicating that an allegation against that magistrate is of such a serious nature as to make it inappropriate for the magistrate to perform the functions of a magistrate while the allegation is being investigated; and*

(ii) *an investigation has been instituted by the Commission into such magistrate's fitness to hold office."*

4.2 A report in which the provisional suspension and the reasons therefor are made known, must be tabled in Parliament by the Minister within 7 (seven) days of such suspension, if Parliament is then in session, or, if Parliament is not then in session, within 7 (seven) days after the commencement of its next ensuing session [section 13(3)(b) of the Act].

5. CONCLUSION

In the light of the foregoing, I decided to provisionally suspend Mr Rambau, a Regional Magistrate at Polokwane, from office with immediate effect, pending the outcome of an investigation into his fitness to hold the office of a magistrate.

6. This report is hereby submitted for consideration by Parliament in terms of section 13(3)(c) of the Magistrates Act, 1994.

Given under my hand at CAPE TOWN on this 4th day of November 2010.

J. Raedebe
MR J T RADEBE, MP
MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT



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The Honourable Mr Justice B M Ngoepe
Chairperson: Magistrates Commission
P O Box 9096
PRETORIA
0001

Dear Judge President

**PROVISIONAL SUSPENSION FROM OFFICE: MR F R RAMBAU, REGIONAL MAGISTRATE
AT POLOKWANE**

With reference to your letter dated 6 September 2010 (under your reference 6/5/5/2(15/2010), I wish to inform you that I, after having considered the Commission's advice, decided to provisionally suspend Mr F R Rambau, a Regional Magistrate at Polokwane, from office pending the outcome of the inquiry into his fitness to hold office as a Magistrate.

A copy of the report to be tabled in Parliament in compliance with the provisions of section 13(3)(b) of the Magistrates Act, 1993 is enclosed herewith for your records. A copy of my letter to Mr Rambau is also enclosed.

With kind regards

A handwritten signature in dark ink, appearing to read 'J. Radebe'.

**JEFF RADEBE, MP
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**
* Annexure

DATE: 04/11/10



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Mr F R Rambau
28 Waterbessie Street
LOUIS TRICHARDT
0920

Dear Mr Rambau

PROVISIONAL SUSPENSION FROM OFFICE

I regret to inform you that after having considered the advice of the Magistrates Commission, I have, in terms of section 13(3)(a) of the Magistrates Act, 1993 (Act No 90 of 1993), decided to provisionally suspend you from office pending the inquiry into your fitness to hold office as a Magistrate with immediate effect.

A report to this effect is in the process of being tabled in Parliament in compliance with the provisions of section 13(3)(b) of the Act.

As soon as Parliament has taken a decision in this regard, you will be informed.

With kind regards

J. Radebe

**JEFF RADEBE, MP
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

DATE: 04/11/10