



## REPORT

### **PROVISIONAL SUSPENSION FROM OFFICE OF A MAGISTRATE: MR L SKRENYA, MAGISTRATE CALA**

#### **1. PURPOSE**

The purpose of this document is to inform Parliament on the provisional suspension from office of Mr L Skrenya, magistrate at Cala 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 Skrenya is a Magistrate and Judicial Head at Cala. On 5 August 2009 the Director of Public Prosecutions: Transkei directed that Mr Skrenya be prosecuted in the District Court on a charge of fraud.
- 2.2 On 18 September 2009 Mr Skrenya appeared in the Cala District Court, the district of which he himself is the Judicial Head. The criminal case has been postponed on various occasions and stands remanded to 21 and 22 September 2010 for trial.
- 2.3 The criminal charge against Magistrate Skrenya emanates from misrepresentations he made to his Sub-Cluster Head, Mr Mthimkulu, in that he on 24 April 2009 used his private vehicle for an official trip from Cala to Dordrecht and submitted a claim for a transport allowance in this regard, while he in fact utilized a

Government vehicle to undertake the official trip for which he was not entitled to submit any claim for travelling allowance and thereby committed the offence of fraud.

- 2.4 A preliminary investigation conducted into other complaints filed against Mr Skrenya found *prima facie* evidence that he, on 12 May 2009 irregularly refused to adhere to a request by the Prosecutor to withdraw a criminal charge against an accused before a plea was tendered, *meru moto* postponed the case to 30 June 2009 and ordered that the accused be kept in custody. This decision was later set aside by the High Court on special review. His conduct resulted in the Minister of Justice and Constitutional Development being sued for damages. It is further alleged that Mr Skrenya held a criminal court which was not properly constituted and that he postponed various criminal cases in chambers in the absence of the prosecutor.

### 3. DISCUSSION

- 3.1 On 26 October 2009 the Magistrates Commission informed Mr Skrenya 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. In his response, Mr Skrenya indicated that there was no need to provisionally suspend him as there was no possibility of him interfering with the criminal and misconduct investigations. He further indicated that he never at any stage had the intention to defraud the State of any money. He was further of the view that the complaints were leveled against him because his sub-cluster head *"is pregnant with hatred towards him."*

- 3.2 At its meeting held on 26 August 2010, the Commission, having considered Mr Skrenya's response dated 06 November 2009,

resolved to advise the Minister to provisionally suspend Mr Skrenya from office in terms of section 13(3)(a) of the Act.

3.2.1 The Commission is of the view that the alleged misconduct against Mr Skrenya is of such a serious nature as to make it inappropriate for him 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 a charge of fraud to still sit on the Bench. The Commission holds the view that, without anticipating the outcome of the investigation into his fitness to hold the office of Magistrate, the existing evidence against Mr Skrenya 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.

#### **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 Skrenya, Magistrate and Judicial Head at Cala 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 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. Raude*

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



**MINISTER  
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REPUBLIC OF SOUTH AFRICA**

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Ref: 3/26/5/5 (n021103)  
Enq: X1770  
Email: Ministry@justice.gov.za

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

Fax No: 012 - 325 3967

Dear Judge President

**PROVISIONAL SUSPENSION FROM OFFICE: MR L SKRENYA, MAGISTRATE AT CALA**

With reference to your letter dated 6 September 2010 (under your reference 6/5/5/2(86/2009), I wish to inform you that I, after having considered the Commission's advice, decided to provisionally suspend Mr L Skrenya, a Magistrate at Cala, 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 Skrenya is also enclosed.

With kind regards

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

DATE: 04/11/10



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Ref: 3/26/5/6 (n021103)  
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Mr L Skrenya  
Magistrate's Office: Cala  
Private Bag X501  
CALA  
4655

Dear Mr Skrenya

**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