



Report of the Select Committee on Security and Constitutional Development on the Suspension from Office of Magistrate N E Ndamase, dated 28 November 2012.

Introduction

The Select Committee on Security and Constitutional Development, having considered the report dated 30 July 2012 informing Parliament of the suspension from office of Magistrate N E Ndamase, an additional magistrate at Pretoria, tabled in terms of section 13(4)(b) of the Magistrates Act, 1993 (Act No 90 of 1993), and pending consideration by Parliament of a recommendation by the Magistrates Commission for her removal from office as a Magistrate in terms of section 13(4) (a) (i) of the Magistrates Act, 1993 (Act no 90 of 1993) reports as follows:

Background

1. Ms Ndamase was charged with 42 counts of misconduct and found guilty of 11 of those charges eight with respect to her refusal to execute lawful orders.
2. The charges of misconduct against her consisted of the following:
 - 9 counts in terms of regulation 25(c) of the Regulations for Judicial Officers in the Lower Courts, 1994 which deal with the contravening of the Code of Conduct for Magistrates in one way or the other, as set out in Schedule E of the regulations,
 - 12 counts in terms of regulation 25(d), in that she was negligent/indolent in the carrying out of her duties,
 - 2 counts in terms of regulation 25(h), in that she absented herself from office or duty without leave or valid cause,
 - 19 counts in terms of regulation 25(j) in that she refused to execute lawful orders.
3. The Presiding Officer recommended that Ms Ndamase be removed from office as a Magistrate.
4. Ms Ndamase was given the opportunity to make written representations to the Magistrate's Commission on the Presiding Officer's findings. The Commission received these representations on 14 May 2012. The Presiding Officer gave additional reasons for his recommendation on 17 May 2012.
5. At its meetings held on 20 and 21 July 2012, the Magistrate's Commission considered the Presiding Officer's findings and recommendation as well as Ms Ndamase's representations. The Commission was of the view that the conduct for which Ms Ndamase was found guilty was so serious that it

justified her removal from office. The Magistrates Commission accepted the recommendation of the Presiding Officer and recommended to the Minister that Ms Ndamase be removed from office.

Recommendation

Having considered the Commission's report on the suspension from office of Ms N Ndamase and the Minister's request, the Committee recommends that the National Council of Provinces confirms her removal from office as a Magistrate.

Report to be considered.