



1 June 2020

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National Prosecuting Authority: (pp@npa.gov.za)

The Honourable Minister Lamola
329 Pretorius Street
Department of Justice
Pretoria, Gauteng
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Dear Minister Lamola

Re: Conduct of Presiding Officers in Gender-Based Violence cases

The systematic failure of justice personnel continues to put women and girls at risk of violence and prevent access to justice. Perpetrators of gender-based violence must account.

The conduct of Magistrate Michelle Henderson is brought to your attention for urgent consideration. A serial rapist, Siyabulela Mkayo walked freely out of the Alexandria magistrates court whilst facing rape charges involving 7 women. The perpetrator was released on 29th of May 2020 and another warrant of arrest was issued leading to him being re-arrested. Such glaring mistakes cannot be tolerated and as such we demand an investigation into why the perpetrator was released by Magistrate Michelle Henderson in the first place.

It is our considered view that this is not an isolated incident but a pattern with how the judiciary deals with gender-based violence cases, in particular in sentencing. Two cases come to mind to illustrate our position: (i) the murder of Naledi Lethoba by Obed Leshoro who was sentenced to 15 years in jail with no clarity on parole eligibility, and (ii) the rape of a 55-year-old woman in KwaMhlanga in Mpumalanga by a 17-year-old boy who was sentenced to 5 years in jail.

These sentences make a mockery of the fight against gender-based violence and commitments made by President Ramaphosa to end impunity in GBVF cases. In addition, they undermine the recently approved National Strategic Plan (NSP) on Gender Based Violence and Femicide (GBVF), that centers prevention requiring far reaching changes in the attitude of the public at large, overcoming stereotypes and raising awareness. We therefore demand that the National Prosecuting Authority should appeal the sentences of the above-mentioned cases and demand maximum sentences with the possibility of no parole. We further bring to your attention our letter dated 4 March 2020 in which we appealed to you for a moratorium on paroles for sex offenders which was signed by 1,391 persons to date.

Prosecution is about conforming with the fundamental principles of human rights and having regard to the gendered understanding of violence which we unfortunately find missing in our judiciary especially the magistracy. In the interest of sustaining a healthy legal culture at all times in order to ensure that the majority of people value law and legal processes, we trust that you will attend to the above-mentioned matters and investigate the conduct of the justice personnel.

Sincerely,



Brenda Madumise-Pajibo



Onica Nonhlanhla Makwakwa