

African National Congress



National Disciplinary Committee of Appeal (NDCA)

OFFICE OF THE CHAIRPERSON: CDE JEFF RADEBE

**IN THE NATIONAL DISCIPLINARY COMMITTEE OF APPEAL
(NDCA)**

HELD AT ST. GEORGE HOTEL, IRENE, PRETORIA

ON SATURDAY 22 AND SUNDAY 23 NOVEMBER 2014

CASE NUMBER: 4/2014

In the application of

**THE CHAIRPERSON
PDC KWAZULU NATAL**

Applicant

In the matter between

AFRICAN NATIONAL CONGRESS

Complainant

AND

PG MAVUNDLA

Charged Member

NDCA RULING

PDC request for extension of time

1. On 20 May 2014 the Chairperson of the PDC in KwaZulu Natal applied to the NDCA in terms of Rule 25.53 of the ANC Constitution for an extension of time to conclude the disciplinary proceedings against the abovenamed charged member.

Background to charges

2. Comrade Mavundla was the Mayor of the Umvoti Municipality in Greytown.
3. On 20 August 2013 he was charged for contravening Rules 25.17 4, 25.17.6, 25.17.16.3 and 25.17.19 of the ANC Constitution.
4. The specific allegation was that on or about 12 July 2013 he resigned as the Mayor of the Umvoti Municipality without consulting and/or getting the permission of the deploying structure, namely, the Provincial Executive Committee and/or the Provincial Secretary of the ANC.

Basis of PDC application

5. The Chairperson of the PDC sought an extension of time on the grounds that the members of the PDC and the Chief Provincial Presenter were PEC members and, as such, were fully involved in campaign activities for the General Elections from about September 2013 and would only be able to continue with the disciplinary hearing in the first or second week of June 2014.

Evaluation by NDCA

6. When considering an application for extension of time, the NDCA is obliged in terms of Rule 25.54 to take into account all the circumstances, including the competency of the charges and the prospects of success, to establish whether good cause exists for the granting of the application.
7. The fact that the PDC members and the Chief Provincial Presenter were fully engaged in electioneering and therefore not available to continue with the disciplinary hearing is not in dispute.
8. The ANC is a voluntary political organization and members are chosen to represent the organization as public representatives with their consent.
9. It follows that no member can be compelled to represent the ANC in any forum.

10. Conversely, a public representative may resign from his or her position as a public representative or even resign from the ANC itself without fear of reprisal.
11. Based on the voluntary nature of the relationship between the ANC and its members, Rule 25.17 of the ANC Constitution does not contain any provision which makes it an act of misconduct if a member resigns as a public representative or from the organisation itself.

NDCA Finding

12. The charge is not a competent charge.
13. In the interest of equity and fairness, the PDC should not pursue the charge against the comrade and the application for an extension of time is dismissed.

Dated at IRENE, PRETORIA this 23rd day of November 2014



**JEFF RADEBE
CHAIRPERSON
NDCA**



**NALEDI PANDOR
MEMBER
NDCA**



**NGOAKO RAMATLHODI
MEMBER
NDCA**

**SANKIE MTHEMBI-
MAHANYELE
MEMBER
NDCA**