

EXTERNAL (for general distribution)

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Further information on UA 93/93 (AFR 53/10/93, 30 March 1993) - Legal concern

SOUTH AFRICA: Police and Prison Officers Civil Rights Union of South Africa (POPCRU)

Zwi MDLETSHE, Assistant General Secretary, POPCRU

Mnikelwa NXELE, Regional Chairperson, POPCRU

Bhekani NGUBO, Regional Secretary, POPCRU

Vusi NDLOVU, Regional Treasurer, POPCRU

Armstrong NAWA, POPCRU member

Elvis Mboniswa NENE, POPCRU member

and 13 other POPCRU members and officials whose names are not known to Amnesty International

On 18 May Zwi Mdletshe, Mnikelwa Nxele, Bhekani Ngubo, Vusi Ndlovu and Elvis Mboniswa Nene were acquitted of all charges against them in the Pietermaritzburg magistrate's court. The state had already withdrawn charges against Armstrong Nawa prior to the commencement of the trial of Zwi Mdletshe and his co-accused on 10 May. Thirteen other POPCRU members are still facing charges in connection with the dispute between prison warders who are POPCRU members and the prison authorities at Pietermaritzburg prison, Natal. Some 238 warders had been summarily dismissed by the prison authorities earlier in the year. By mid-May the authorities had refused to reinstate over 100 of the warders.

Zwi Mdletshe and his co-accused remained in custody until their trial began on 10 May. Following their arrest by the South African Police in early March 1993, they were denied the right to a bail hearing by the Attorney General using his powers under the 1992 Criminal Law Second Amendment Act. The Attorney General did not give the detainees an opportunity to present their case to him and he gave no details of the charges against them.

The five detainees were brought to trial on 10 May on 12 charges of intimidation and one charge of conspiracy. Some of the prosecution witnesses, who included prison warders involved in the strike, told the court that they had been placed under pressure to make statements implicating the accused in acts of intimidation. The majority of the prosecution witnesses also told the court that when they tried to go back to their jobs at the prison, the authorities threatened to withhold pay for the period in which they were on strike unless they agreed to state that they had gone on strike because of intimidation by POPCRU members. Contrary to the charges against the accused, some of the prosecution witnesses testified that Zwi Mdletshe had actively spoken out against intimidation tactics in meetings and had arranged for monitors to attend meetings to ensure that they were conducted in a peaceful manner.

The weakness of the prosecution case against the POPCRU defendants prompted their lawyers to request the Attorney General to withdraw his prohibition against a bail hearing. The Attorney General agreed to do this, enabling the lawyers then to request the court to grant the accused bail. The court granted them free bail and they were released from custody after more than 60 days in detention.

At the conclusion of the prosecution case, the lawyers then requested the court to acquit the accused on the grounds that the prosecution had failed to provide the court with any evidence confirming the charges against the POPCRU defendants. After hearing arguments from prosecution and defence lawyers, the magistrate adjourned the hearing. On 18 May he gave his judgment and acquitted the accused of all charges against them.

More than 100 warders remain summarily dismissed from their jobs at Pietermaritzburg

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Prison. By 18 May the Minister of Correctional Services had not responded to legal submissions requesting that the men be reinstated. There are fears that the Minister will use this situation to purge the prison of staff actively involved in POPCRU. There will be a hearing in June regarding the circumstances in which Zwi Mdletshe had been suspended from his position, prior to the strike and summary dismissals of the other warders in March.

**FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters either in English or your own language:**

- noting that Zwi Mdletshe and four other POPCRU officials were acquitted of all charges against them in the Pietermaritzburg magistrate's court on 18 May;
- asking the Attorney General for Natal to explain why he used a drastic provision of the law to deny the POPCRU detainees a bail hearing when it is clear that there was no evidence to support the charges against them;
- urging the Minister of Correctional Services to ensure that public sector workers, including members and supporters of POPCRU, are able to organize peacefully, pursue improved conditions and campaign against discrimination without being harassed by summary dismissals and arbitrary detentions.

**APPEALS TO:**

1) H J Coetsee  
Minister of Justice  
Private Bag X276  
Pretoria 0001  
South Africa

**Telegrams: Justice Minister, Pretoria, South Africa**  
**Faxes: + 27 12 320 2059 (please note corrected fax number)**  
**Telexes: 320502**

**Salutation: Dear Minister**

2) A J Vlok  
Minister of Correctional Services  
Private Bag X136  
Pretoria 0001

**Telegrams: Correctional Services Minister, Pretoria, South Africa**  
**Faxes: + 27 12 323 3304/5**

**Salutation: Dear Minister**

3) Advocate Tim McNally  
The Attorney General for Natal  
The Supreme Court  
Church Sreet  
Pietermaritzburg 3200  
South Africa

**Telegrams: Natal Attorney General, Pietermaritzburg, South Africa**

**Salutation: Dear Advocate McNally**

**COPIES OF YOUR APPEALS TO:**

The Commissioner  
Pietermaritzburg Prison  
Post Bag 9022  
Pietermaritzburg 3200  
South Africa

Newspapers:

- Natal Witness, PO Box 362, Pietermaritzburg 3200
- The Sowetan, PO Box 6663, Johannesburg 2000
- Lawyers for Human Rights, PO Box 8579, Cumberwood 3235

and to diplomatic representatives of South Africa accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 1 July 1993.