

MINISTRY OF JUSTICE AND CORRECTIONAL SERVICES: REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

19 August 2015

MINISTER MASUTHA REFERS OSCAR DECISION TO CORRECTIONAL SUPERVISION AND PAROLE REVIEW BOARD FOR REVIEW

Minister of Justice and Correctional Services, Adv Michael Masutha has decided to refer the decision to place Mr Oscar Pistorius under correctional supervision to the Correctional Supervision and Parole Review Board. The Correctional Supervision and Parole Board (CSPB) of Kgosi Mampuru II Correctional Centre had taken a decision to place Mr Pistorius under correctional supervision.

On the 17th August 2015 the Minister received a petition from the Progressive Women's Movement of South Africa (PWMSA), wherein they expressed their opposition to the imminent release of Mr Pistorius. In their submission they request Minister in his capacity as the Minister of Justice and Correctional Services, not to approve his release citing the Parole Boards' insensitivity to the release of the offender during women's month.

In considering the petition, it became desirable that he peruses the offenders' profile as well as the decision of the CSPB. In as much as the grounds for the petition cannot be legally sustained, he had to satisfy himself that the CSPB decision and the process followed was in compliance with the law. Minister further sought legal opinion on whether he is legally empowered to do anything if necessary.

In so doing it became desirable that he considers the applicable legislation pertaining to the length of sentence for offenders incarcerated under section 276(1)(i) of the Criminal Procedure Act (CPA).

Upon perusal of the offenders profile, he established that Mr Pistorius was sentenced to five years imprisonment in terms of section 276(1)(i) of the CPA. It is also evident that on the 5th June 2015 the CSPB considered him and took a decision to place him under correctional supervision on the 21st August 2015. We deem it prudent that we refer to the relevant section that deals with the process of placing an offender sentenced in terms of section 276 of the CPA.

Section 73(7)(a) of the Correctional Services Act, Act 111 of 1998 states the following:

'A person sentenced to incarceration under section 276(1)(i) of the Criminal Procedure Act, must serve at least one sixth of his or her sentence before being considered for placement under correctional supervisor, unless the court directs otherwise.'

It is apparent therefore that the decision to release him on 21 August 2015 was made prematurely on 5 June 2015 when the offender was not eligible to be considered at all. It is therefore clear that there is no legal basis upon which such a decision was made and is in contravention of Section 73 (7) (a) which requires him to have served 1sixth of his 5 years sentence. 1sixth of a 5 years sentence is 10 months and at the time the decision was made Mr

Pistorius had served only over 6 months of his sentence. It is important to state that the Minister cannot make a decision to approve or disapprove the CSPBs' decision, except for offenders serving life sentences, as proposed by the said petition. However section 77(1) of the Correctional Services Act enables him to refer matters to the Correctional Supervision and Parole Review Board (CSPRB) for a review of the decision of the CSPB.

In the circumstances, the CSPRB has been requested to review the decision of the Parole Board.

The consequence of this decision is that the earlier decision of the Parole Board to place the offender under correctional supervision is suspended until the Parole Review Board has decided on the matter.