

## Electoral Court Dismisses Winnie Objection

Written by Rudi Prinsloo  
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ANC veteran Winnie Madikizela-Mandela can stay on the party's candidate list for the April elections, the Electoral Court ruled on Tuesday.

The court dismissed an appeal by the Freedom Front Plus against a decision to allow the ANC to keep Winnie Madikizela-Mandela on its list.

The FFPlus had argued that Madikizela-Mandela should be disqualified from standing for a seat in the National Assembly because she had been sentenced to more than 12 months in prison, without the option of a fine.

In July 2004 she was sentenced to three-and-a-half years behind bars. On appeal the sentence was suspended for five years, a period which would expire in July, after the elections.

The ex-wife of former president Nelson Mandela appeared at number five on the ANC's list.

The FF Plus unsuccessfully took the matter to the Independent Electoral Commission before going to the Electoral Court.

The party had argued that because she was sentenced to more than 12 months imprisonment without the option of a fine, she was disqualified from standing for public office -- as per section 47(1)(e) of the Constitution.

The FFPlus had argued that the Constitution's wording "sentenced... to imprisonment" also applied to a suspended sentence, as in Madikizela-Mandela's case.

Chairman of the Electoral Court and Supreme Court of Appeal Judge Kenneth Mthiyane disagreed, saying one had to "strain the language of the section" to come to this conclusion.

The FFPlus' interpretation would result in uneven treatment of citizens, he argued. It would mean, for example, that someone who had actually served a 12-month-long prison term for a serious offence would be eligible to hold public office before someone given a five-year suspended sentence.

"This could never have been the intention of the legislature, namely to encourage uneven treatment of its citizens in violation of the equal protection provisions of the Constitution," the judgment reads.

Mthiyane said section 47(1)(e) had to be interpreted in a way that promoted the values of an open and democratic society based on human dignity, equality and freedom and gave effect to the right to stand for public office, and if elected, to hold public office.

The ANC welcomed the ruling, saying it had made "every effort" to ensure that its candidate list complied with the Constitution and Electoral Act.

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The party had chosen candidates with the "experience, resolve and credibility" to serve the country "capably and with diligence", read a statement.

"We wish to reiterate our support and acknowledge the vital role played by Comrade Madikizela-Mandela in shaping the South African history and politics."

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